Sgt. Shane Sorenson  
Great Falls MT Police

Per your phone call, I am happy to summarize my remarks in writing. In their careers, officers will need an intermediate force weapon far more often than they will need a firearm.

There are two kinds of intermediate force weapons that should be issued, at employer expense, to all officers. One is OC spray; the other is a baton. They need both because airborne irritants are not always successful, and there are places where their use is not advised (inside a patrol car, a hospital E.R. or courtroom).

There are two kinds of batons: traditional fixed-length and expandable/collapsible. We strongly recommend the expandable because (a) patrol officers routinely exit their cars without taking the fixed baton, and (b) detectives almost never carry a fixed-length baton.

There are several reasons why expandable batons can reduce civil liability:

1. Officers will not need to improvise by resorting to a flashlight or a piece of furniture. Flashlights are not designed for use as impact weapons, and light manufactures will not provide expert witness testimony to justify such use. Batons are designed and intended to be used as impact weapons.

* A Los Angeles man recovered a jury verdict of $1,250,000 from a flashlight blow to his head during a scuffle, following a routine traffic stop for having a loud muffler.  
  Wyche v. City of Los Angeles, 103 L.E. Liab. Rptr. (AELE) 4,  
  Super. Ct., Los Angeles, Co. Cal. (1980); the city dropped an appeal and paid the plaintiff.

* A Virginia man received a judgment of $1,500,000 to compensate him for speech impairment and paralysis, following a flashlight blow received during a DUI traffic stop. Wellington v. Daniels, 125 L.E. Liab. Rptr. (AELE) 3, modif. 127 L.E. Liab. Rptr. (AELE) 4, Civ. No. 81-208-NN (E.D. Va. 1982).

2. Officers will not need to escalate to a firearm when an impact weapon would suffice.

* In Dent v. New Orleans, a mentally disturbed person was shot because officers lacked an impact weapon; the sergeant unsuccessfully used a kitchen chair to calm the citizen. The case was settled for over $400,000 while the jury was deliberating -- and the foreman later said the verdict would have been over $1 million.

3. There is a deterrence factor: the noise and visual image associated with opening an expandable baton can and has discouraged further resistance.

However, batons can and do injure suspects. Officers have been injured while using a baton. See: Nonlethal Weapons vs. Conventional Police Tactics, by Capt. Greg Meyer, LAPD. He has published three charts: "Injuries To Suspects By Effective Force Type," "Injuries To Officers By Effective Force Type," and "Injuries To Officers By Ineffective Force Type" which are on the Internet at http://home.earthlink.net/~gregmeyer/injury.html
The issue is not whether any particular technique or weapon is injury-free to suspects or officers. The issues are:

Did the officer need to resort to force?
Did the officer have an appropriate weapon, based on the circumstances?
Was the officer's use of force reasonable?

---Sent by:
Wayne Schmidt, Attorney/Director
AELE Law Enforcement Legal Center
841 W. Touhy Ave.
Park Ridge IL 60068-3351
Website: www.aele.org/
E-mail: AELE@aol.com
Tel. (800) 763-2802 ~ Fax (800) 763-3221