

RULE BREAKER

THE 21-FOOT STANDARD IS MISUNDERSTOOD

■ THOMAS GRIEVE



BY THE NUMBERS?

Long erroneously referred to as the "21-foot rule," what began as a simple demonstration in a police training environment may not be as applicable to the private citizen as once thought.

“RECALL EXACTLY HOW, ALMOST 30 YEARS AGO ON A WELL-LIT UTAH RANGE, WE ARRIVED AT 21 FEET. IT WAS CALCULATED BY HOW LONG IT TOOK TO DRAW AND FIRE TWO SHOTS, USING TRAINED OFFICERS AS SUBJECTS, AGAINST AN IDENTIFIED STATIONARY THREAT WITH AN IDENTIFIED WEAPON, WITH PERFECT TARGET ISOLATION AND OPENLY CARRIED SIDEARMS.”

■ The United States 9th Circuit Court of Appeals very nearly turned the often-referenced, often-misunderstood “21-foot rule” from a law enforcement principle with specific presumptive application into an actual broad self-defense law. If you do not know what the 21-foot rule is, what very nearly altered the legal landscape of self-defense laws nationwide in one of our nation’s highest courts and why I believe the 21-foot rule may not apply to you, then buckle up. To move forward and understand why the Court of Appeals nearly got this so very wrong, we first need to briefly visit the origin of the so-called “21-foot rule.”

HOW CLOSE IS TOO CLOSE?

In the March 1983 issue of *S.W.A.T.* magazine, a Utah police trainer named Lt. Dennis Tueller shared an extraordinary discovery that he made while training law enforcement officers. A trainee asked, when it came to an attacker with an edged weapon, “How close is too close?” Tueller found that he did not have a great answer and devised an experiment to help find one.

Tueller found that an average trainee could draw and fire two shots center-mass in approximately the same time — 1.5 seconds — that it took an average adult male to cross 21 feet from a standing start.

The simulations revealed that when within 21 feet of an officer, an armed assailant could reach — and therefore potentially kill — that officer before the officer could draw from a holster and fire a pair of (hopefully) attack-stopping, center-mass shots. Even an officer who was able to fire twice within those 1.5 seconds was often still “wounded” by the attacker a fair portion of the time during the training. Plainly stated, a bad guy who has a hand weapon and who is within 21 feet of an officer may be able to successfully attack that officer be-

fore the officer can react to stop him.

The discovery of this information, previously hidden in plain sight, immediately advanced both law-enforcement theory and training by putting a time and distance to the aforementioned “reactionary gap.” However, far more often, this principle is simply referred to as the “21-foot rule” both in private-citizen and law enforcement contexts.

You may have also heard of what trainers call the “Tueller Drill.” This drill, which was not created by Lt. Tueller despite bearing his name, involves drawing a handgun from a holster and putting two shots center-mass on a human silhouette target in as quick and safe a manner as possible. The idea is that a trainee is training to reduce his or her “reaction gap.” The faster he or she can safely draw and fire two accurate shots to a target’s vitals, presumably the smaller a reactive gap the trainee has.

It is important to remember that an individual who is acting always has the advantage over someone who is forced to react to that action. This is mostly caused by the time delay spent recognizing an action, creating a plan to counter the action and then executing the counterstrategy. The “Tueller Drill” at least helps to shrink the time it takes to deploy a firearm as a reaction strategy.

By simply thinking of the 21-foot rule, many folks have forgotten (or were perhaps never taught) the actual principle to which it speaks, which is the reactive gap. This has caused a lot of confusion and training malpractice to create another inferred “rule” — that hand weapons only present a deadly threat if you’re within 21 feet of them.

Were you to take the 21-foot business as a “rule,” it would be easy to make the (entirely incorrect) jump to believing that an individual within 21 feet of you holding a contact weapon could be engaged as a deadly threat, period, regardless of his or her behavior or other

factors. This set the stage for the 9th Circuit Court of Appeals to weigh in.

A LEGAL PRESUMPTION

In San Jose, California, a 911 caller falsely reported that a man armed with a knife was menacing his family. It was later learned that the caller, Phillip Watkins, was, in fact, the man who was armed with a knife, and he was attempting to commit “suicide by cop.”

When officers arrived to respond to the man-with-a-knife call, they saw Watkins outside armed with a knife and standing next to two women. At this time, the officers were approximately 130 feet away. Upon seeing the officers, Watkins immediately began rapidly advancing toward them in a threatening manner while ignoring their repeated commands to stop.

It is important to note that some of the facts are still disputed by both parties. However, the Court noted that, within a few short seconds after Watkins began rapidly advancing, both officers opened fire. The officers opened fire at a distance of approximately 55 feet, and Watkins collapsed of his fatal wounds at approximately 18 feet.

The officers were sued in civil court, and a major issue in the case was whether the use of deadly force beyond 21 feet against a knife-armed attacker automatically equates to excessive deadly force. The plaintiffs claimed, among other assertions, that the use of deadly force was unjustifiable because Watkins posed no immediate threat to the officers, as he was beyond 21 feet when the officers opened fire on him. The trial court ruled in summary judgment in favor of the two officers, and the plaintiff’s girlfriend appealed to the 9th Circuit in *Buchanan v. City of San Jose* (9th Cir. 2019).

In the interest of staying on topic, I am purposefully omitting some of the plaintiff’s factual and legal claims

raised in the case, such as the officers not utilizing less-lethal force options before opening fire. If the plaintiffs had prevailed on appeal, it may have been up to a jury on remand to the trial court to decide the meaning of the 21-foot rule/reactive gap. For additional details on case specifics, including all of the plaintiff's claims and assertions, please see the Court's ruling and each party's pleadings.

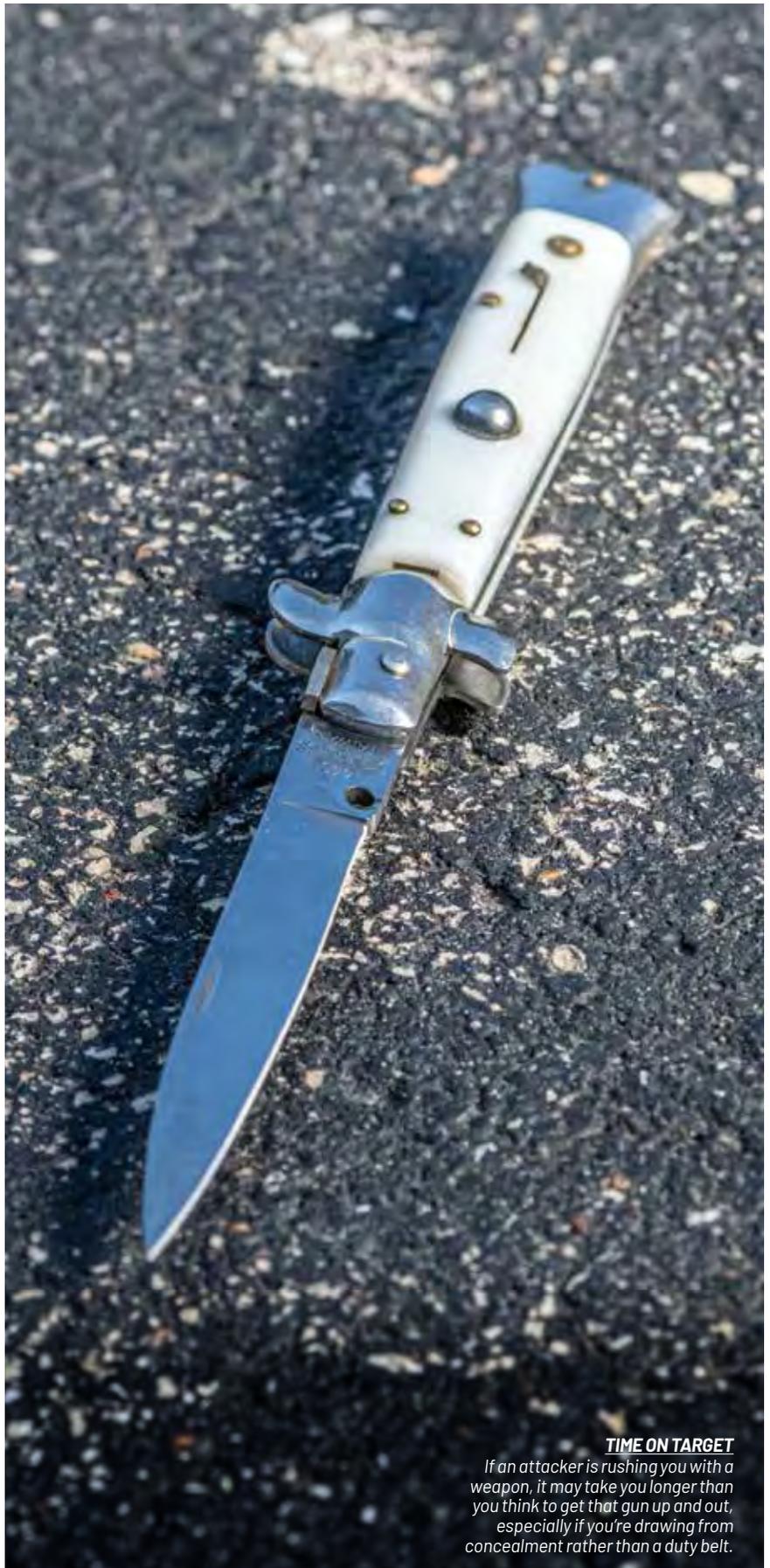
The officers won the case in the appeal to the 9th Circuit Court with one dissenting opinion. Among the issues raised within the dissenting judge's ruling was whether the 21-foot rule adopted by the San Jose Police Department's training protocols created a legal presumption against the use of deadly force outside of 21 feet when facing an attacker wielding an edged weapon.

It is important to note that we are discussing a legal presumption of when deadly force can be used and that all presumptions are ordinarily open to rebuttal by other evidence and testimony at trial. If the dissent had been the majority, the issue may have gone to jury, with widespread reverberations for the firearms training community hanging on the outcome. It is high time to be more specific about the 21-foot rule and to set the record straight.

MISUNDERSTOOD PERCEPTIONS

The most significant piece of information to come from Tueller's article in *S.W.A.T.* magazine — and let us remember, that is what publicized the so-called "21-foot rule" — is the establishment of the reactive gap, not some kind of distance rule that must apply to all officers at all times under all circumstances. Rather than referring to it as a "21-foot rule," I would humbly suggest that it be rebranded "the reactive gap." This speaks more accurately to the principle rather than a predesignated — and potentially irrelevant — distance of 21 feet.

Recall exactly how, almost 30 years ago on a well-lit Utah range, we arrived at 21 feet. It was calculated by how long it took to draw and fire two shots, using trained officers as subjects, against an identified stationary threat with an



TIME ON TARGET

If an attacker is rushing you with a weapon, it may take you longer than you think to get that gun up and out, especially if you're drawing from concealment rather than a duty belt.

“NEITHER LAW ENFORCEMENT NOR THE LAW-ABIDING CITIZEN SHOULD BE BOUND BY AN IRONCLAD 21-FOOT RULE. THE FACTS FROM THE COURT OF APPEALS CASE IN BUCHANAN SAW THAT TWO OFFICERS, COMBINING THEIR FIREPOWER, STILL REQUIRED 37 FEET TO STOP A POTENTIALLY DEADLY THREAT. A 21-FOOT RULE COULD HAVE LED TO THE SERIOUS INJURY OR EVEN DEATH OF ONE OR BOTH OFFICERS.”

identified weapon, with perfect target isolation and openly carried sidearms. This is very much not the same deadly threat encountered by any and all officers under any and all circumstances.

I would also strongly contend that a 21-foot rule is even less applicable to concealed carriers who face a more difficult and therefore longer draw motion from a concealed holster among other potential distinguishing factors. To be clear, I very much doubt — and it is by no means my implication — that Tueller would suggest 21 feet should be understood as a magic “shoot-or-no-shoot” barrier. In fact, he has referred to the “21-foot rule” as a “bastardized term” and has instead referenced the totality of the circumstances as far more controlling than a certain predetermined distance.

The inescapable truth remains that a draw from a concealed holster, often under multiple layers of clothing or even a large winter jacket, may lead to draw times significantly longer than the 1.5 seconds attainable by officers carrying openly in duty holsters.

Trainers and carriers alike need to recognize the dual realities that concealed carriers experience a larger reactionary gap while simultaneously requiring tremendous caution about drawing their sidearms unless absolutely necessary. Keep in mind that, unless you are facing a deadly threat in certain jurisdictions, the mere act of producing your firearm may lead to your arrest and subsequent criminal charges. This difficult and high-stakes reality confounding the concealed carrier necessitates an extraordinarily high level of education and training to understand the reactive gap and how to navigate it within the long shadow of the law.

This is all precisely the reason why the “R” word — “rule” — must be written out of the training vocabulary. This is

not and cannot be an inelastic bright-line test. The facts of real cases are typically disputed and rarely fall within any neat “rule.” Every case must always be judged by the applicable legal standards in that jurisdiction, the objective reasonableness and the totality of the circumstances.

However, it is clearly not outside the realm of consideration that this training term — the “21-foot rule” — could migrate its way into becoming law unless something is immediately done to pivot the training lexicon and save the principle from the “rule.”

Moreover, unlike in Hollywood, when someone is shot in real life, that person does not automatically fall to the ground and cease being a threat. There are numerous case studies in which attackers, aided by drugs or simply by adrenaline, have fought through their own fatal wounds after being shot repeatedly to kill their victims.

In fact, even after being shot in the heart and “stopping” blood circulation, it has been demonstrated that an attacker can still voluntarily act for 10 to 15 seconds with the use of stored oxygen in his or her brain before succumbing to his or her fate.¹

If we remember that an attacker can cover 21 feet in 1.5 seconds, then how much distance can be covered to deliver a knife attack in those 10 to 15 seconds?

One study concluded that such an attacker could cover about 70 yards, or most of a football field.² It is safe to say that 70 yards is going to be well outside of the common ranges at which most people find themselves during a self-defense incident (not to mention their own effective range of hitting a moving target with a sidearm). This is further compounded by the fact that low-light incidents account for as many as 85 percent of officer-involved shootings in large

metropolitan areas.³

Finally, bearing all of the above in mind, the lethality of an easily hidden and commonly carried edged weapon like a folding pocketknife cannot be understated. A study from the United Kingdom found that a significant percent of edged-weapon attacks were fatal from a single slash or stab.⁴

TIME FOR A CHANGE

The cumulative effect of the studies and available information paint a compelling picture that neither law enforcement nor the law-abiding citizen should be bound by an ironclad 21-foot rule. The facts from the Court of Appeals case in *Buchanan* saw that two officers, combining their firepower, still required 37 feet to stop a potentially deadly threat. A 21-foot rule could have led to the serious injury or even death of one or both officers. Countless other officers and citizens alike may suffer similar fates in the 1.2 million violent crimes that take place in the United States each year, according to a 2012 Violence Policy Center study, and deserve the same understanding.

The reactive gap principle needs to be properly trained and discussed in the context of facts and laws to appropriately capture the threat a victim faces in each specific instance. Concealed carriers need to continue to be taught the importance of movement and cover along with target identification and isolation. These are all concepts that any decent self-defense class with a firearm should be covering in addition to local laws.

But everyone who is involved in self-defense training, classes or literature — and that includes all of you reading these words — needs to be conscious of how word choice, even if just a nickname or phrase, can boomerang back through time with profound consequences.

ENDNOTES

(1) Urey W. Patrick, Handgun Wounding Factors and Effectiveness (Quantico, VA: U.S. Department of Justice, Federal Bureau of Investigation, FBI Academy, Firearms Training Unit, July 14, 1989), Archive.org/details/fbi-handgun-wounding-factors-and-effectiveness/mode/2up. (2) Frank Borelli, "Twenty-One Feet Is Way Too Close," Law Enforcement Trainer 16, no. 4 (July/August 2001): 12-15. (3) William

Murphy, "Shooting Straight in the Dark," POLICE Magazine (June 2, 2009), PoliceMag.com/340154/shooting-straight-in-the-dark. (4) E. Webb, J.P. Wyatt, J. Henry and A. Busuttill, "A Comparison of Fatal With Nonfatal Knife Injuries in Edinburgh," Forensic Science International 99 (1999): 179-187.



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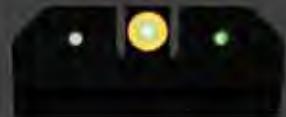
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BRIGHT LIGHT



LOW LIGHT

GREEN

BRIGHT LIGHT



LOW LIGHT