

SB

309

HOUSE COMMITTEE REPORT

(1)

Date Referred to Committee: March 24, 1998

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/2/98

The STATE AFFAIRS Committee considered:

SB 309

SENATE BILL NO. 309

USE OF NONLETHAL AND DEFENSIVE WEAPONS

"An Act relating to the use of force by peace officers and correctional officers."

recommends it be replaced
with the following committee substitute

CS SB 309 (STA)

the same title
 a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Admin, Corrections

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE Janette James

Alaska State Legislature

Senate

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Sponsor Statement SB 309

“An Act relating to the use of force by peace officers and correctional officers.”

SB 309 will protect law enforcement officers from legal action when acting within their training and operational guidelines. The use of non-lethal munitions, such as rubber bullets and bean bag rounds, are an accepted method of rendering certain suspects harmless without doing long-term or permanent injury. A bean bag round or other non-lethal projectile is designed to serve as a far reaching baton which does not require the officer to get too close to a person who might want to harm themselves or others. However, accidents do happen. It is this unlikely accident that SB 309 addresses.

Under current law, a fully trained police officer acting within departmental guidelines could be held civilly liable for injuries resulting from the use of non-lethal projectiles. SB 309 would protect law enforcement officers and continue to allow police departments the full range of tools needed to protect the citizens of Alaska.

Bullet stops suicide

Beanbag draws bruise, not blood

By RACHEL D'ORO
Daily News reporter

A woman sat on the steps outside of her Muldoon home Tuesday with a butcher knife in her hand.

Twenty feet away, Anchorage police crouched behind a mailbox, a parked car and a snow berm in case the woman charged them with the knife.

Sobbing, she told officers she wanted to hurt herself. She asked police to kill her. Then she pressed the knife to her wrist.

A member of the Crisis Intervention Response Team took aim and shot the woman in the thigh. But instead of a bullet, he fired a beanbag made from lead shot and canvas. The round, flat bullet shot out of a 37 mm tear-gas gun only bruised the woman. She dropped the knife and ended up in the hospital for psychiatric evaluation.

Anchorage police have joined a growing number of law enforcement agencies across the country to add beanbag ammunition to their cache of what are called "less-lethal" weapons. The idea of shooting beanbags is decades old but in the last few years has been refined to make them more accurate and easier to use.

The technology became part of the Anchorage arsenal two years ago, but CIRT officers use it very infrequently and, so far, only in certain cases of attempted suicide. Alaska State Troopers have never used the bullets, although they've had them on hand for a year.

"It's a very good intermediate tool for resolving a cri-

BEANBAG: When a bullet isn't needed

Continued from Page A-1

sia," said CIRT supervisor Sgt. Ken Spadafora. "We would rather send someone home with a few bruises than have them kill themselves."

But beanbag bullets are not without controversy. Delivering the punch of a heavyweight boxer or a fastball, they have caused at least five deaths Outside, including that of a suicidal Canadian man who died last year after Ottawa-Carleton police shot him with a beanbag from a 12-gauge shotgun. The beanbag struck him right above the heart, lodging in his chest.

Sometimes they don't work at all, especially when the targets are feeling no pain, either because they are seriously wounded or highed-up on drugs, police agree.

The first time police in Springfield, Mo., used beanbag bullets four years ago, nine 12-gauge rounds failed to stop a frail, 72-year-old man who had already shot himself in the head, said Lt. Ron Hartman of the Springfield Police Department. Hartman trained Anchorage police in the proper technique two years ago and trains officers nationwide. The elderly man finally sat down, and an officer grabbed him while he was momentarily distracted, he said.

Beanbag mishaps are rare, and the bullets save more lives than not, authorities say. Misfires can happen when the bullets, which are packed inside shells, fail to properly unfold. Serious injury or death is possible if the bullets strike vulnerable body parts instead of large muscle masses like legs or abdomens, Hartman said.

"The bottom line is, they are important tools for preventing further deaths," he said. "Basically, it's like delivering a baton strike from a safe distance. Everybody's getting in on it."

Anchorage police have used beanbag bullets at least a dozen times since they got them, Spadafora said. In one case, a round broke a small bone of one suicidal person. All the others caused only bruises. As far as he's concerned, making too much of the risk factor is misleading.

"A baton can kill you if it hits you in the wrong place too many times," he said.

In the '60s, some police agencies used a crude and clumsy version of beanbag ammunition for riot and crowd control, said Larry Glick, executive director of the National Tactical Officers Association in Pennsylvania. The old-style beanbags were inaccurate, however, and fell from favor until the improved version came out in mid-1990s.

"They're a real hot item right now," said Glick, who added that about 3,000 officers year are trained to use beanbags instead of bullets. "They're definitely a wave of the future."

Police have used the new beanbags for such a short time that no one yet keeps complete statistics, Glick said.

Hartman's colleague, Springfield Police Capt. Steve Ijames, told the Ottawa Citizen newspaper last year, however, that four people had died from beanbags before the Ottawa death. And none of the beanbags in those earlier cases pierced the skin. For example, a Texas man died in 1994 after a beanbag struck him in the throat, said Ijames, a leading authority on less-lethal weapons, who also helped train Anchorage CIRT officers.

Locally, police use two sizes of beanbag bullets, Spadafora said. The smaller, square bullets can be fired from 12-gauge shotguns while the larger, round ones are fired from 37 mm tear gas guns.

So far, only about 30 of the 325 officers in Anchorage have been trained in the use of beanbag ammunition. Eventually, all officers

Non-lethal bullets



■ **Material:** Canvas and lead shot
■ **Sizes:** 12-gauge shotgun and 37 mm tear-gas gun are the two sizes that Anchorage police use.

■ **12 gauge:**

Surface: Two-inch square (pictured above upper right)

Weight: 40 grams or 1.4 ounces

Velocity: 300 feet per second

Operating range: 10 to 25 yards

Cost: \$5 per bullet

■ **37 mm:**

Surface: Three-inch diameter circle (pictured above lower left)

Weight: 150 grams or 5.2 ounces

Velocity: 180 feet per second

Cost: \$18-20 per bullet

■ **What happens:**

The bag is wrapped tightly into a shell and is shot out of a 12-gauge shotgun or a 37 mm tear-gas gun. As it moves toward the target, the bag unfolds. Upon impact, the bag collapses and conforms to the target. The lead shot acts as a fluid medium, distributing the energy over the whole surface.

■ **What can go wrong:**

The 12-gauge bag doesn't completely unfold until it reaches 25 yards.

If shot at close range, 30 or 40 feet away; the impact could cause serious injury or death.

Sources: Anchorage Police Department, The Oregonian

RON ENGSTROM / Anchorage Daily News

Anchorage police have used beanbag bullets at least a dozen times since they got them, Sgt. Ken Spadafora said. In one case, a round broke a small bone of one suicidal person. All the others caused only bruises. As far as he's concerned, making too much of the risk factor is misleading.

will be trained. But the new bullets will never supplant real guns or bullets, which always will be on hand as a back-up in every situation, Spadafora said.

"Beanbags are just another option," he said. "They're not replacing anything."



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Memorandum

To: Representative Jeannette James
Chair House State Affairs

From: Senator Jerry Ward *JW*

Re: Bill Scheduling

Date: March 28, 1998

Please schedule Senate Bill 309, "An act relating to the use of force by peace officers and correctional officers," at your earliest convenience.

Thank you for your consideration of this matter.

Need FINAL
Bill 1 -
(by Ben Kowitz) Passed

2029

SENATE BILL NO. 309

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR WARD

Introduced: 2/16/98

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the use of force by peace officers and correctional officers."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 11.81 is amended by adding a new section to read:

4 Sec. 11.81.415. Justification: Use of nonlethal firearms and defensive
5 weapons by peace officers and guards as nondeadly force. (a) Whenever a guard
6 employed in a correctional facility or a peace officer is justified under other sections
7 of this chapter in using nondeadly force, the force that the guard or peace officer may
8 use includes the use of a ~~(1) nonlethal firearm, or (2) defensive weapon~~. The use of
9 a nonlethal firearm ~~or a defensive weapon~~ does not amount to the use of deadly force
10 if the firearm or weapon is used in the manner it was designed to be used.

11 (b) In this section, "nonlethal firearm" means a firearm that discharges a
12 projectile that is designed to stun, temporarily incapacitate, or cause temporary
13 discomfort to a person without penetrating the person's body.

14 * Sec. 2. AS 11.81.420(a) is amended to read:

15 (a) Unless inconsistent with AS 11.81.320 - 11.81.415 [AS 11.81.320 -

1 11.81.410], conduct that [WHICH] would otherwise constitute an offense is justified
2 when it is required or authorized by law or by a judicial decree, judgment, or order.

FISCAL NOTE

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

No. 1
 Bill Version: SB 309
 (S) Publish Date: 3/4/98

Revision Date (Note if correction) _____	Dept. Affected _____	Corrections _____
Title <u>An Act relating to the use of force by peace</u>	BRU _____	<u>Administration and Operations</u>
<u>officers and correctional officers</u>	Component <u>ALL</u>	_____
Sponsor <u>Senator Ward</u>	_____	_____
Requester <u>Senate State Affairs</u>	Component Serial No. <u>#0694</u>	_____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by <u>Bruce Richards</u>	Phone <u>465-3307</u>
Division <u>Commissioner's Office</u>	Date <u>2/23/98</u>
Approved by Commissioner Margaret M. Pugh <u>Margaret M. Pugh</u>	Date <u>2/23/98</u>
Agency <u>Department of Corrections</u>	

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 2
Bill Version: SB309
(S) Publish Date: 3/19/98

Revision Date: _____
Title: "An Act relating to the use of force by peace officers and correctional officers."
Sponsor: Senator Ward
Requestor: (S) JUD

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill expands the level of force a correctional officer or peace officer can use by authorizing "non-lethal firearms" and "defensive weapons" to be used in situations where only non-deadly force is allowed. Normally a deadly weapon is defined as "any firearm or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles or an explosive." While it might seem obvious that a non-lethal firearm could fit the definition of deadly weapon because of its capabilities, this bill makes it acceptable for police and correctional officers to use such weapons even where deadly force is not allowed.

This bill has no fiscal impact on the Public Defender Agency.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Boyer *Alison M. Edge*
Agency: Department of Administration

Date: 3/18/98

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