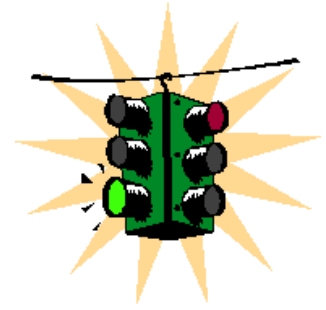


AMBIGUOUS RULES OF ENGAGEMENT AND THE FALLACY OF THE GREEN LIGHT
by Brian K. Sain



CREDIT WHERE CREDIT IS DUE: This article was written by Detective Brian Sain, an experienced police sniper and the driving force behind American Snipers (formerly "Adopt-a-Sniper". This article first appeared in Blackwater Tactical Weekly.

Ron McCarthy's timeless article "The Command Decision to Shoot a Hostage Taker: How Do We Make It?" appeared in the 1989 winter issue of The Tactical Edge. It is the author's opinion that the article should be chiseled into the side of a mountain somewhere and every aspiring tactical commander should be required to make a pilgrimage there to read it before assuming command of a team. The points Mr. McCarthy presented are as valid today as they were the day the article was written.



It has been roughly forty years since SWAT teams first appeared on the scene in American law enforcement. While researching this article I spoke with Mr. McCarthy briefly and informed him of some of the incidents mentioned in the following pages. He commented "Although forty years have passed, we are still apparently doing stupid things". He stated the only explanation he could come up with for this is because "People are people and some of them just have a really hard time doing the right thing". He

went on to say "The snipers almost always get it right ... it's their commanders that get it wrong." As usual, I found myself agreeing with him. But then .. I am a sniper.

The American Sniper Association recently conducted a sniper utilization survey of every police agency in the United States with 50 or more sworn personnel and a SWAT team. This effort took three years to complete and a survey form was completed on each agency. That is, each agency that would speak to the interviewers. Some agencies flatly refused to be involved. One agency stated they had never had a police sniper shooting at all when in fact; they had an incident go horribly wrong and they were trying to keep a lid on it. It is amazing how some agencies would rather save face than help someone else not make the same mistakes that they did.



Nevertheless, the results of the ASA survey are enlightening. Among the revelations was the confirmation of one thing we already knew. This being, the realities of tactical police work can be and often are .. an ugly business. Bad things happen. Sometimes we can prevent them and sometimes we cannot. People do horrific things to other people. People also do incredibly heroic things and save other people's lives. People also make mistakes. These can be honest mistakes or mistakes of conscience; which brings us to the subject of this article.

In speaking with hundreds of police snipers over the years, many of them tell me the same thing over and over again. They say it is not the bad guys that cause them to lose sleep at night; it is their own people. Why is this so? I think Mr. McCarthy got it right in his comment that "Some people just have a really hard time doing the right thing".

I also believe this is because we as police officers know right up front where we stand with the bad guys and therefore train constantly to defend against them. But we never really expect our own command staff to betray us at the precise moment for which we have trained so hard to perform perfectly for. A moment we volunteered for but that they have ordered us into, to solve at their direction. Wondering if your commanders will back your play is distracting from the mission and is no way to operate. But unfortunately for some teams, this is what they must deal with on a day to day basis. The decision to take a human life is not an easy one to make for a peace officer; command staff or otherwise. However, for the police sniper, the decision needs to be made well before the sniper is suddenly required to act upon it. Shooting a human being who may not be a threat to you personally (with the immediate results magnified in 10 power) is somewhat different than the more commonly encountered "It was either him or me scenario". Any moral or religious reservations need to be addressed beforehand so when the time does come, the sniper can act correctly under what is often a very compressed time frame. When the time comes for a sniper to shoot right

now! .. The time to decide if shooting is the moral thing to do has long since passed and lives literally hang in the balance.

If a sniper is suddenly placed in a situation where he has to fire his rifle immediately, the sniper will often have other issues to contend with such as suspect identification and isolation. Reaction time is crucial and the sniper needs to decide early on that "If the suspect does this .. then I will do this". Sometimes referred to as "A mental line drawn in the sand", the decision has already been made and now the sniper only has to perform the required physical action to obtain the desired result.



This is a common thought process among snipers but often remains personal and unspoken. This is largely due to the fact that when spoken of in a matter of fact context to those that do not have the sniper's responsibility, and who have never spent any real world time employed as a sniper; voicing this process is sometimes misconstrued as cold blooded, heartless or even as ignorant machismo .. even by other officers. The officers who feel this way do not really understand the mission of the sniper and usually have no real interest in

learning. However, for the sniper himself, it is simply a mental process (much like a surgeon would go through before cutting out a malignant tumor) or pre-shot checklist that must be completed beforehand so the sniper can function as he is expected to within a fluid tactical environment.

For some of the more long standing teams and senior team members who have been there and done that (and anyone with any common sense at all), the authority to engage is a "no-brainer" SOP for both the snipers and their commanders. The only thing these officers have to worry about is getting better at their skills. Their confidence is visible and their teams .. solid. The author knows of snipers who were involved in shootings, cleared of any improper action and were back to work in a matter of a few weeks or even days. This is the way it should be.

However, all too many teams still have to deal with self serving administrators and for some snipers, the antiquated green light methodology from upper level command staff who will do whatever they have to do, to remain upper level command staff. A Green Light policy, for the uninitiated, is the incorrect thinking that a police sniper must first request permission from a supervisor before he can fire his rifle in any circumstance, even in defense of life. This line of thinking is inconsistent with most use of force law and policy and is usually the end result of command level personnel making a feeble attempt to control a dynamic situation when they are really out of their capacity to do so. There is no valid reason that a police sniper, who should be one of the most highly trained officers and best marksmen in the department, should have to request permission to fire; whereas a rookie patrol officer just out of the police academy does not. There is just not enough time in a deadly force encounter to ask a third party's permission to fire and receive a reply before firing. Sadly however, there are still teams who operate this way.



Green light policies are often the result of pure self-preservation on the commanders' parts and dealing with this day to day is an uphill fight for the operators. The operators almost always know what needs to be done; but still have to work under ludicrous rules of engagement because of these people who have been placed in a position above them. Trust between the two is non-existent and the operators are subliminally aware that that they will be "hung out to dry" if put in a compromising position.

Command personnel who institute green light policies are often driven solely by public/political opinion or their retirement plans and they do not need some SWAT guy "messaging it up" for them. Some have the attitude "If a suspect kills someone; we didn't make him do it, therefore it is not our fault" These are often the same administrators who do not want to use the terms SWAT or sniper because both sound just a little too distasteful. These same commanders will also try and negotiate with a suspect until the suspect runs out of beer, bullets and hostages to kill without lifting a finger to stop it. They seem to feel that police inaction and allowing the suspect to continue on, with mere hopes that he will surrender, is somehow acceptable; just as long as no criticism is placed on them or the department for reacting in what the public might perceive as being overly aggressive.



Having been placed in a position of authority, these commanders are often required to be on the scene of high profile incidents. However, when the time comes to make a tactical decision, these same commanders want to have a "rip cord" and the ability to "cut away" from and distance themselves from the operators if it all goes awry. These commanders will give ambiguous orders that can be loosely interpreted in case the outcome is anything less than positive. Being "in charge", they imply that they are advocating the use of deadly force by using some conundrum or code word but will not directly convey their wishes on the radio in plain language. This is so they have some "room" or "leeway" in the language used to distance themselves from the actual operators that took the shot, just in case the shot goes bad. I.E. "I said the suspect was not to leave the premises! I did not tell anyone to shoot the guy!"

Of course, despite their ineptitude, they will be right there to take the credit for a successful operation if it all goes well or as planned. For many of them, they are used to years of micro-managing the day to day goings on of a police agency and they attempt to use the same "management style" to "script" the response to a SWAT callout; instead of leaving it to the operators and tactical commanders who actually have the knowledge and fortitude to get the job done. Suspects do not care that the react team is not ready for the suspect to suddenly come outside or that the Chief has not arrived on the scene yet or any other myriad of variables which may occur on a callout and yet, these commanders try to exercise control over something they cannot control at all. No one can dictate what a hyped up suspect might do and teams are usually reactive in their response. But rather than adapt to the situation and act; some commanders are totally overwhelmed when the event does not play out the way they had "envisioned it would go" and the bad guy was operating on a totally different sheet of music. Green light policies and poor tactical decisions are by-products of this type of tactical management and often have to do with a commander's total lack of training or participation thereof. This can often be remedied if the commander will put in the time to train with his snipers. Many will not.



The sniper however, realizes all too well that anything can happen at any time. He is directly responsible for saving the people he can save, whenever the opportunity presents itself to do so and not when "the commander decides" that he is now finally ready for the sniper to act. To this end, the sniper cannot "think" he is doing the right thing. He must "know" he is doing the right thing and once he fires his rifle, he cannot call the bullet back. The sniper must know where his team mates are. He must know where hostages (if any) are located and he must know whether or not residences in his line of fire have been evacuated before he can fire a large caliber, centerfire rifle in an urban neighborhood. If he has any doubt at all about whether or not the shot can be made successfully, with no collateral injuries, the sniper must err on the side of caution and he simply cannot fire. The sniper knows that if his shot is anything less than perfect, then the shot, and possibly the mission, will be a failure.



Ambiguous rules of engagement by commanders cause distrust, doubt and hesitation on the part of the snipers who usually believe, assume or hope the entire team and command are on the same page with them. The fact is: Sometimes they are on the same page and sometimes they are not and due to the fact

these ambiguous orders often come right at the moment of truth .. tragedy can be the result. The sniper team may pass on the only opportunity to end the incident which might have ever presented itself; while attempting to clarify exactly what the team's rules of engagement are and what is being expected of them by command staff who is supposed to be "calling the shots".

When snipers attempt to point these issues out to command staff, the often heard rationalization from their commanders is usually something similar to "I shouldn't have to tell you when to shoot someone and when not to" .. Known as plausible denial, these commanders want the option to be able say "I didn't tell him to shoot anyone" or to have control so restrictive that it almost requires the Commander or Chief of Police to be right beside the sniper taking the shot when the order is given .. ala Green Light.

I offer a few cases here to illustrate the point:

A police sniper in the Deep South watches as a hostage taker escorts a hostage out of a residence and down the sidewalk to a vehicle on the street. The sniper has a clear shot at the hostage taker but the sniper does not fire. The hostage taker is allowed to go mobile and is stopped by another team member with a carbine who shoots the hostage taker through the vehicle glass, ending the standoff. The outcome was deemed successful but the entire team, (including the sniper) was furious. The rules of engagement (for the snipers only) of that particular agency restricted their snipers to the point that they absolutely could not fire unless specifically told to do so by a supervisor; even in the defense of life. The sniper readily admitted that he could have ended the standoff numerous times over before the situation went mobile but he was not about to violate department policy, which in his case was more restrictive than state law. In this agency, it was within policy for the perimeter man to fire without first "asking permission" but it was not so for the snipers.



In another case, fugitives on the run after a prison escape and the murder of a peace officer are believed to be hiding in a building that is surrounded by police.

A supervisor gives the order to all officers via radio that "They (the fugitives) are not to leave the building!" Snipers on the scene ask for confirmation that the men are to be engaged by rifle fire if they attempt to escape. The supervisor emphatically states "I did not say that! I said they are not to leave the building!"

In a very similar incident, a police sniper arrives on a rapidly evolving scene where a patrol commander is in charge. An armed suspect is attempting to go mobile with a hostage. The patrol commander, who knows the sniper is there with his rifle, gives the order "The suspect vehicle is not to leave the scene". The sniper (who knows that the only absolute way to stop a motor vehicle weighing several thousand pounds with a 168 grain bullet is to eliminate the driver from the equation) asks for confirmation that the driver is to be engaged. The commander emphatically states "I did not say that! I said the vehicle is not to leave the scene!"

Another incident involved a Southeastern team who had a violent felon surrounded in a building. The snipers asked what the rules of engagement were and the commander emphatically stated that "The suspect is not to leave the premises!" The snipers asked for clarification and if this meant that they were to engage the suspect via rifle fire. The commander's reply was "Do what you have to do".

And lastly, a maniac brutally assaults his live in girlfriend, her mother and a small child. The female calls 911 and two patrol officers are dispatched to the disturbance call. The officers knock at the door and the suspect fires at them through it. The officers retreat, SWAT is called and a stand off begins. A police sniper arrives on the scene later than the rest of the team who are already deploying. As the sniper is walking to the TOC for his briefing, he asks the patrolmen what happened and the furious officers relay that they had been fired upon. As the sniper reaches the TOC, the sniper then asks the commander if this is indeed so and the commander states "We don't know that for sure" The baffled sniper then asks what the rules of engagement are and the commander tells him "Just go set up somewhere" The situation gets worse and the child hostage is later shot by the hostage taker. No useful information is communicated by command, before or after the child was shot so an informed decision can be made by either the entry/react teams or the sniper and the sniper subsequently demands to know what the status of the team is via radio.

The sniper is immediately ordered to stand down. Believing there is a legitimate reason or pending tactical plan for this order, and per verbal (not written) SOP, the sniper repeats the order he is given to

acknowledge that he received it. The suspect later surrenders and is taken into custody. In the aftermath, the commander attempts to place blame on the sniper for the hostage being shot but the commander is removed from command after taped radio traffic of the stand down order is brought to light. The former commander commits suicide on the third anniversary of the incident. It is discovered years later that the Chief of Police (whose contract was up for negotiation and who was actually at home but influencing the commander via cell phone) had told the commander earlier in the year "A bad guy may shoot someone here but that SWAT team is never going to shoot anyone" The well meaning operators on this team had no idea they were operating under these circumstances and had been beaten by their own people before they even arrived on the scene.

These are just five instances in which someone just couldn't do the right thing. It is not hard to see how these types of incidents can totally destroy morale and render a team ineffective.

However, sometimes you hear about a commander that does it right. In the Midwest, an intoxicated man with a military background and supremacist tendencies takes his wife hostage, beats her and tells her this is the day she will die. She escapes to a neighbor's residence and tells police the suspect is well-trained, armed with a stockpile of weapons and will kill officers if he gets the chance. The hidden suspect sprays fire indiscriminately around the scene, narrowly missing officers. The SWAT commander arrives on the scene and upon receiving a briefing, issues an order to all snipers that the first sniper with an unobstructed shot should take it. The suspect later walks out of the residence and points a weapon at officers and a sniper ends the violence.

Commanders like the one above know the law, are confident in their own abilities and are therefore confidence-inspiring to their team. Confidence breeds competence and we must have confidence in ourselves, our teammates and our administrations. All too often however, it is the latter that causes the problems. Politics have no place in the world of tactical operations and commanding officers must trust that their people are going to do the right thing when necessary. A team is a lot like a marriage and if there is no trust, then one is simply going through the motions.

A commander needs the inner strength to make the same right choices that he demands of his operators and he also needs to be supportive of his people and their decisions unless/until it is proven that their action/inaction or the consequences of either were improper in some way. A newly appointed sniper recently commented to me that during his basic sniper school, he had been instructed that "As a sniper, he would never be making decisions to shoot alone" He stated his Chief would always be making the decision for him.

This sniper is operating under the same needless restrictions as the operator from the Deep South mentioned earlier. So the "green light thing" just refuses to go away. Most readers here see the problem with this type of thinking but each agency has its own way of dealing with things. Some agencies intelligently address the issues head on. Others operate in blissful ignorance, totally unaware the issues even exist. Still others are aware of the issues but choose instead to ignore them with the hopes that "it will never happen here" or that they will never be the one's to deal with it.

In contrast to the new sniper mentioned above, the afore-mentioned sniper in the Midwest is an accomplished sniper. He is a combat veteran, has been involved in more than one shooting and no one needed to tell him the suspect needed to be shot. However, when his commander arrived, took control of the scene and let everyone know via radio that they were all on the same page (a team); it still made doing the right thing easier for everyone involved including the sniper, regardless of his operational experience. Needless to say, this commander is highly respected and more importantly, trusted by his men.



The author believes there is a place for specialized rules of engagement as they apply to snipers in tactical police work. The instances where they apply are limited. However, they do sometimes occur. A couple of examples:

There are times when a sniper should be told directly by command to fire upon the suspect(s) at the first available opportunity. An example here would be if the negotiators or command staff knows the

suspect is threatening to kill or has already killed a hostage within a building but the sniper cannot see or otherwise does not know firsthand what is occurring. Command may (and should) give the order for the sniper to engage the target at the first available opportunity.

Command should relay in simple language what is transpiring so the sniper will be informed as to why he is being ordered to fire. But depending on the circumstances, command may not have the time to inform the sniper why this must be done and can only relay the order to fire itself. In this case, the sniper is just the mechanism for the command decision and implicit trust between command and the sniper element is imperative. The snipers must trust that command is making a proper decision and command must trust that the snipers will carry out the order they have given if and when the opportunity presents itself.

There are also times when a sniper should not fire his rifle under any circumstance. An example would be where a command to fire had previously been given but is rescinded because the suspect has now decided to surrender and command does not want the sniper team to engage him immediately upon sight. Again, command should explain why the order has now changed but simply may not have the time to do so if the suspect suddenly decides to surrender and goes for the door, unbeknownst to the sniper element that is waiting for him to re-appear.

However for the vast majority of callouts, and barring a specific circumstance or rule of engagement to the contrary, a sniper will usually deploy under the same use of force guidelines as any other officer in the department. The fact that the officer is armed with a sniper rifle alone should have no influence on the decision as to whether or not he is to use it to save a life.

Some other issues that need to be addressed are instances where snipers have been ordered not to fire their rifles, but did so anyway. If the sniper disobeys a direct order to stand down because the situation has now suddenly changed since the original order was given, only the sniper knows it and he does not have the time to relay this fact to command; the sniper very well may choose to take the shot and save a life. The sniper will certainly have to explain his actions later, but this just comes with the territory and is the proverbial "I did what I had to do" scenario and would be exactly the right thing to do under these specific circumstances.



There have been other instances where snipers followed their orders and did not fire after being ordered not to do so. I have heard people (who should know better) critique these snipers by stating things like "The sniper should have disobeyed that order and fired anyway". Statements like these often come from someone who has never been a sniper. It is irresponsible to make snap judgments on a sniper's performance without seeing exactly what the sniper saw, under the exact same circumstances the sniper was operating; at exactly the same time the sniper witnessed it.

A sniper makes decisions based on all of the information he has available to him at that very moment in time. It is ultimately his responsibility whether or not he pulls the trigger and he is responsible for every single thing his bullet touches along its flight path. If he has backstop issues, does not know where his teammates or hostages are located, etc. he simply cannot fire in lieu of making a bad situation worse. This fact is indisputable no matter what else happens or what he is forced to watch occur through his rifle scope. Disobeying orders, firing anyway and "forcing a shot" in this particular instance is a deadly roll of the dice. Proper personnel selection and training play a key role in preventing these instances from occurring.

If the sniper sees what he believes is a legitimate reason to fire, yet has to disobey a previous direct order NOT to fire to accomplish it, fires anyway and the shot is anything less than perfect (with absolutely no collateral injury to any person other than the intended target), the sniper will likely be indicted for a crime, with the penalty level thereof dependant upon the injury he has caused. Even if his shot misses his mark and causes no injury, the sniper will certainly stand alone, as the agency will not condone his decision in this instance. At the very least, the sniper may be removed from the team for lack of judgment.

Author's note: There have been instances where snipers "froze up" at the moment of truth and just could not pull the trigger. This is an entirely different subject for an entirely different article and one which this author is not qualified to write. But most often, a sniper either has a clear and unobstructed shot, under clearly

established rules of engagement .. or he *doesn't* .. and whether or not he has the shot is usually the deciding factor in whether or not the sniper will pull the trigger. Again, proper training and personnel selection is the key to preventing tragedy.

Having a written sniper SOP in place can remedy many of the issues addressed in this article. The SOP needs to be written with input from the snipers themselves as no one better than they know the demands placed upon them. Rules of engagement and commands to fire need to be spelled out and given in plain language that are not subject to loose interpretation. All relevant supervisors should be issued a copy of the SOP and it will hopefully hold administrators to task. If and when the time comes when a sniper does take a shot, the agency can then say: "This is what we did. This is why we did it. We broke no policy or law".

Furthermore, the SOP needs to address all issues affecting the snipers including specialized rules of engagement. If a sniper is currently operating without a written sniper SOP in place and terms like "rules of engagement" are a foreign language to his commanders and team mates, a sniper is better served operating under his agency's standard use of force policy just like everybody else. Trying to explain the issues addressed in this article for the first time, even to otherwise experienced people (who still may have no idea what you are talking about) can be a lesson in futility; especially if it is immediately following a critical incident. If an agency does not currently have a sniper SOP in place before a sniper shooting occurs, this gives someone an "out" and it usually isn't the sniper.

The job of the sniper isn't for everyone—it has been said that "the job finds the man and not the other way around". If you have volunteered for the scoped rifle assignment and can meet the challenges it brings...stay the course. The citizens and your agency need you...whether they realize it or not.

Snipers needing assistance with an SOP or wishing to obtain a copy of the sniper utilization survey (available April, 2005), may contact the American Sniper Association via the website at www.americansniper.org.

Snipers may also consider joining Snipersonline.org and tapping into the collective knowledge of police snipers worldwide. Contact Lt. Keith Deneys at kdeney@netnet.net to register.

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