

The Use of Firearms by Police Officers in Germany

Report for the IGAI conference in Lisboa
November 17-18, 2003

Professor Dr. Thomas Feltes M.A.
University of Bochum, Germany
Law Faculty
Chair for Criminology, Criminal Policy, Police Science
www.thomasfeltes.de
www.police-newsletter.com
www.rub.de/kriminologie

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Germany:
80 Mio. inhabitants, 16 states, 18 police forces:
17 police laws, one penal code, one penal procedure code
see <http://www.polizeifachhochschulen.de>

web-hyperlink



German Police Officers



Weapons and equipment



copyright: <http://www.enforcer.de>

the following pictures are taken from <http://world.guns.ru/handguns/hg00-e.htm>

Walther P 99



Type: Double Action
 Caliber: 9mm para. .40SW
 Length overall: 180mm
 Weight: 720g unloaded
 Barrel length: 102mm
 Capacity: 16 rounds (9mm), 12 rounds (.40SW)

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- The design of the P99 was initiated in 1994, and presented in 1996. The main goal was to develop new, modern style police and self-defense handgun that incorporates all latest developments and will cost less than its predecessor, the Walther P88, that did not achieve any significant commercial results, mainly due to high prices.
- Walther P99 is a recoil operated, locked breech gun, that used modified Browning style locking via extraction port in the slide.
- It is striker fired, and has no manual safeties and three automatic safeties: Striker safety, Trigger safety and Out of battery safety. Also, it has manual de-cocking button in the rear upper part of the slide.
- Also Walther developed QA action, which has partially pre-charged trigger that must be manually charged to full stroke via each trigger pull (somewhat similar in appearance to Glock's "safe action").
- P99 has polymer frame with removable back-trap of the handle, to provide to shooters better fit in the hands (3 sizes are standard).

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Heckler and Koch P2000



Type: Double Action or Combat Defense action (HK proprietary)
 Chamber: 9x19mm Luger / Parabellum
 Weight un-loaded: 620 g
 Length: 178 mm
 Barrel length: 92 mm
 Capacity: 13 rounds

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P 2000

- The P2000 is the latest HK pistol, a derivative of the USP Compact, intended for police use. It is available since 2001.
- The P2000 is a recoil operated, locked breech pistol, with modified Browning High Power style barrel to slide locking, and with buffering built into the recoil system, similar to the HK USP pistols. P2000 has polymer frame with interchangeable back-strap inserts (somewhat like the Walther P99), to allow adjustment of the grip to the hands of different sizes. The gun is externally shaped to be carried concealed with maximum comfort. P2000 also feature under-barrel accessory rails.
- P2000 is available in three basic trigger configurations: CDA SA/DA trigger with de-cocker, classic SA/DA trigger with de-cocker and CDA (Combat Defense action) trigger without de-cocker or manual safety (also known as LEM trigger - Law Enforcement Modification, marketed in the USA in LEM USP Compact pistols).

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- The Heckler& Koch Company has developed the police gun P2000 which has been provided by Lower Saxony, Baden-Württemberg and North Rhine Westphalia for their police forces recently.
- It is the first weapon the development of which is based on studies of a police university.
- Size and weight are adopted to the needs of the police without neglecting security and accuracy of fire.
http://www.heckler-koch.de/html/german/behoerden/01_pistols/01_01_index.html
- Modular parts fit perfectly for the individual user; universal grooves allow to mount accessories (e.g. tactical lamps, targeting devices); operating devices suitable for left-hand and right-hand users; suitable for various kinds of ammunition, e.g. the new deformations ammunition.
- The CD-Rom documenting the research at the University of Applied Police Sciences in Villingen-Schwenningen can be ordered from the Police College
 Contact and further information from wolfgangmallach@yahoo.de

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Most recent problems with this new weapon

In October 2003, media reported about problems with the new police gun (the police in Baden-Württemberg has bought 25.000 weapons...). Further tests showed, that the shots did not aim the target, but went downwards left. The agreement was, that 7 out of 10 shots with this gun (fixed in a table) in a distance of 10 meters meet a circle of 96mm.

The problem is: it is a totally new system of firing a gun. Instead of preload the gun, one has to pull the trigger only, but with a much higher load ((3 kg) and a much longer way (3 cm) than before.

Furthermore, the weapon has the same trigger point for every shot, meaning 13 x the same weight at the trigger. To correct the problems, costs of about 400.000 Euros would have been necessary - or intensive training.

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1. The legal framework for use of fire arms by police officers

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Three ways for a Police Officer to use a firearm (each one has different regulations in police law)

- to protect others
- to protect her/himself (self-safety)
- to kill an offender (e.g. hostage taking)
 - only as "last resort"

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The main legal requirements for using physical coercion in order to implement a police measure

- The use of physical coercion is ruled in STATE Police laws (e.g. §§ 49ff PolG-BW) and also holds for measures outside the police law (e.g. criminal justice law) that may require imposing coercion.
- The right to defend and protect his own life is guaranteed by law for every citizen.
- The police law uses the term "immediate physical coercion" when referring to physical coercion. „Immediate physical coercion" is defined as acting on people or objects using bodily force, devices aiding bodily force (truncheon, baton, handcuffs) or weapons.
- Immediate coercion may only be applied by public officials of the police force.

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- What types of devices aiding bodily force and what weapons may be used, is ruled in a separate code by the ministry of the interior.
- The legal requirements for using physical coercion are
 - a measure by the police can not be implemented effectively in any other way,
 - the principle of proportionality is not neglected when implementing immediate coercion,
 - immediate coercion will have the desired effective impact,
 - of the different coercive means the least harmful one capable of bringing about the effect is to be used.
- Firearms may only be used without warning, if this is necessary to prevent of or to defend against an actual danger for life or body.

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§ 50 PolG BW

- § 50 PolG (1) Immediate coercion is any action upon people or objects through simple bodily force, with help of devices aiding bodily force or use of a weapon.
- (2) The ministry of state defines, which devices aiding bodily force and what kind of weapons are to be used within the police service.
- § 51 PolG Immediate coercion is only carried out by the executive police service.
- § 52 PolG (1) Immediate coercion may only be applied, if it seems that there is no other way to reach the goal set by the police. Immediate coercion against people may only be used if it seems not possible to reach the goal by using immediate coercion against objects. The hereby used devices aiding bodily force has to be in proportion in manner and measure towards the behaviour, age and physical condition of the person it is used against. Using immediate coercion against a crowd of people is only allowed if the use against single individuals in the crowd will obviously lead to no success.
- (2) The use of immediate coercion shall be announced before the action if the situation allows to do so.
- (3) Immediate coercion may not be used any more after the set goal has been reached or when it appears that the goal may not be reached by the use of immediate coercion.
- (4) [...]

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§53 PolG-BW

Requirements for use of firearms:

The use of a fire weapon is only permitted if the general requirements for the use of immediate coercion have been met and using bodily force, devices aiding bodily force, or batons carried along have been applied without success or it is obvious that their application will prove unsuccessful. Firearms may only be used against persons, if the success of police measures cannot be achieved by using them against objects.

A firearm may not be used if there is a high probability of endangering recognisably innocent people. This does not apply if using a firearm is the only mean to avert a direct threat to life.

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The use of firearms against persons is ruled very specifically in this law (§ 54 PolG-BW) :

- Firearms may only be used against an individual person
 - to prevent or to interrupt the commission of an offence which according to the circumstances appears to be
 - a crime punishable by law with at least a year imprisonment
 - as an offence that is to be committed or that is being committed by using or carrying along a firearm or explosives.
 - to apprehend a person trying to escape arrest or having his identity checked if this person
 - is caught committing an act, which according to the circumstances appears to be a crime or an offence which is committed using or carrying along a firearm,
 - is suspected of having committed a crime or
 - is suspected of having committed an offence and indications are that he will use firearms or explosives.

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3. to prevent escape or to recapture a person that is being or was being detained

- as a result of being sentenced for committing a crime
- in protective custody
- because the person is suspected of having committed a crime
- due to a judicial decision or
- because he is suspected of having committed a crime, if indications are that this person will use a firearm or explosives.

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- 4. If this person tries to free a prisoner or somebody from custody who is ordered into
 - protective custody § 63 StGB
 - psychiatric care (§ 63 StGB, § 126a StPO) or
 - drug deprivation (§ 64 StGB, § 126a StPO)
- II. Firing a bullet that will have a lethal effect is only permissible if this is the only way to avert a direct attack against life or threat of serious injury to bodily integrity.
- III. Firearms may only be used against a group of people if violent acts are committed from within such a group or are about to be committed and using coercive means against individuals will prove unsuccessful or show no chance to have the desired impact.
- IV. The right to carry and use fire weapons as ruled by other legislation remains untouched.

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Laws regarding the intended killing of an offender (polizeilicher Todes- oder finaler Rettungsschuss)

Only some state laws do have regulations on the intended killing of an offender ("finale Rettungsschuss")

It is not clear, whether or not such a use of force is legal in such states, where no special law or regulation exists.

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§ 41 II 2 ME PolG rules:

- „Ein Schuss der mit an Sicherheit grenzender Wahrscheinlichkeit tödlich wirken wird, ist nur dann zulässig, wenn er das einzige Mittel zur Abwehr einer gegenwärtigen Lebensgefahr oder der gegenwärtigen Gefahr einer schwerwiegenden Verletzung der körperlichen Unversehrtheit ist.“
- “A shot, which results with high probability in the killing of a person, is permissible only if this is the only means for defense of a present mortal danger or the present danger of a serious bodily injury“.

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Rechtlich umstritten ist die Frage des Verhältnisses der §§ 32, 34 StGB (Notwehr, Nothilfe) zu den Vorschriften der Polizeigesetze über den Schusswaffengebrauch. Die Frage ob überhaupt und wenn ja unter welchen Voraussetzungen ein finaler Todesschuss zu verantworten sei, wurde in der Vergangenheit heftig diskutiert.

Zum einen wurde argumentiert, dass ein solcher Schuss nur zulässig sei, wenn die Voraussetzungen der Notwehr/Nothilfe (§ 32 StGB) erfüllt seien. Jedoch hat sich überwiegend die Auffassung durchgesetzt, dass Notwehr/Nothilfe allenfalls die Rechtswidrigkeit der Tötung beseitigt, nicht aber die Rechtmäßigkeit des Schießens als hoheitliche Zwangsanwendung bewirken kann. Deshalb wurde überwiegend eine hoheitlich ausgestaltete Befugnisnorm für einen finalen Todesschuss verlangt.

Allerdings haben die Bundesländer insoweit bis heute unterschiedliche Regelungen getroffen. Bayern § 66 Abs. 2 PAG, Baden-Württemberg § 54 Abs. 2 PolG, Rheinland-Pfalz § 63 Abs. 2 POG, Sachsen § 34 Abs. 2 SächsPolG, Sachsen-Anhalt § 66 Abs. 2 SOG LSA und Thüringen § 64 Abs. 2 PAG

haben den finalen Todesschuss wortgleich ausdrücklich in ihren Polizeigesetzen wie folgt geregelt: "Ein Schuss, der mit an Sicherheit grenzender Wahrscheinlichkeit tödlich wirken wird, ist nur zulässig, wenn er das einzige Mittel zur Abwehr einer gegenwärtigen Lebensgefahr oder der gegenwärtigen Gefahr einer schwer wiegenden Verletzung der körperlichen Unversehrtheit ist."

Die anderen Bundesländer und der Bundesgrenzschutz begnügen sich bislang mit folgender Regelung: "Schusswaffen dürfen gegen Personen nur gebraucht werden, um angriffs- oder fluchtfähig zu machen."

Berlin, § 9 Abs. 2 UzWG Bln, Bremen § 46 Abs. 2 BremPolG, Hamburg § 24 Abs. 2 SOG, Hessen § 60 Abs. 2 HSOG, Mecklenburg-Vorpommern § 109 Abs. 1 SOG MV, Niedersachsen § 76 Abs. 2 NdsPolG, Nordrhein-Westfalen § 63 Abs. 2 PolG NW, Saarland § 57 Abs. 1 SPoIG, Schleswig-Holstein § 289 PolG, Bundesgrenzschutz, § 12 BGSOG

Angesichts der Tragweite eines finalen Todesschusses und aus Gründen der Rechtssicherheit derjenigen Beamten, die einen solchen Schuss zu verantworten haben, muss erwartet werden, dass alle Länder eine solche polizeiliche Ausnahmeanmaßnahme ausdrücklich gesetzlich und nicht lediglich über Verwaltungsvorschriften regeln.

Im Ergebnis ist jedoch übereinstimmende Auffassung in allen Bundesländern, dass zur Abwehr einer gegenwärtigen Gefahr für Leib oder Leben einer Person auch ein gezielter Schuss auf den Angreifer zulässig ist, der nach alter Erfahrung sofort tödlich wirkt.

Ein finaler Todesschuss zur Strafverfolgung ist ausgeschlossen. Das wäre im Übrigen der vorweggenommene Vollzug der Todesstrafe, die gemäß Art. 102 GG abgeschafft ist. Quelle: A.+E. Rodorf, Polizeirecht NRW (CD-Rom) Hilden 2003

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2. The account and assessment of the number of deaths related to police officers letting off a gun

For further information on use of guns by German Police see <http://www.schusswaffeneinsatz.de/Schusswaffeneinsatz/Statistik/statistik.html>

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Use of a gun by German police officers

	2000	2001
Inhabitants	80 Mio.	
Police Officers on duty (patrol police, detectives, border police)	266.000	
Use of gun (total)	3.594	4.172
under these:		
Against people	52	68
people killed	6	5
people hurt	30	26
Shootings at dangerous or hurt animals	n.a.	3.950
To help other people	n.a.	91
To avoid committing of a serious crime	n.a.	22
To avoid offender from escaping	n.a.	56
Use of gun officially declared as illegal	7	7

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Use of a gun by Police officers, 2000 - 2002

	2000	2001	2002
Total use of gun	3.594 = 100%	4.172 = 100%	4.700 = 100%
One out of ... officers has fired a gun	74	63	56
Against people	52 = 1,5%	68 = 1,6%	42 = 0,9%
People killed	6 (5)	5 (8)	6 (7)

Source: O. Diederichs, Polizeiliche Todesschüsse 2002. In: Bürgerrechte und Polizei 2003, S. 81 f.; taz/opa 21. Mai 2002, different data due to different recordings by state and private institution

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3. The outcome for police officers after a disciplinary case or after being accused by somebody (criminal and disciplinary procedure) = violence by police officers and the prevalence of violence against police officers

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- If a police officer uses immediate coercion he needs to file a report at his police station.
 - If required by law, an additional report is sent to the attorney of state and proceedings may be initiated against the police officer. This depends on the seriousness of the case if the legal requirements for the use of immediate coercion were not met.
 - A system, which allows a survey of all measures that resulted in coercive means being applied, does not exist.
 - However such information can be gained from the daily occurrences / events report, which are written at each police station. From these reports a list of the coercive means that were applied can be compiled.
 - An institutionalized forum of external supervision does not exist (there was one in Hamburg until last year).
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Law and Disciplinary Cases against Policemen in Berlin, 1997 (all cases, not only use of a gun)

Disciplinary Cases	738		Penal Law Cases	2.262	
Settled Cases	488	100%	Settled Cases	2.012	100%
Dismissals	352	72,1%	Dismissals	1.935	96,2%
Sanctions	136	27,9%	Acquittal	23	1,1%
			Sentenced	54	2,7%

The sanctions were: Fine (73), reprimand (54), salary deduction (8), others (1)

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Penal Law Cases against Policemen in Hamburg, 1997

Settled Cases	3.324	100%
Dismissals	3.164	95,2%
Charges	92	2,8%
Court Decision	31	0,9%
Acquittal	19	0,6%
Sentenced	12	0,4%

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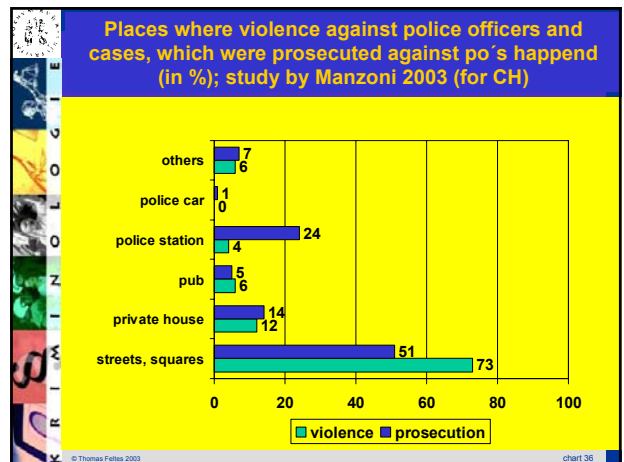
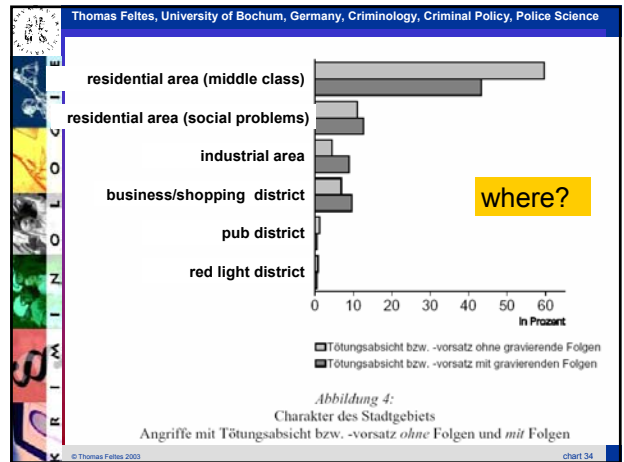
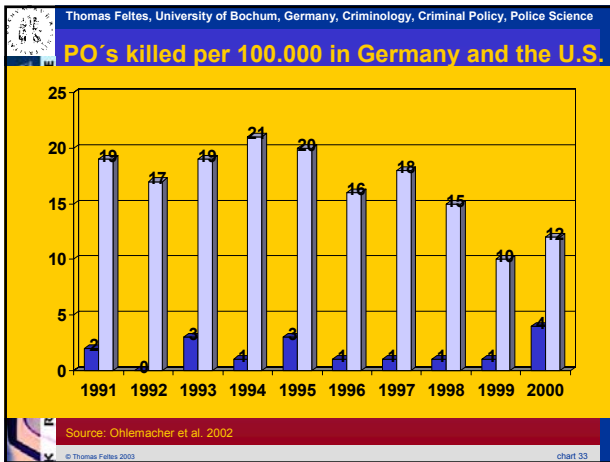
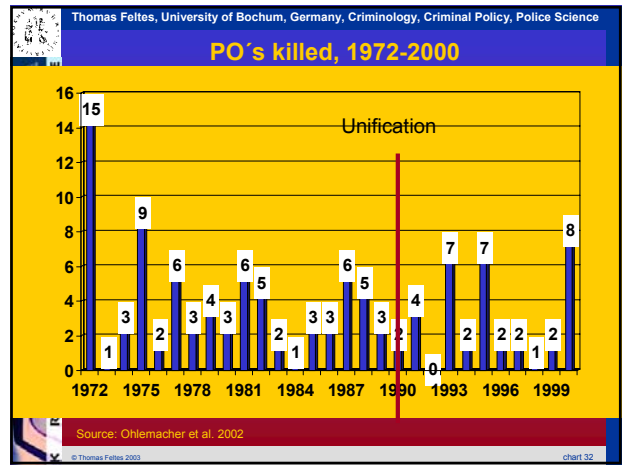
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Violence against Police Officers in Germany

- Study by Thomas Ohlemacher et.al. on violence against police officers between 1985 and 2000
- 4.000 cases evaluated
- 1.100 PO's interviewed

Source: Ohlemacher et al. 2002

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The risk to be attacked or killed

- The risk of an police officer to **be attacked** by somebody with intention to kill him is considerable higher than that of an average citizen.
- But the risk of an officer **to be killed** by such an attack, is considerable lower than the risk of an average citizen to be victimized by such an attack.

Source: Ohlemacher et al. 2002

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Typical Situations for attacks aiming to kill an officer

- darkness
- on public areas in middle-class neighborhoods
- places were **not** known as dangerous before
- patrol car on action or on its way to an intervention
- Offenders usually in their middle age (or older), men, German citizens, and act alone
- usually not under influence (alcohol)
- typical situation: car control and other situations, where police officer and offender did not got in direct (body) contact

Source: Ohlemacher et al. 2002

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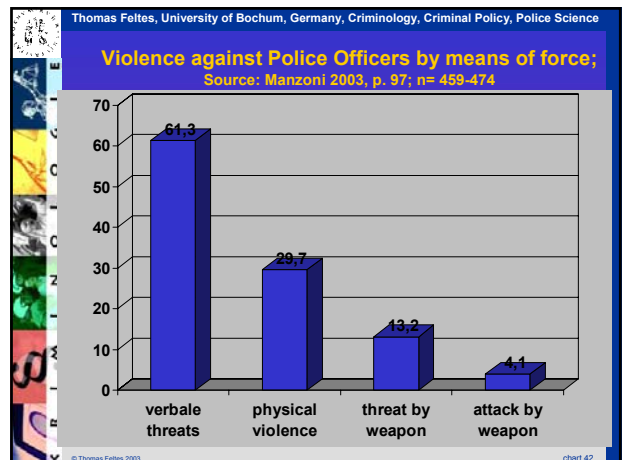
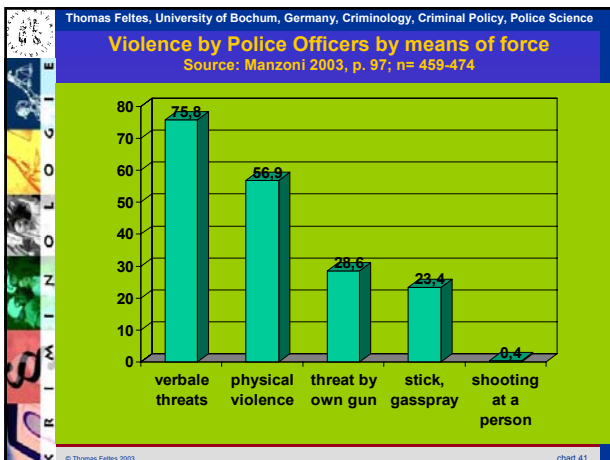
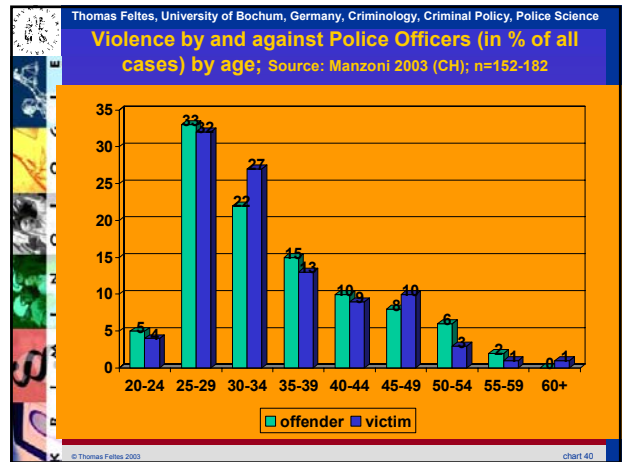
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Situations

- In most of the cases (over 60%), the offender has an illegal gun.
- Situations, in which attacks usually happen:
 - check of suspects
 - avoid escaping
 - addressing and chasing a person
 - search and identity checks

Source: Ohlemacher et al. 2002

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4. The training and teaching methods (legal framework and practical aspects)

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Education structure: The three step career model

Access: 5-10% **Police Leadership Academy (PFA) soon: Police University**

Individual Selection (Assessment-Center) 25-45% **Universities of the Police (one in each federal state, + Border Police and BKA/FBI)**

High School Degree 50-70% **Federal Police Schools (partly at „Bereitschaftspolizei“- locations)**

Secondary School Level I + physical and intellectual tests

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Duration of Education

2 years of Highest education: 1 year at the Federal Police Academy“ (PFA), 1 year at State Colleges

2-3 years (College of Higher Education; Police University)

2-2,5 years (Police School)

Total time: Up to 10 years, due to selection and Pre-Education Periods

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Training regarding the use of firearms

2 years: 1 year PFA, 1 year in federal states **0 hours practical training**

2-3 years (College of Higher Education; Police University) **approx. 100 hours intervention training**

2-2,5 years (Police School) **approx. 184 hours practical and theoretical**

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Basic Training Police Academy Baden-Württemberg

	Basic Training 6 Months	Advanced I 6 Mo.	Praktikum I 3 Mo.	Advanced II 6 Mo.	Praktikum II 3 Mo.	Advanced III 6 Mo.	Total
Police defensive and restrain training	32	31	-	17	-	16	96
Police intervention means and firearms training*	63	63	-	27	-	31	184
Police driving skills	0	3	-	70	-	18	91
Police drill for individuals, groups and platoons	21	41	-	0	-	0	62
First aid / CPR	16	0	-	0	-	8	24
Total 132	132	138	0	114	0	73	457

*Use of Firearms is trained together with general training in use of coercive means (cuffs, pepper-spray , baton)

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Advanced Training Police College Baden-Württemberg

Semester (half year)	1	2	3	4	5	6	Total
Police defensive and restrain training	-	32	-	-	-	-	32
Police intervention means and firearms training*	-	-	32	-	-	32	64
Police driving skills	-	-	-	-	-	-	-
Police drill for individuals, groups and platoons	-	-	-	-	-	-	-
Sports	-	-	-	-	32	-	32
Total	-	32	32	-	32	32	128

*Use of Firearms is trained together with general training in use of coercive means (cuffs, pepper-spray , baton)

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6. The use of "unconventional guns" (non-lethal weapons) by police officers

complete list of non-lethal weapons at <http://www.angelfire.com/or/mctrl/nonlethal.html>
 info on biochemical weapons like gas: <http://www.sunshine-project.org/>

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pepper spray, baton and other „tools“



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- There is a long list of non-lethal weapons: Tear-Gas, Taser, pepper spray, laser, microwaves against people and computers, rubber bullets, awful smelling chemicals, acids, air bags as barriers, and others
- In May 2003, a conference on these weapons was organized by companies, producing and distributing such weapons was organized in Germany

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- Fangnetz, Mikrowellenkanone, Gummigeschoss oder doch besser die Gaspistole?
- Pfefferspray ist eine NLW, aber auch Tränengas, Blendlaser, infernalisch stinkende Chemikalien, klebrige Netze, Wuchtgeschosse aus Gummi, Elektroschockpistolen, korrosive Säuren, hochenergetische Mikrowellen, schnell härtende Schäume und Infrapulse.
- Mitte Mai 2003 fand in Ettlingen (D) eine hochkarätig besetzte Weltkonferenz für Hersteller und Nutzer "nonlethal Waffen", organisiert vom Fraunhofer-Institut für Chemische Technologie, statt. Dort wurden die Waffen der Zukunft, nämlich Pistolen, die Stromharpunen verschießen, Gewehre zum Abfeuern kleiner Gastabletten und Markierfarben, Mikrowellenstrahler gegen Personen und Computer, sowie Barrieren in Airbagtechnik vorgestellt.

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Though generally assumed to be safe and effective, the consequences of the use of pepper spray, as with any use of force, can never be predicted with certainty. A study by the NIJ seems to confirm that pepper spray is a reasonably safe and effective tool. Source: <http://www.ncjrs.org/pdffiles1/nij/195739.pdf>

But: "Pepper spray endangers health": Steve Wright critically reviews the results of studies published about the impact on health of this spray. He refers to the 61 deaths in the USA between 1990 and 1995 and a report of the Technological Consequences Estimating Committee of the European Parliament (the so-called STOA Report of May 2000, entitled "An Assessment of Crowd Control Technologies, 6/2000"; http://www.europarl.eu.int/stoa/publi/default_en.htm) which urged the EU states last year to stop sale, acquisition and use of pepper spray and to wait for further examinations. Such tests have been started in the Netherlands, Great Britain and Sweden.

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RCMP Video on Taser and Gas (50 sec.)

Taser M26 or X26 (4:12 min.)

Three German Special Intervention Teams (SEK) test these taser since 2002.

video clips from <http://www.taser.com/pages/video/video.html>

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Positional Asphyxia: In-Custody-Death

- This problem, also called „**Restraint Asphyxia**“ or „**Silent Killer**“ was discovered first in the US, and later in Austria and Germany, after the sudden death of arrestees.
- The police of Bavaria and Baden-Württemberg produced a training video, to be used in Police training to prevent positional asphyxia.
- A training video was also produced for the use of Pepper Spray (OC), which also may cause severe damage.
- <http://www.charlydmiller.com/CLASS/positional.html>

Thank you very much!