

**IN THE MATTER OF THE THOMAS R. BRAIDWOOD, Q.C.,
COMMISSIONS OF INQUIRY UNDER THE *PUBLIC INQUIRY ACT*,
SBC 2007, c. 9**

Cypress Room
Residence Inn by Marriott Vancouver
1234 Hornby Street
Vancouver, B.C.

May 8, 2008

PROCEEDINGS AT
FORUM (DAY 4)

ORIGINAL

McEachern & Associates
2390 Kensington Avenue
Burnaby, B.C. V5B 4E2
Phone: (604) 299-3595; Fax: (604) 299-3545
Toll-free: 1-866-366-2202

**IN THE MATTER OF THE THOMAS R. BRAIDWOOD, Q.C.,
COMMISSIONS OF INQUIRY UNDER THE *PUBLIC INQUIRY ACT*,
SBC 2007, c. 9**

Cypress Room
Residence Inn by Marriott Vancouver
1234 Hornby Street
Vancouver, B.C.

May 8, 2008

PROCEEDINGS AT
FORUM (DAY 4)

Commissioner:	T.R. Braidwood, Q.C.
Commission Counsel:	A. Vertlieb, Q.C.
Associate Commission Counsel:	P. McGowan
Court Recorder:	P. Kealy, C.V.R., C.M.
Transcriber:	D. Rochfort

1
Clive Milligan (Law enforcement presenter)
Questions by Mr. Vertlieb

1 Vancouver, B.C.
2 May 8, 2008
3

4 THE COMMISSIONER: Well, good morning, everyone. I
5 think we can start now. Yes, counsel.

6 MR. VERTLIEB: Thank you. Mr. Commissioner, this
7 morning we have presenters from the Vancouver
8 Police Department. We have Sergeant Clive
9 Milligan and Constable Tammy Hammell. I'd like to
10 start with Sergeant Milligan who is seated before
11 you, and welcome him. Sergeant, thank you so much
12 for coming.

13 Just so we all know, the Vancouver Police
14 Department have been terrifically helpful, Mr.
15 Commissioner. Not only did they meet with you at
16 an early date to assure you that you would have
17 full cooperation, but they have met with counsel
18 more than once, and given us all the assistance
19 we've needed, and we certainly appreciate that
20 help and just wanted to mention that to you, Mr.
21 Commissioner.

22
23 CLIVE MILLIGAN, a Law
24 enforcement presenter
25

26 QUESTIONS BY MR. VERTLIEB:
27

28 Q Now, Sergeant Milligan, let me just spend a few
29 minutes on your background and then we'll invite
30 you to make your presentation which we understand
31 is going to be approximately one hour.

32 A That's correct.

33 Q Fine. Now, Sergeant, in terms of your own
34 background, you're born in Montreal but ended up
35 finishing your education here in British Columbia?

36 A That's correct.

37 Q Following your completion of your secondary
38 degree, you then went into the Canadian Coast
39 Guard?

40 A Yes.

41 Q And you served in the Canadian Coast Guard in
42 search and rescue for two years?

43 A That's correct.

44 Q You then enjoyed the freedom and the education of
45 travelling. You travelled the world for two years
46 carrying a backpack?

47 A Yes, I did.

2

Clive Milligan (Law enforcement presenter)

Questions by Mr. Vertlieb

Presentation

1 Q On return, you went into the hospitality industry
2 and you served in that field for two years?

3 A That's correct.

4 Q And ultimately in 1988, you joined the Vancouver
5 Police Department as a constable.

6 A Yes.

7 Q You have risen to the rank of sergeant, and that's
8 what you are today.

9 A Correct.

10 Q You have been with the Vancouver Police Department
11 then for 20 years, and that's been your full-time
12 occupation?

13 A Yes.

14 Q Tell us, please, what it is that you're presently
15 doing so we understand why you're here on this
16 subject matter.

17 A Thank you. Yes, Mr. Commissioner, my position
18 currently and for the last four years has been in
19 charge of the Vancouver Police Department training
20 section. My responsibility and the responsibility
21 of some of my staff is to deliver use-of-force
22 training to all in-service police members, other
23 than firearms training. So typically that would
24 include handcuffing techniques, pepper spray,
25 arrest and control, and communication tactics in
26 dealing with people.

27 MR. VERTLIEB: Well, then, with that background, we
28 will pass the microphone literally to you and
29 please commence your presentation.

30

31 PRESENTATION BY CLIVE MILLIGAN (Sergeant, Vancouver
32 Police Department):

33

34 MR. MILLIGAN: Mr. Commissioner, I've prepared a
35 presentation for yourself and the audience here
36 regarding the training that we do in reference to
37 the Vancouver Police Department use-of-force
38 policies and invite any questions you have along
39 the way about that, and I'll get started. There
40 are some videos that I've placed in the
41 presentation, and the videos will capture
42 behaviour of people that unfortunately police have
43 to deal with, that are tasked with dealing with.
44 There are explicit dialogue warnings on some of
45 those videos. Some are local and some are
46 national.

47

I understand one of the presenters spoke

1 before about the national use-of-force model of
2 which, since the year 2000, the Vancouver Police
3 Department has followed. It's merely a framework
4 or a guideline for use of force. It's left up to
5 the officer to make up her mind or his mind when
6 they're dealing with a subject, recognizing the
7 subject's behaviour and taking the total
8 circumstances of the contact to determine what use
9 of force they think would be appropriate and
10 reasonable to deliver the person before the courts
11 or release them back into the community if that's
12 the decision made.

13 Typically, a bit of history, I first started
14 in the training section in 1992. Prior to the
15 national use-of-force model being instituted more
16 recently, we had a simple use-of-force level. It
17 was five steps. I'm not sure if that was because
18 we were more simple back then, but the concept was
19 we had presence and dialogue, empty-hand control,
20 compliance tools and a firearm.

21 It's since evolved into there are multi-step
22 models designed by other officers around North
23 America, predominantly Canada and western Canada,
24 that had sub-categories to each of these levels.
25 Again, it was a framework for the officers to
26 recognize that their first level of force in
27 dealing with somebody is their mere presence.
28 Presence can have an adverse effect, of course, on
29 behaviour. We would like it to have a positive
30 effect and that the subject would stop doing what
31 he or she is doing if it's contrary to the law by
32 a mere presence of the officer in uniform or
33 identification, or simply a police car showing up.

34 The goal of our police department, of which
35 I've said in the last four years - and I'm sure
36 whether it was stated or not before from other
37 use-of-force trainers and the sergeants - is to
38 conclude every contact with have with the public
39 in the first two levels: presence and dialogue.
40 That's our goal. Also, as a reminder to that,
41 when they come to our training sessions, and the
42 reason we want to conclude 100 percent of the
43 contacts with the public in the presence and
44 dialogue level is for simple safety reasons.

45 However, because of behaviour of people,
46 whether they're fleeing a crime scene, about to
47 assault somebody at SkyTrain or whatever scenario

Clive Milligan (Law enforcement presenter)
Presentation

1 that the officer comes upon, we have to take steps
2 to take the person before the courts or release
3 them to the community, or at least stop the
4 threat.

5 So we have empty-hand control which would be
6 next up the ladder if you will, on the traditional
7 use-of-force five-step model. Empty-hand control,
8 there's a cornucopia of techniques of punches,
9 strikes, stuns, wrist locks, pain compliance
10 rooted in martial arts but not specifically have
11 to be a martial artist to perform the techniques.
12 They're simple, savage and they have to get the
13 job done quickly. Sometimes they don't work. If
14 they don't work, then the officer would of course
15 escalate to compliance tools.

16 Back in those older days, compliance tools
17 were simply batons, police dogs, things in hand,
18 whether it be a flashlight, a weapon of
19 opportunity. Pepper spray came on the law
20 enforcement radar and was implemented. If none of
21 those work and the situation escalates to a deadly
22 force encounter, the officer of course would use
23 her firearm or his firearm to stop the threat
24 again.

25 In the year 2000, the national use-of-force
26 model came to be after some subject matter experts
27 got together in Ontario and determined that there
28 had to be a working model for officers across the
29 country in the municipal agencies, and the RCMP
30 have a similar model called the IMIM which I think
31 counsel has spoken about.

32 I'll break this down into segments to make it
33 easier to understand because when we first try and
34 teach this to officers, whether it's at the police
35 academy or during in-service training, that wheel
36 can be a bit overwhelming to say the least. It's
37 multi-coloured, multi -- it's kind of confusing,
38 so what I've done is I've broken it down. I just
39 first wanted to show a use-of-force graph that,
40 again, we demonstrate and talk about at the police
41 training sessions.

42 Upwards of 97 -- in fact recently, there's a
43 study done nationally, Canadian, that demonstrated
44 that most of the officers' business dealing with
45 people is done within those first two levels,
46 presence and dialogue.

47 THE COMMISSIONER: Now, this is Canada, B.C.?

Clive Milligan (Law enforcement presenter)
Presentation

1 MR. MILLIGAN: This one is actually an American one
2 from Rutgers University back east, but the
3 Canadian one is actually even higher. Canadian
4 officers have been shown to demonstrate that
5 they'll use 98 or more percent communication
6 skills, and have to resort only to use-of-force or
7 actions in a very small percentage of the time.

8 Unfortunately, an aside, those contacts that
9 the officers make daily are not recognized in the
10 media or not recognized much in the public other
11 than the person that they were dealing with, but
12 the ones that end up in action will, of course,
13 cause attention and obvious, human curiosity and
14 concern, when an officer has had to use force.
15 But the majority of the job is talking, and up
16 until I took over in the training section, there
17 wasn't a lot of training in how to communicate
18 with people on the street.

19 So now we have a program called tactical
20 communication. For example, I just spent
21 yesterday for four hours speaking with twelve
22 officers on how to de-escalate violent behaviour
23 and I'll show you that in a minute. I can get
24 more into the tactical communication models that
25 we use.

26 The central core of that wheel that we saw is
27 based upon a situation, and the situation of
28 course is the officer coming upon a scene, being
29 called from 9-1-1 response, or finding a situation
30 unfolding in front of them. The situation is
31 assessed by the officer, a plan is devised, and
32 then the officer acts on that plan. This is
33 really what drives the use-of-force wheel in the
34 decision-making of the officers, the mere
35 situation. And everything in the situation can be
36 considered, i.e. environmental considerations,
37 lighting, subjects' behaviour, prior knowledge of
38 the subject, whether the information on the radio
39 was that they were armed, whether they were
40 fleeing, whether they were wanted, whether there's
41 other people involved, ice on the road, slippery
42 footing, size of the subject, demonstrated
43 abilities. There's a list that I have
44 accompanying paperwork with that lays out many,
45 many factors of what the situation involves.

46 Once the assessment is made and the plans
47 determined in the officer's mind -- again, this

6

Clive Milligan (Law enforcement presenter)
Presentation

1 can happen within two minutes if it's, say, a
2 barricaded subject and the officers have the
3 luxury of two minutes to deal with somebody, or it
4 can happen within as short a period of time as a
5 half a second or a quarter of a second to mentally
6 process what the situation is in front of the
7 officer.

8 I'll just scroll through the bullets, and if
9 there's anything you need clarifying on at all,
10 I'll be happy to answer.

11 So the officers are expected to act
12 reasonably throughout the incident, and if they
13 don't, they face consequences obviously of
14 criminal, civil, or **Police Act** violations if
15 they've made mistakes and the mistakes weren't
16 reasonable in the circumstance.

17 We talk about use-of-force and we talk about
18 excessive force in our training sessions as well,
19 and the officers are -- they do understand that.

20 Cooperative subject behaviour, the second
21 ring that's coming out here, starts with
22 cooperative behaviour. It's a transition here in
23 white to black. A cooperative subject is
24 basically cooperative with the officer's requests
25 or demands or commands, and there's no overt
26 violence. There may be some verbal abuse, but
27 again, we teach officers to know how to deal with
28 verbal abuse and how not to get personally
29 involved in a situation.

30 A passive resistant subject now, moving up
31 the scale of escalation of behaviour from the
32 subject, will not comply with verbal commands. We
33 sometimes see this in dealing with protests and
34 demonstrations, of which there are hundreds a year
35 in Vancouver, where protesters will sit down and
36 maybe link arms or just sit down to protest. So
37 there's no active resistance or assaultive
38 behaviour from someone in this position.

39 There's a snapshot of a sort of typical
40 passive resistant person or persons seated, not
41 causing harm to anybody, potentially themselves so
42 they're in the way of traffic, but it looks like
43 the traffic in this side of the picture have
44 probably been blocked off for their safety. So
45 that's a passive resistant subject.

46 We move up the scale on this second circle
47 here of subject behaviour. Active resistant

1 people are non-compliant, they're pulling away.
2 The scenario could be one of many, but let's just
3 say somebody who's under arrest but they're
4 holding onto a table or they're pulling away from
5 the officer who's trying to effect an arrest and
6 take them before the courts, twisting and turning.
7 What we call turtle-on-the-ground is when somebody
8 lays on the ground and whether by accident or by
9 design, whether they're startled enough that they
10 curl up this position or whether they're actually
11 trying to prevent the officers from obtaining an
12 arm to handcuff, turtling on the ground is seen as
13 active resistant subject behaviour.

14 One of the concerns about people turtling on
15 the ground is the subject's actions leading up to
16 accessing a weapon, and that's what the officers
17 have to consider. What's the background of this
18 incident? Was it the suspect looked similar to a
19 suspect in a shooting at a club and now they're on
20 the ground turtling while the officers are trying
21 to control them? Are they trying to access a
22 firearm if that was a similar description? So
23 they have to be concerned about that, but simply
24 the turtle is a very strong position instinctively
25 for humans to get into. They're incorporating
26 all sorts of positive muscle engagement and it's
27 very hard - in fact, almost impossible, for an --
28 I had an officer who's about 250 pounds try and
29 unturtle a policewoman who was on the ground in
30 training and he couldn't do it. He could lift her
31 up physically off the floor, but he couldn't
32 unwrap that arm to handcuff her. So we train in
33 this technique.

34 Active resistance is often a precursor to
35 assaultive behaviour. It's just that finite
36 moment before trying to unleash a grip on somebody
37 from a steering wheel or a wall or a fence.
38 They're tensed up. There's anxiety, they're
39 anxious, there's maybe some fear, there's maybe
40 some rage, there's maybe some intoxicants involved
41 in here. Communication has failed in most cases,
42 and this is the apex before a fight in a lot of
43 times. Whether it's designed to or not, the pixel
44 count in this - and that's as technical as I can
45 get about this - that it's not a clear delineation
46 between white and black like there is in
47 cooperative and deadly force behaviour. It's

Clive Milligan (Law enforcement presenter)
Presentation

1 grey. So the officer has to make up his or her
2 mind at this point. Is that just prior to an
3 assault? Often this active resistant behaviour is
4 prior to an assault.

5 I think counsel mentioned that you've seen
6 this video already so I'll bypass it unless you
7 wanted to see it again, but I can talk
8 specifically about active resistance because --

9 MR. VERTLIEB: That one we haven't seen.

10 THE COMMISSIONER: I don't remember that one.

11 MR. VERTLIEB: No, this we haven't seen.

12 MR. MILLIGAN: Oh, okay. This is a Spokane Police
13 Department Dash cam video, and what it captures is
14 two officers trying to control a subject who,
15 according to them, has committed a violation
16 worthy of a detention. It might be insignificant
17 for the purposes of how we would consider a
18 traffic violation, but in any case, they've
19 determined that this person is arrestable under
20 their statutes and their rules.

21 They go to take him into custody and I'll
22 start the video and then I'll maybe walk you
23 through it and if there are any questions, I'll
24 certainly be happy to answer them as we go.

25 They end up using a conducted-energy weapon
26 or electronic control device or a Taser, whichever
27 we would like to talk about here and term it, but
28 they used the Taser to take this person into
29 control and handcuff him.

30

31 (VIDEO PRESENTATION)

32

33 MR. MILLIGAN: Okay. So you have somebody in a
34 position here where they're again, I think they're
35 trying to get him into a handcuffing position to
36 take him to jail or detain him. He's not actively
37 fighting, but he's certainly not cooperative
38 behaviour in which he would say, "Yes, Officer,
39 okay," offer some verbal non-compliance, which he
40 is there a little bit. But they've also --
41 they're trying -- by the tones of their voices, I
42 think they're speaking quite humanely to him and
43 trying to explain to him that it's in his best
44 interest to cooperate.

45 One of the officers suggested that the dog is
46 in the car and the subject is basically, "Bring it
47 out, I'll box that dog." So here's someone who

Clive Milligan (Law enforcement presenter)
Presentation

1 has no problem dealing with maybe aggression or
2 feigned aggression, but he certainly looks to be
3 competent and capable, not that size matters too
4 much in these, but you have to look at the
5 officer's size in concert with this.

6 THE COMMISSIONER: Well, I would think size would
7 matter.

8 MR. MILLIGAN: Size does matter sometimes, yeah, but we
9 also have seen big people fold like a lawn chair
10 upon first touch as well.

11 THE COMMISSIONER: Oh, yeah.

12 MR. MILLIGAN: Here's a little more of this video here.
13 And I'll point out to you, Mr. Commissioner, that
14 the point where we would consider this -- this is
15 almost a defensive resistance if you want to break
16 it down, but it's a finite thing. An active
17 resistance is where he'll pull away and you'll see
18 that pulling away in a minute. I don't know if
19 anyone's tried to put arm bars on people or wrist
20 locks on people. It's great in the gymnasium
21 because we're cooperating with each other, but
22 with an unknown quantity it can be rather
23 precarious and difficult at best.

24
25 (VIDEO PRESENTATION)

26
27 MR. MILLIGAN: Okay. There's a bit of size difference
28 in the hands. To manipulate someone into
29 wristlock could be quite difficult in that case.
30 The officer is humanizing the contact which is
31 what we teach as well. Instead of saying, "We're
32 the police, do as you're told," it's, "My name is
33 Clive," or, "My name is Mike," and it's more
34 difficult sometimes with people to assault another
35 human being as opposed to the state. So we teach
36 those techniques here as well.

37
38 (VIDEO PRESENTATION)

39
40 MR. MILLIGAN: Okay. This is the apex what I was
41 telling you about. This is the critical point
42 where the balance of this could lay in assaults,
43 fists flying, takedowns, hard concrete surfaces,
44 hoods of vehicles and an escalation. So the
45 officer here has determined that, you know what, I
46 think we need that Taser and that's what he's
47 called for. "Get that little thing out of your

10

Clive Milligan (Law enforcement presenter)
Presentation

1 pocket." It's a clue to his partner that we're
2 going to deploy the Taser here to stop this from
3 getting worse.
4

5 (VIDEO PRESENTATION)
6

7 MR. MILLIGAN: So it sounds like he's maybe taken him
8 on a bit of a car pursuit, but nothing crazy and
9 out of control but it looks like this guy didn't
10 stop and therefore, under their jurisdiction, they
11 have -- or under rules.
12

13 (VIDEO PRESENTATION)
14

15 MR. MILLIGAN: He doesn't get him a third time, but now
16 they have the arms in position. They're doing
17 what is called -- and I think Constable Hammell
18 will talk about this. It's taking control while
19 it is cycling. So they're well-educated in how to
20 control the limbs, usually the arms to get them
21 behind the back.

22 THE COMMISSIONER: So there was two shots there.

23 MR. MILLIGAN: Yes, that's correct, yeah. So they will
24 handcuff him and then I think you will hear some
25 dialogue from this subject that wanted to maybe
26 fight the police.
27

28 (VIDEO PRESENTATION)
29

30 MR. MILLIGAN: Okay. So goes on to explain that he's
31 been shot and he's been stabbed but he's never
32 felt anything like this before.

33 THE COMMISSIONER: Let me just ask you a question. Do
34 you think they should have yelled, "Taser, Taser,"
35 or words of that effect?

36 MR. MILLIGAN: Well, when we first started delivering
37 Taser training - and I'm not the Taser coordinator
38 trainer, Constable Hammell is - but this warning
39 can be a bit of a pitfall and a danger for the
40 officers.

41 THE COMMISSIONER: Oh, yeah?

42 MR. MILLIGAN: 'Cause there are counter measures to any
43 type of compliance tool whether it's a Taser or a
44 baton or pepper spray. As soon as we announce,
45 "You're going to be shocked with 50,000 volts,"
46 that the vendor suggested that we should say,
47 gives the person a good chance to come up with

11

Clive Milligan (Law enforcement presenter)
Presentation

1 counter measures and a tactical plan to maybe
2 break away at that time.

3 THE COMMISSIONER: It's a warning.

4 MR. MILLIGAN: The warning is almost a -- as long as
5 the other officers understand that this is a Taser
6 going to be applied, but if we give them warning
7 it does give the subject a chance to take counter
8 measures and defeat the technique that's about to
9 happen, so it's more of a risk.

10 It's not really accurate as well. I don't
11 think the 50,000 - but I'm not electrician - but
12 from the literature that I've studied --

13 THE COMMISSIONER: Oh, we know all that.

14 MR. MILLIGAN: You know all that, yeah, good. Okay.
15 So we'll scale up here and again look at the
16 assaultive subject behaviour, and this is the
17 framework that the officers are being taught to
18 recognize. Pre-assaultive indicators are a
19 fighting stance where maybe the fists are raised
20 or the shifting of the body into a bladed
21 position. Posturing is big. Sometimes people
22 puff up their chest and gesture almost like two
23 pigeons fighting over some crackers. They tend to
24 get a little bigger than they actually are.

25 So intimidation also comes in the verbal
26 arena. I'm leaving this, of course, with counsel
27 for the PowerPoint in case you need to reference
28 it later, but furtive glances, staring down, we
29 have lots of indicators. Predominantly it's body
30 language, and that the officer decides that this
31 looks to be a potential assault against somebody
32 else or themselves.

33 Proxemics is one of the biggest indicators to
34 an assault. It's allowing the subject the
35 distance to close to get to the officer to punch
36 the officer or attack the officer or stab the
37 officer and proxemics are one of the biggest
38 indicators. So we want a standard police
39 challenge that would say, "Police. Don't move."

40 If they start to move and we've told them not
41 to move and we have the authority to deal with
42 them, the officers are trained to recognize that
43 as probably number one on the list of cautions
44 that things could be taking a turn for the worse.
45 For the mere fact that someone has to physically
46 assault him on the fists and feet, they have to be
47 within striking range. So we like to keep a

1 safety distance if we can in contact.

2 Assaultive behaviour, albeit the **Criminal**
3 **Code** will define what an assaultive behaviour is,
4 but they're also considered shoves, pushes, grabs,
5 pushing up against buildings, pushing onto the
6 ground, tackling officers of course, and the
7 standard primitive punching and kicking.

8 There are some warning signs that our members
9 are trained to look for, furtive glances in the
10 very sneaky dangerous people that might want to
11 hurt an officer will often look around before the
12 assault happens. They're simply looking for
13 witnesses, other officers, cameras perhaps, or
14 cohorts. So furtive glances are one of the
15 indicators. In and of itself, I wouldn't say that
16 would be a big pre-assault cue, but coupled with
17 some of these other things, it would be.

18 Communication tactics, like I said, I have a
19 four-hour training program that I put together on
20 verbal judo based upon 60,000 police interactions
21 in North America predominantly by Dr. George
22 Thompson. He studied police interactions, so what
23 the officer said that worked to de-escalate the
24 violent behaviour, what the officer said that
25 appeared to upset and antagonize the situation.
26 I've spent most of my training career in
27 delivering that material to our people and whether
28 they choose to use it or not, I would hope they
29 would 'cause it's a very simple thing.

30 One of the concepts in listening, asking,
31 paraphrasing and summarizing and empathy is if
32 someone is looking away while they're listening,
33 depending on what culture they're from, it's seen
34 as a bit of a moment of non-committal to what the
35 officer is saying and it could be pre-assault
36 cue. Not by itself, but in conjunction with other
37 things.

38 We have obviously head-shaking. That's good
39 body language for someone who's not interested in
40 paying attention to the direction the officer is
41 giving them. Again, stress, anxiety, rage,
42 intoxication, there's many, many barriers to
43 effective communication. Clenched jaw, pursed
44 lips. Typically before somebody assaults
45 somebody, there's going to be a terse look about
46 their jaw, the muscles in the jaw clench. Whether
47 they know they're doing this or not, it's rather a

1 giveaway. People, when they get angry, they speak
2 through their teeth. You'll see a video of it in
3 a moment.

4 Deep inhale is basically the body's way of
5 taking in the air, the oxygen that it needs to
6 fight or flight.

7 This video here is -- again, I don't think
8 it's explicit in the dialogue, but if it is, it's
9 just sort of a cut of reality here.

10 This one, I don't think is. Here's a
11 situation in school where a student is being
12 ejected from school for smoking marihuana. Her
13 grandmother, the student and the mother are here
14 talking with the administrator, and you'll some of
15 the things that I just mentioned in the video here
16 about assaultive behaviour and proxemics in
17 particular.

18 The administrator, although I haven't spoken
19 to her or seen her report, probably received a
20 significant injury if not a broken nose, certainly
21 emotional trauma from the assault. The assault
22 comes within a matter of seconds, and I'll play it
23 twice so I can break it down for you.

24
25 (VIDEO PRESENTATION)

26
27 MR. MILLIGAN: All right. So there's a short snippet
28 of a video, captured an assault. It's very
29 spontaneous, three seconds at most. But what you
30 will see when I break down...

31
32 (VIDEO PRESENTATION)

33
34 MR. MILLIGAN: Okay. So there was a bit of clenched
35 lips, pursed lips, but very difficult for the
36 administrator there to maybe recognize that as a
37 pre-assault cue. But what was telling there was
38 certainly a breach of that security space that she
39 had. She had to get close enough to what we call
40 hammer-fist strike. It was a very powerful strike
41 to the bridge of the nose. So she's just as
42 shocked as we were when we first saw the video,
43 but probably in more pain.

44
45 (VIDEO PRESENTATION)

46
47 MR. MILLIGAN: So violence is never pretty whether it's

1 in a policing context, in a school administrator
2 trying to do the right thing context, or even in a
3 hockey match where someone takes a stick and hits
4 someone over the head. It is intriguing for some
5 people but it is obviously devastating for the
6 people directly involved and can have an effect on
7 the people that aren't even involved. There was
8 no profanity. I didn't see any dialogue or
9 threats made by the woman there that hit the other
10 woman.

11 This one does have a warning, so depending if
12 no one wants to hear the "F" word, if you've never
13 heard it before, here's a good chance. Again, we
14 teach officers on how to recognize the dialogue in
15 and by itself. Unless it's a threat or riotous
16 behaviour, like, "Let's go looting," during a
17 riot, the officer doesn't need to take any action
18 on that dialogue, but if it's a threat with the
19 other indicators present...

20 This is a situation where two young fellas --
21 you'll see a lot of the things I talked about, the
22 posturing, the talking through the teeth, the
23 intimidation and the profanity and the proxemics
24 all match in here when they are challenged by some
25 Vancouver residents who are skateboarding who got
26 in front of this guy's car and the guy took
27 offence to that. You'll also see the police car
28 in the background that sees this unravelling in
29 their rear-view mirror and they spin around and
30 come in and arrest the subject. They use a
31 compliance tool in here, but it's a baton. The
32 baton is used to stop what they believe is -- and
33 I'll leave it to you, if you think it's grievous
34 bodily harm or death potential against these
35 skateboarders.

36
37 (VIDEO PRESENTATION)

38
39 MR. MILLIGAN: Okay. These two guys actually have pled
40 guilty to this once they saw the video. The video
41 is captured by a Spanish tourist in town at the 7-
42 Eleven. It's a little bit dark. I don't know if
43 we could lighten it up somehow, Leo, at all or if
44 it's going to stay in that grain, but it's a very
45 clear video. That's a police car in the
46 background. It should be a very clear video; it's
47 a bit grainy. But you'll see some actions that

15

Clive Milligan (Law enforcement presenter)
Presentation

1 change from intimidation, assaultive - that was
2 assaultive, the push - to likely a deadly force
3 encounter with the police.

4 THE COMMISSIONER: Now, who did the push?

5 MR. MILLIGAN: The fellow in the white shirt.

6 THE COMMISSIONER: Yes.

7 MR. MILLIGAN: Yeah.

8 THE COMMISSIONER: Who is he?

9 MR. MILLIGAN: He's the suspect that was charged with
10 the assault of these kids.

11 THE COMMISSIONER: Oh, is he a skateboarder or out of
12 the car?

13 MR. MILLIGAN: He's the motorist.

14 THE COMMISSIONER: He's the motorist, all right.

15 MR. MILLIGAN: Yeah.

16

17 (VIDEO PRESENTATION)

18

19 MR. MILLIGAN: Okay, so those are some kicks to the
20 skateboarders' heads. And then the skateboarder
21 tries to get up, probably instinctively, to get
22 away from this offence. I wonder if the lights --
23 can it lighten it up at all? I mean, we're almost
24 finished with this one.

25 Then the police come in and use the baton to
26 control the subject.

27

28 (ADJUSTING PICTURE)

29

30 MR. MILLIGAN: Probably one of the most dangerous
31 things is being stepped on or kicked while on the
32 ground. There is literally nowhere for the head
33 to absorb the injury from the contact of the
34 ground or the floor.

35

36 (VIDEO PRESENTATION)

37

38 MR. MILLIGAN: The suspects tried to tell the officer,
39 "He hit me first," which is not the case.

40

41 (VIDEO PRESENTATION)

42

43 THE COMMISSIONER: Maybe you can just tell us what
44 happened.

45 MR. MILLIGAN: Yeah, the suspects -- in the follow up
46 to it?

47 THE COMMISSIONER: No, no.

Clive Milligan (Law enforcement presenter)
Presentation

1 MR. MILLIGAN: Oh, right there?

2 THE COMMISSIONER: We saw the police car come up and
3 then what happened?

4 MR. MILLIGAN: That's right. The officer took a baton
5 out and struck one of the men there, the motorist,
6 on the thigh causing him to fall down. Actually,
7 the officer dropped the baton. You heard a
8 clinking and it fell off to the side by the store.
9 They took him into custody, handcuffed him and
10 took him before the courts. He pled guilty as
11 soon as he saw the video of it.

12 Without police intervention, I don't know how
13 long that assault could have gone on, but it was
14 precarious and dangerous for the subjects there
15 obviously. They had the means, intent and ability
16 to do something and certainly had the means,
17 intent and ability at that point. You don't have
18 to have weapons to be able to cause grievous
19 bodily harm or death to somebody.

20 I'll get soon to police response options to
21 this type of behaviour, and of course I will have
22 this PowerPoint available for you for reference.

23 Another video, that is rather a compelling
24 video and it demonstrates - and this is what our
25 officers see in training - that never to
26 underestimate the adversary. You have two females
27 fighting here. I don't know if, between the two
28 of them, are over 200 pounds, but maybe 100 pounds
29 each, rather savage and vicious, but again, that's
30 what fighting is about. One dominates the other.
31 Again, the dialogue is rather explicit, so I
32 apologize for that, if anyone doesn't want to
33 hear.

34 THE COMMISSIONER: Oh, don't worry about that.

35 MR. MILLIGAN: Are you okay with that? Okay, thank
36 you. I'll play this twice for you to be able to
37 see how things can transition from an empty-hand
38 contact to a deadly force contact.

39
40 (VIDEO PRESENTATION)

41
42 MR. MILLIGAN: Okay. During that contact, whether you
43 saw it or not -- if you've seen the video, you
44 probably recognize it, but the officers that we
45 give this video to and the public that we've shown
46 it to are shocked to know that there was an edged
47 weapon involved in that fight. It appears to be a

Clive Milligan (Law enforcement presenter)
Presentation

1 backyard brawl captured on video. Unfortunately
2 YouTube, kids, or anybody can show anything, and
3 there's a fight, underground fight circuit where
4 people will videotape these things.

5 So you'll see again where the one girl on the
6 ground accesses an edged weapon, a small pocket
7 knife, and buries it into the other girl's leg.

8
9 (VIDEO PRESENTATION)

10
11 MR. MILLIGAN: I'll show you again and we'll break it
12 down again 'cause it's very telling on how you
13 expect one thing to be, and it ends up not being
14 the same thing.

15
16 (VIDEO PRESENTATION)

17
18 MR. MILLIGAN: Okay. Right there, she's actually
19 accessing the knife from her pocket. The other
20 girl appears to have the upper hand in this.
21 She's using typical strikes and stuns and balanced
22 displacement to control the subject.

23
24 (VIDEO PRESENTATION)

25
26 MR. MILLIGAN: Okay. She's buried it into her leg.
27 She missed on the first couple as you saw. Most
28 people that have been stabbed - I haven't - but
29 most officers that have been stabbed never knew
30 they were stabbed until they saw some blood or
31 someone else told them, "You're leaking, you're
32 bleeding," because they believe it was just a
33 punch. Unless they actually see the knife at a
34 standoff distance, the knife is introduced, they
35 believe it was just an empty-hand punch and then
36 they realized they've been punctured.

37
38 (VIDEO PRESENTATION)

39
40 MR. MILLIGAN: So she's still working around, and I
41 think this young girl is lucky that that didn't
42 access some of the main arteries in the leg,
43 femoral artery, all sorts of important vessels
44 buried inside the meaty parts of the leg, or
45 connective tissue.

46
47 (VIDEO PRESENTATION)

Clive Milligan (Law enforcement presenter)
Presentation

1 MR. MILLIGAN: What's interesting also is that this
2 girl is able to fight with a significant wound
3 although it's not a blood-loss wound, but a
4 significant wound, and then she recognizes that
5 she's been stabbed.
6

7 (VIDEO PRESENTATION)
8

9 MR. MILLIGAN: So you know the end.
10

11 (VIDEO PRESENTATION)
12

13 MR. MILLIGAN: All right. I won't show this one. This
14 is a subject in the States who appears to be on
15 some drugs and he ends up getting very violent.
16 Actually, property damage and threat, again what
17 some police -- and even though I don't have
18 typical footage from Vancouver incidents, people
19 in Vancouver have been known to access weapons and
20 assault people.

21 This is actually -- if you like, I can show
22 it. It's about a minute long. This is a self-
23 professed gang member in Las Vegas that I found on
24 the internet, and he had somebody filming him, and
25 then he demonstrates that this is his corner,
26 after a short version of a rap song, and then he
27 takes a tire iron and proceeds to attack an
28 innocent motorist's vehicle with it. Again, it's
29 things that unfortunately happen in public, not
30 often, but here's a very clear...
31

32 (VIDEO PRESENTATION)
33

34 MR. MILLIGAN: So we have to obviously -- within a
35 matter of seconds, if an officer was to roll up on
36 that scene, they're going to have to process, like
37 we saw at the first stage of the use-of-force
38 model, what is the situation here? This is
39 someone gone berserk with a weapon here. If that
40 weapon beats through that window and hits a child
41 in a car seat, then you've got potential grievous
42 bodily harm or death. So the officer is going to
43 have to take some swift decisive action. He
44 doesn't have a lot of time to plan. The person is
45 highly mobile. Are they stationary for a CEW or
46 Taser shot, or is this an immediate urgent
47 situation?

Clive Milligan (Law enforcement presenter)
Presentation

1 After viewing this video on the internet, I
2 phoned Las Vegas Metropolitan Police Department
3 and said, "Are you aware of this?" They said,
4 "No." They looked at the video because I kind of
5 did a little detective work, and that's as far as
6 it goes for my detective business, but the idea
7 was I found out the location, and that car was
8 never reported as a victim of an assault. They
9 think that that car just kept driving out of
10 Nevada or wherever it was in Las Vegas and kept
11 going. They never had a report of somebody doing
12 that. I imagine that person was rather
13 traumatized in there.

14
15 (VIDEO PRESENTATION)

16
17 MR. MILLIGAN: So sometimes people act in bizarre
18 fashions, and we have a fair share in Vancouver
19 and Lower Mainland metro, and B.C. and Canada
20 about people under the influence of drugs or rage,
21 or for whatever reason, they act out. The
22 definition of bodily harm would apply to that one,
23 grievous bodily harm or death.

24 Now we get into our response options. A
25 typical response option for someone who is
26 demonstrating that cooperative behaviour in that
27 white area that we mentioned before would be the
28 presence and dialogue. Again, that's our goal in
29 the police department is to solve every encounter
30 we have in this dialogue and presence level.
31 That's not the reality of it. The reality of it
32 is sometimes you have to use force to stop
33 behaviour.

34 Tactical communication, again, body language,
35 listening, empathy, understanding, paraphrasing,
36 using body language, reading body language, tones
37 of voice, pitch modulation, different language
38 skills. Vancouver probably has the most diverse
39 law enforcement agency that I've ever known in the
40 world as far as backgrounds of people and skills
41 and skill sets they bring to the job, different
42 languages, different cultures. It's a very
43 diverse agency and that's one of our strong points
44 here. If we need someone to translate immediately
45 a description of a suspect who just stole
46 somebody's purse, we can do that in a number of
47 languages on one shift. We don't have to use the

1 phone services anymore like we did years ago.

2 Again, these are all the things the officer
3 would take into account, their distance to the
4 person, the ability that they're demonstrating, a
5 weapon, a potential weapon, number of people
6 involved, location of a vehicle stop, whether it's
7 near a club that is not police-friendly, ratios.
8 Those environmental factors are key to the officer
9 making up her mind what she wants to do and why
10 she thinks it's good to do that.

11 Tactical withdrawal often is an option for
12 officers to withdraw and wait for resources,
13 whether they be canine service or emergency
14 response team if it's a barricaded subject.
15 There's nothing wrong with tactically withdrawing
16 except if the person escapes that containment and
17 goes on to hurt somebody else. You might find
18 some issues, litigation issues or areas of
19 responsibility that the officer failed to perform
20 because he or she just left that person run
21 rampant and put a tire iron through the window of
22 another car if they didn't take swift action
23 there.

24 So tactical withdrawal works on a planned
25 event.

26 THE COMMISSIONER: Sorry, how is this taught?

27 MR. MILLIGAN: Just like this.

28 THE COMMISSIONER: The way you're doing it with us?

29 MR. MILLIGAN: That's correct. We have 40 officers in
30 our training -- sorry, I wish we had 40 officers
31 in our training sessions. We have three officers
32 in our training section, and we'll typically teach
33 a class of 40 officers, and they get this in
34 actually more detail than -- I'm sort of rushing
35 through here, I apologize for that.

36 They also get a communication tactics update,
37 and I've got a list of all the training that we've
38 delivered in the last 13 years, but they get it in
39 this form. They can have a handout if they want.
40 It's interactive. I have videotapes. I've worked
41 on files, was in Internal Investigations for
42 several years in the early 2000s. Since then,
43 I've been asked and tasked to look at use-of-force
44 issues from other agencies in the Lower Mainland,
45 and I've determined now to use videos where I've
46 found officers did not act reasonably and acted
47 inappropriately, outside of the confines of the

1 use-of-force training. So I use their stories as
2 examples for how our officers should not behave.

3 One officer who I found didn't use
4 appropriate force or used excessive force is in
5 sentencing right now in the criminal court. Other
6 officers have found that I've exonerated them via
7 their reports with all the information compiled,
8 whether it be video evidence or witness statements
9 or officer statements. So we talk about those
10 other officers and those other examples. It's
11 very clear to officers what we expect of them.

12 I've probably got about 15 minutes left, is
13 that right? Are you okay with that?

14 THE COMMISSIONER: Go right ahead.

15 MR. MILLIGAN: Okay, thank you. The passive resistant
16 behaviour, as we showed before, a typical
17 protester or someone just seated and not willing
18 to cooperate with the officer who has lawful
19 authority to deal with them, communication tactics
20 have failed. Passive-resistant behaviour will
21 require probably someone to be lifted up out of a
22 chair, simple wristlocks. If they fight, then
23 it'll probably escalate to something else, and the
24 techniques we can teach to get someone out of a
25 chair or off the street when we have to are pretty
26 simple, basic biokinetics and how to manipulate
27 people to stand up or turn around.

28 Some are rooted in martial arts, but like I
29 said before, you don't have to be a martial artist
30 to perform the tasks.

31 Active resistant behaviour, presence and
32 tactical communication can still be utilized.
33 Like you saw in that videotape with the Spokane
34 police officers dealing with a subject there, they
35 were still using good dialogue, nice tone of
36 voice, very clear, no profanity, no personal
37 involvement, just professionalism. It didn't
38 really seem to work but they can use that in
39 conjunction with this type of behaviour for sure.

40 It appeared they were trying to take a handle
41 or a lever on the subject's arm. There could be
42 strikes or stuns to primary targets. The results
43 of a strike or a stun, like a knee strike to
44 somebody's thigh, does a number of things. A knee
45 strike will cause a temporary motor dysfunction,
46 or a stun in that muscle which will hopefully
47 impair that muscle for a moment so that they can't

1 fight continuously, or they'll fall, lose their
2 balance. A knee strike also has a mental
3 stunability (sic), capability, where it takes the
4 mind off a subject's resistance and allows the
5 officer to manipulate them into a position of
6 control.

7 Neck restraint, we don't see it a lot
8 anymore, but we still train officers in how to
9 render somebody unconscious via application of
10 lateral pressure to the sides of the neck, which
11 isn't a choke hold. Choke holds have been
12 banished from policing several years ago. We
13 don't use choke holds anymore. This technique was
14 incorrectly called a choke hold for some time, but
15 a choke hold is direct pressure to the trachea
16 causing the cricoid cartilage, the hyoid bone to
17 fracture, very dangerous high level target, which
18 would be available to an officer if he or she was
19 facing grievous bodily harm or death. This is a
20 good technique.

21 But just to control someone in this active
22 resistant behaviour, a choke hold is no good,
23 doesn't work, excessive.

24 Neck restraint, though, applies some pressure
25 to the sides of the neck, not the throat. It has
26 about four criteria or four ways that it actually
27 renders someone unconscious, and I can get into
28 that if you like.

29 Intermediate weapons, we're introducing now
30 batons, pepper spray, conducted energy weapon, the
31 Taser, police dogs, police cars, flexible baton
32 rounds from shotguns, R-1s, anti-riot weapons,
33 this type of tools that'll help stop the
34 behaviour. Again, the scale is based on the
35 escalation of the subject's behaviour, whether
36 it's escalated up or downwards.

37 Pepper spray, back in the '90s when we
38 started to look at it, actually late '80s, early
39 '90s, was meant to be the panacea of policing. It
40 would solve every problem, put your pistols away,
41 take out your pepper spray 'cause it'll solve the
42 world's problems. In quick due course, it was
43 recognized that it probably works best on cops in
44 training that aren't drunk, for the most part, or
45 emotionally embroiled anxious fearful escape-
46 prone. It was just a technique that has its
47 place, but a very small place. OC spray has a

1 significant failure rate, documented failure rate
2 on people suffering from mental health issues
3 whose pain receptors aren't working as well,
4 overriding chemical responses, intoxicated people
5 or going-at-it people, you can fight through
6 pepper spray very easily.

7 But when it first came out, it was the answer
8 to everything. In fact, when it first came out,
9 rightly so, Amnesty International called for a
10 complete ban on the use of pepper spray 'cause
11 they believed it was killing people in its
12 application. Obviously a similar type of inquiry
13 and commissions were struck around the world,
14 predominantly North America, about should OC spray
15 or pepper spray be used in law enforcement 'cause
16 apparently it's killing people, was the hue and
17 cry. Now, they've realized that it's not and that
18 you can buy pepper spray in the corner store
19 probably across the street for your kid if you
20 wanted to or when you go camping.

21 So at first it was a very pressing issue and
22 had to be examined carefully obviously, but it was
23 determined later that it's merely an irritant --
24 actually not even an irritant. The chemical
25 compounds are such that it's not a fatal
26 application. It's an inflammatory agent.

27 CEW Taser, which obviously is the focus of
28 this commission, understandably so. Also primary
29 baton strikes could be used against an active
30 resistant, because that's the apex there where
31 we're talking about violence to the officer or the
32 subject. Some have argued, and some have stated,
33 and we've talked about this candidly: Should an
34 officer, because of the virtue of her job or his
35 job, be subjected to hammer-fist strikes to the
36 nose, elbows to the stomach, kicks to the groin,
37 when arresting somebody to take them before the
38 courts? That's the question.

39 I want to challenge the public who have
40 family in law enforcement or friends in law
41 enforcement, or just law enforcement people in
42 general, should you be willing to take a few hits
43 to get this person to jail? Are you willing to
44 lose a tooth or get punched or have something
45 pushed at you, knocked down? I wonder if the
46 parents of the people signing up for the job that
47 they do would be willing to sign off on, yeah, I

1 guess you can take a couple of punches upside your
2 head. Hmm.

3 So that's the balance there. We know there's
4 inherent risks in policing, but if we can mitigate
5 those risks by using compliance tools at the right
6 time and for the right reasons, then it's a safety
7 thing for the officer. Public safety, officer
8 safety, subject safety, we get it, but
9 unfortunately some people don't want to comply.
10 Some people want to fight the police, some people
11 want to shoot the police. Those response options
12 like I just mentioned, there's an increased injury
13 potential.

14 And quickly, if you will -- whenever you feel
15 like taking a break, I can do that and finish off
16 in about ten minutes 'cause I do have a bit of
17 training stuff.

18 THE COMMISSIONER: Let's finish.

19 MR. MILLIGAN: Are you okay? Thank you, sir.

20 Assaultive behaviour, officer can still use
21 presence and tac com (sic). If someone is
22 threatening assault from across the room, we can
23 still try to use dialogue. We can still try to
24 use presence and professionalism to calm somebody
25 down. But if it doesn't work, it doesn't work.
26 We're looking at different techniques to be able
27 to effect the purpose.

28 Now we're escalating of course on the officer
29 response options around the outside of the wheel
30 here until we get to the deadly force area.

31 Now the wheel is complete, if you will, but
32 it finishes off at the high level which is a very
33 low frequency highly emotional event. It doesn't
34 happen a lot, but if it does, then the officer
35 realizes or recognized that someone may die or
36 suffer grievous bodily harm if they don't
37 intervene, or the officer himself might face this
38 as well. They have options for them, baton
39 strikes, firearms. Baton strikes at targets now
40 that weren't the primary target strike areas, so
41 we're looking at to the head. This is of course
42 based upon the scale of the subject's behaviour,
43 whether the officer had to escalate to this or
44 not.

45 Again, these things typically will occur
46 within a matter of 1/1000, 2/1000, 3/1000, several
47 seconds, and the officer has to take all this

1 information, the totality of the circumstances to
2 determine whether or not he or she is going to
3 have to use a technique that could quite clearly
4 kill somebody or grievously cause them some harm.

5 The key concepts to this, it has to be
6 reasonable. We tell the officers that the use-of-
7 force should be purposeful and professional, not
8 punitive. We also tell them the rules of
9 engagement, if you will, and if anybody is found
10 to be using excessive force, they're not welcome.
11 They can be retrained, reassigned or fired, as
12 involved in the Stanley Park investigation. That
13 resulted in two officers being fired 'cause their
14 behaviour wasn't consistent with the stuff that we
15 teach. They got personally involved in an
16 altercation, didn't know how to de-escalate it
17 verbally and took offence to what somebody said
18 that wasn't a threat. It was just a verbal
19 challenge.

20 So hopefully we can learn from a lot of
21 things. The law supersedes all we do, and again
22 it boils down to that officer's perception of the
23 situation.

24 I just have a couple of more slides here of
25 -- I'll just actually pass by this. But this is a
26 slide demonstrating what the average person has to
27 do to recognize a threat from the officer's
28 perspective or any human's perspective. They must
29 see or perceive the threat, a fist being made,
30 they must analyze what it is, cognitive process.
31 They must formulate a plan, what's my plan.

32 In the case of the school administrator, she
33 didn't really have a plan to deal with that. She
34 was caught off guard by that. Maybe she saw at
35 the law minute 'cause she kind of winced a little
36 bit. There's a startled flinch response humans go
37 through when they're facing a threat. But she
38 probably didn't perceive it really well. She
39 didn't analyze it, she didn't really have a plan,
40 and she wasn't able to execute the plan because
41 she didn't have enough time to do that. If she
42 had some distance between her and the mother who
43 came through with her fist raised, she could have
44 been able to instinctively get her hands up and
45 stop that from hitting, basically keep less
46 important parts in front of more important parts
47 so couldn't cause as much damage to her. But I

Clive Milligan (Law enforcement presenter)
Presentation

1 don't think she really saw it coming, or didn't
2 expect it to happen.

3 THE COMMISSIONER: I know it doesn't matter to your
4 presentation, but as a matter of curiosity, what
5 happened?

6 MR. MILLIGAN: To that lady?

7 THE COMMISSIONER: Or to the assailant.

8 MR. MILLIGAN: I don't know. I haven't researched it.
9 I'm sure they probably would have followed it up
10 with the daughter and the parents.

11 The average person responds in about three-
12 quarters of a second to a threat. This would be a
13 driving threat. If you're driving home on the
14 road today and you saw the red lights in the
15 vehicle in front of you go on, you've got about
16 one second or less to make the decision what
17 you're going to do. We can respond in that time
18 frame, which is pretty quick for humans. It's an
19 OUDO loop, if you will, or a process by which
20 people can respond to threats. If it's a fist,
21 you might have three-quarters of a second.

22 Some examples I used here are not really
23 appropriate here, but I was asked to present to
24 the Indiana Hostage Negotiators Conference two
25 years ago, to talk about officer safety and
26 winning mind and assault prevention. I used some
27 icons here that can perform in a matter of 20
28 100ths of a second to threats, and one is Danica
29 Patrick. She's a world-class racer, and she's
30 beating the pants off some of the guys which is
31 upsetting the guys obviously. But she is
32 responding in 20 100ths of a second to a threat.
33 A threat to her is the vehicle in front, tire
34 bouncing in front of her and she's able to
35 accelerate as she's very acute to what's
36 happening. She's very well trained.

37 Another fellow can perform, or high level
38 sports people, but what's really happening in
39 these instances is people are able to recognize
40 the threat. The threat to Payton Manning is the
41 two fellows about to come and crush him, take the
42 ball away from him. The threat to him is his pay
43 cheque, but the threat, too -- well, it's almost
44 done anyhow.

45 THE COMMISSIONER: This is a good time to take the
46 break.

47 MR. MILLIGAN: Sure. Just on that, sir, the threat to

Clive Milligan (Law enforcement presenter)
Presentation

1 Payton Manning is basically a financial threat.
2 The threat to officers dealing with spontaneous
3 assaults is harm to themselves. So that's the
4 difference between sport and law enforcement.

5 THE COMMISSIONER: Indeed.

6 MR. MILLIGAN: Thank you.

7 THE COMMISSIONER: We'll just break for ten minutes.

8

9 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

10 (PROCEEDINGS RECONVENED)

11

12 THE COMMISSIONER: I understand we're ready to
13 commence. Yes, counsel?

14 MR. VERTLIEB: Thank you. Please, carry on, Sergeant.

15 MR. MILLIGAN: Thank you, Mr. Commissioner. I'll just
16 finish up with some of the training events that
17 have taken place in the last 13 years or so.
18 Officers in Vancouver are trained quarterly. This
19 is just the control tactics training, or, if you
20 will, the defence tactics training as it's been
21 formerly known.

22 In 1995 there was crowd control tactics and
23 how to deal with crowds, crowd psychology and
24 crowd mentality and crowd management. In 1996
25 there was some training when this buzz word just
26 came first on the horizon, "excited delirium", or
27 syndrome or positional asphyxia. There was
28 training in how to basically not predict but
29 recognize people that are in states different from
30 normal agitated behaviour. A lot of research had
31 gone into that about subjects' body language,
32 subjects' situations.

33 One of the big things in excited delirium,
34 even though it's not actually a medical term, but
35 it's used in the medical community and first
36 responders, is that people are somewhat -- well,
37 they're extremely hot a lot of the times. The
38 coroners' reports have found that the body
39 temperatures are 104 and higher, and therefore the
40 person is shedding their clothing. So sometimes
41 the police will respond to a service call of a
42 person running naked through an apartment
43 building, or a person running naked down the
44 street. You might have seen some videotapes of
45 that recently here where people are shedding their
46 clothing instinctively to reduce their core
47 temperature because it's dangerously getting out

1 of control.

2 Oftentimes, it's scenes of people that have
3 overdosed and gone through a state of cocaine
4 psychosis or intoxication or excited delirium and
5 have expired because of that. There's ice cube
6 trays on the floor, there's evidence that they
7 tried to cool themselves down by breaking glass
8 and breaking windows to create a draft, wet towels
9 on the floor or bathtubs filled up with water. So
10 those are just one of the typical signs and
11 symptoms.

12 The other is bizarre behaviour, super
13 strength where it takes three or four officers to
14 control someone physically, and even then they
15 have a tough time because the subject is able to
16 utilize adrenaline and other chemical systems and
17 overwhelm one or two officers quite easily.

18 Multiple assailant training, ground fighting,
19 some other things that we've trained officers in
20 over the years. Pepper spray, baton and neck
21 restraint are re-certified every other year. In
22 2001, again, training in positional asphyxia and
23 how the body should be placed after an arrest when
24 restrained, and the importance of having medical
25 people come and attend when there's been a use of
26 force against somebody.

27 More crowd control training. We deal with a
28 lot of crowds in the Celebration of Light, so
29 officers need to be trained on how to manage
30 crowds properly to maintain order and ensure that
31 it's safe for the people to view these events in
32 large numbers. Or if there is a riot or problems
33 like that, to be able to respond appropriately
34 with the techniques and tactics necessary.

35 In 2004, tactical communication, again, all
36 on dealing with people and staying professional
37 and not getting involved in personal altercations.
38 In 2005, excited delirium again. Modified
39 restraint device and some electronic control
40 device or Taser training, support training.

41 We do reality-based training where we
42 recreate actual events that have occurred so that
43 the officers can, in a training environment,
44 recreate what they would probably have to do in a
45 situation to control a subject, radio
46 broadcasting, follow-up control, sound use of
47 force choices.

Clive Milligan (Law enforcement presenter)
Presentation

1 Then we have a spontaneous knife attack
2 training where somebody, much like that video, a
3 role player will produce an edged weapon or
4 weapons and attack the officers. We get to see in
5 training their responses and we can coach or we
6 can test and evaluate their behaviour.

7 More recently, some close quarter combat
8 again. More than 98 percent of the job is
9 communicating with people so we continue to teach
10 that just as recently as yesterday. We're talking
11 about tactical communication, but we also need to
12 know how to control people in a team environment,
13 three or four officers controlling one person to
14 the floor and how to un-turtle that person. This
15 type of information is taught to the officers.

16 THE COMMISSIONER: Do you have any statistics within
17 your own force as to the amount of encounters with
18 the public result in the use of any force?

19 MR. MILLIGAN: We're just on the cusp of that now.
20 There hopefully will be in the PRIME, which is the
21 records management system that the Vancouver
22 Police uses and a lot of other agencies use in the
23 province, we'll be able to gather all the
24 statistical information at the end of the year, or
25 whatever time frame you like, and be able to see,
26 "Subject arrested, taken to jail, force used:
27 presence and dialogue," or tactical communication
28 or pepper spray or baton. Then we'll be able to
29 glean from that information statistics to help us
30 in training or to provide to boards or inquiries
31 or anyone else who's interested in those numbers.

32 But right now, in a ballpark figure, we're
33 putting people in jails quite often, daily, on a
34 daily occurrence with nothing more than, "Sir,
35 turn around, put your hands behind your back,
36 please do as you're told. Thank you." Cooperate,
37 and off they go. Occasionally people will fight.
38 When we get it, we deal with how to deal with
39 that. But the majority of it -- I can't give you
40 numbers on exactly, but it's way up there.

41 THE COMMISSIONER: This system, it is in place?

42 MR. MILLIGAN: It's in place now and it's about to --
43 or I'd say within the next couple of weeks,
44 according to the PRIME people who run and
45 coordinate that records management system, it's
46 going to be a mandatory thing for the officers to
47 fill out.

30

Clive Milligan (Law enforcement presenter)

Presentation

Questions by Mr. Vertlieb (cont'd)

1 We've already trained them on how to do that.

2 THE COMMISSIONER: Pardon me, when do they do this?

3 When does an officer do this?

4 MR. MILLIGAN: Oh, every time they put somebody in jail
5 or make an arrest.

6 THE COMMISSIONER: Back at the station?

7 MR. MILLIGAN: That's correct, or in their laptop
8 computer in the car.

9 THE COMMISSIONER: There's a laptop in the car?

10 MR. MILLIGAN: That's correct. So it's direct data
11 entry.

12 I had some other videos but they're -- if you
13 need to see them, you can see them. One is a lone
14 officer using a Taser to control somebody. The
15 other one is an officer being shot behind a very
16 similar looking scenario. It just demonstrates
17 the fact that you really don't know who you're
18 dealing with until you're dealing them, their
19 behaviour.

20 So I think I've taken enough of your time,
21 sir. I'll certainly answer questions from anybody
22 or the counsel.

23 THE COMMISSIONER: Thank you very much.

24 MR. MILLIGAN: Thank you.

25 THE COMMISSIONER: Counsel?

26 MR. VERTLIEB: Thanks, Mr. Commissioner.

27

28 QUESTIONS BY MR. VERTLIEB, continuing:

29

30 Q Sergeant, the Vancouver Police Department is
31 approximately 1500 members?

32 A I believe so.

33 Q And what is the current inventory of Tasers?

34 A Constable Hammell probably has the exact number.

35 I think it's somewhere around 130, maybe. Is that
36 right?

37 CONSTABLE HAMMELL: It's 120 to 130.

38 MR. VERTLIEB: Thank you.

39 Q Presently, is Taser use allowed in the cells or
40 lockup?

41 A No, it's not. Sorry, it's under review to see if
42 it would be a benefit to have that level of force
43 applied to people that want to cause problems or
44 fight in the jail system, but right now, no,
45 there's no weapons allowed in the jail.

46 Q Is there any recommendation to allow Taser use in
47 the cells or lockup of the Vancouver Police

- 1 Department?
- 2 A Not yet. It's in the planning stages.
- 3 Q Is it being planned as something to implement?
- 4 A Given further due diligence or risk management,
5 and comparing it to other agencies, if it's been a
6 benefit or detriment to them, yeah, we'll look at
7 it. It might have its place. If it can stop
8 somebody from assaulting another prisoner or just
9 the mere presence of it, or the knowledge of it
10 being in jails, and if that prevents somebody from
11 fighting, then that's a good thing.
- 12 Q Does current policy allow someone in handcuffs to
13 be Tasered?
- 14 A Yeah, it does. Again, this is usually a
15 contentious issue because often people are
16 misinformed and believe that just because
17 someone's in handcuffs that they are no threat
18 anymore, which is not the case. In fact,
19 sometimes when people are placed in handcuffs, the
20 complacency of the officer arises and the officer
21 figures, okay, we're just going to walk up to the
22 jail now. We have disarmed other officers in
23 training of their pistols while we were in
24 handcuffs. We have assaulted other officers in
25 training environment while in handcuffs. Subjects
26 have assaulted our officers while in handcuffs.
27 So, yeah, it's not over until the cell door is
28 closed.
- 29 Q Just tell us again what PRIME is. We heard it
30 yesterday, but it may not have come through as
31 clearly as it might. PRIME means what?
- 32 A PRIME is an acronym for a records management
33 system that is being instituted in most municipal
34 agencies in British Columbia. It allows officers
35 to direct data entry from their mobile computers
36 or their hand-held computer, laptops, into a large
37 database that can be shared with, say, Burnaby or
38 Richmond RCMP. If they check somebody, they can
39 access the records that have been authorized via
40 their computer system. So it's a network, really,
41 but I'm not a PRIME expert at all. It's out
42 there.
- 43 Q Presently, you're not working the street as a
44 patrol officer?
- 45 A That's correct.
- 46 Q If you did do that, if you went back to those
47 duties, would you determine to carry a Taser?

1 A Probably not.

2 Q Why is that?

3 A Well, I am an instructor in Taser as part of the
4 certification process to be an instructor for
5 provincial use-of-force training, et cetera. I've
6 got a number of different qualifications, et
7 cetera, to do with use of force. But I never had
8 one before, and I seemed to be doing okay, in most
9 cases able to talk to people and deal with people
10 in different situations. I'm happy that they're
11 out there, but I don't know if I'd want to put
12 myself through the training and have another piece
13 of equipment to have to rely upon. But if I'm at
14 a call and it's a predicted event, i.e. a subject
15 is threatening somebody, it's nice to have a Taser
16 there and someone else can deploy it.

17 As a supervisor, I wouldn't really see much
18 need to have that, as far as relying on the other
19 officers to bring a Taser to a situation. Again,
20 the Taser isn't the greatest tool; it's just
21 another tool that's available for police. Maybe
22 I'm a little old school, I'm not sure, but I found
23 talking to people works most of the time unless
24 the threat is serious enough to warrant physical
25 intervention.

26 But if you can basically stop someone from
27 assaulting you at a distance and it works, then I
28 think that's a good thing for everybody. But, no,
29 I wouldn't probably carry one around.

30 Q Yesterday, we had Assistant Deputy Minister Kevin
31 Begg here and he talked about differences between
32 American and Canadian policing. You seem to have
33 obviously spent some time with American police in
34 a more detailed way than probably anybody in the
35 room. Do you have an impression about any
36 differences between the American approach to
37 policing and the Canadian approach?

38 A I've often said that we have a crystal ball in
39 Canada, and we have the good fortune to look into
40 that crystal ball and predict the types of things
41 that will be coming north from the U.S., and
42 that's in criminal behaviour and sort of law
43 enforcement trends. A typical example would be
44 crack cocaine that wasn't here 20 years ago, but
45 it was certainly entrenched in the U.S. major
46 cities and outskirts. Now we have crack cocaine
47 on pretty much any street corner you wanted to buy

1 it on in any type of dress. You could acquire
2 crack cocaine. So it used to be just a U.S.
3 thing.

4 There used to be home invasions only in the
5 United States of America, of which we would look
6 aghast and read about in the newspaper about
7 someone's home being invaded in Seattle or
8 Portland or the west coast predominantly, just for
9 our regional news area coverage. Now we have home
10 invasions here.

11 So if it's predictable, it's somewhat
12 preventable. We had little gang activity other
13 than a few street gangs that we all sort of knew
14 person to person when we'd run into them, and they
15 knew us. Now, the proliferation of gangs is
16 somewhat out of control, but it's represented
17 again as it came from the U.S.-born techniques.

18 You look at fraud. Well, now everything can
19 be transmitted more than seven to ten years. It's
20 seven to ten seconds by the press of a button, as
21 far as other crimes go.

22 But we never really had drive-by shootings in
23 Canada, but we would see them happening in the
24 States. Now we're having them here.

25 So as far as policing trends, law enforcement
26 stuff, I still like to think of Canada - although
27 we are in partnership with Americans as far as
28 training and things like that and predicting
29 events - I'd still like to think of us as more of
30 a British contact and walking the beat and talking
31 to people and getting out in the community.
32 That's a nice thing, and we emphasize that to our
33 officers. Although we need the garb, we need some
34 tactical equipment and tactical uniforms for
35 specific times, but I think what we say to them,
36 and what we said to them yesterday was, "Be nice
37 to people, be pleasant and approachable to people
38 or the community."

39 Like our police officers are exact
40 replications of our community, whether it's Afro-
41 Canadians or European-Canadians. We had a Russian
42 fellow in recruit training yesterday, Russian
43 family background. He's recently emigrated here
44 with his family. We have trans-gender people, we
45 have all sorts of different people in our agency
46 and we represent our community.

47 So we are the community, and I know it's an

1 old adage, but we just need to be nice to people
2 until they want to fight with us, and then we're
3 not nice 'cause there's no nice guy during a
4 fight. The bottom line is if they do as they're
5 told and we have lawfully tried to deal with them,
6 it's just fine, things will go great. But if they
7 try and hurt us in any number of ways that maybe
8 you saw on the videotape or any weapons
9 introduced, they'll be dealt with efficiently, and
10 then we're back to being nice to them after.
11 We're not in the business of creating enemies.

12 I think in the U.S. sometimes law enforcement
13 get very frustrated in some gang situations and
14 they begin to see the gang as "the enemy". Their
15 emotions take over and they become personally
16 involved with, "These are our streets," and maybe
17 there's some racial epithets thrown off, and they
18 made some threats that they can't back up, and
19 therefore you have this adversarial militaristic
20 enemy versus the police.

21 We don't need that here. We don't want that
22 here. We just want the people to do as they're
23 told when they're under arrest and take them
24 before the court system. But if they fight with
25 us, we hope that they'll lose quickly in whatever
26 capacity it is. That's safest for the officers,
27 safest for the public and ultimately safest for
28 the person. So if we can use a Taser, again,
29 which is the crux of this whole system or process,
30 to stop that from happening, to stop an assault
31 against somebody or an escalation of violence
32 towards them from the police (sic), that would be
33 a benefit.

34 I've just wanted to sort of finish on
35 something I thought about, and it's probably a
36 headline-grabber. If nothing else makes it --
37 because this is an hour-and-a-half session -- if
38 nothing else makes it to the media, this probably
39 would. But I would argue the fact that Tasers
40 saves lives and I would say Tasers don't
41 necessarily save lives; police officers do. And
42 that's something to think about, whether it's a
43 tool of the Taser, whether it's a tool of baton,
44 whether it's a tool of a firearm, or whether it's
45 just pure contact in the verbal arena, the cops
46 are the ones out there making those decision, and
47 making hopefully the right decisions at the right

1 time in a very short period of time, and making
2 everyone safer for it.

3 So I'm sure TASER International won't like
4 that spin on it, but that's my feeling.

5 Q From what you've just said, it seems that you
6 would probably agree with the wisdom that the best
7 arsenal that any police officer can have is the
8 public trust.

9 A Absolutely.

10 Q Just a couple of other things, if I may. The
11 Taser is, in Vancouver, classified as an
12 intermediate weapon.

13 A That's correct.

14 Q Can you pull up one of your slides that shows the
15 use-of-force wheel, whichever one you want. I
16 think you've used it very early on.

17 A Any one?

18 Q Yes, any one, just to get the use-of-force model
19 that we use in Vancouver.

20 A Okay.

21 Q Do you have one? This may be hard to read. See
22 if you can find one that's a bit larger, please.

23 A Is that one a little better?

24 Q Yes, I think that --

25 A I have a large one.

26 Q No, that's fine. No, that was fine, Sergeant.
27 There you go, good. Thank you. So we see the
28 intermediate weapons in that diagram and it's
29 the --

30 A This one.

31 Q Thank you. Now, do we read that correctly now?
32 The one that was in your material refers to --
33 there we are. Show us where your present use-of-
34 force model would allow you to use an intermediate
35 weapon? What conduct by the subject, as you call
36 him.

37 A There's active resistance. Passive turning into
38 active resistance prior to assaultive behaviour is
39 the introduction of sort of low-end intermediate
40 weapons, intermediate or low-end targets.

41 Q So the present use-of-force model allows Taser at
42 the point where passive is about to become more
43 active?

44 A Actually, where active is active. I know it's a
45 finite description, but active resistance, it's
46 not passive resistance. But active resistance is
47 where we recommended Tasers used, and above.

1 THE COMMISSIONER: Officer, I take it if somebody's
2 holding on to somebody and won't let -- some
3 thing, not somebody. If someone you want to
4 arrest is holding on tightly to some thing and
5 won't let go, I take it that's active resistance?

6 A That's correct. As a matter of fact, I had an
7 example when I was working the Downtown Eastside
8 where a subject was holding onto a chain link
9 fence. He appeared under the influence of some
10 drugs, was arrestable and was holding on and
11 several officers were trying to take him off the
12 fence. But again, muscles work in conjunction
13 with themselves, and he was literally shaking and
14 they couldn't manipulate his arms back.

15 So I tried a basic stun. I didn't have a
16 Taser then. Tried a stun with my hammer fist,
17 much like that woman did, actually, a primitive
18 strike and targeting the radial muscle, a radial
19 nerve muscle point. This is one that usually
20 works as a reflex when the doctor hits it and your
21 hand opens up. But by pressing down on that even
22 right in here, you can feel that it's rather a
23 tender spot and has a chance to cause muscle
24 disruption, kind of an electrical one albeit
25 manually applied.

26 I struck the forearm, but as I did, he turned
27 it up and I broke my hand on his elbow. So I was
28 off for a little bit of time, but if I had a
29 Taser, that would be appropriate for a contact
30 shot or a contact stun where you touch the Taser
31 to that, right on their point, the motor nerve
32 point, and usually elicit a grip release and then
33 they can facilitate handcuffing.

34 It's simply a window of opportunity that you
35 want to employ. In that case, I was more stunned
36 than the person was, obviously.

37 Q Your present policy makes -- we read it. It has
38 no distinction between the contact use and the
39 probe use, though; correct?

40 A Tammy could probably talk about that, in fact, and
41 the policies and training and such. It's still
42 using the CEW.

43 Q And Taser --

44 A I'm sorry, there'd be a difference in the wounds
45 and the potential outcome. The contact stun
46 really is going to not travel farther than that
47 skeletal muscle on that one point of contact, so

1 it's a pretty specific target and you might
2 receive a couple of -- the subject may receive
3 some burns. I've seen those before.

4 Q And Taser would be considered a form of restraint?
5 A Probably more of a tool that allows restraint to
6 happen, physical restraint or mechanical restraint
7 to happen.

8 Q One last thing. You said to the Commissioner just
9 as part of your presentation, you said that you
10 understood the focus of the Commission here is
11 Taser, and then you said "understandably so".
12 What did you mean by that?

13 A Well, it appears that by virtue of the public and
14 the media attention and the public's concerns that
15 people need to explore this more as far as should
16 the police be able to use these and in what
17 context should they, much like the pepper spray
18 was examined in the '90s. I think that's a good
19 thing. It's a good thing to be able to express
20 the concepts and training and issues and have the
21 public, at a transparent open event like this, to
22 be able to determine if this is going to have a
23 place for law enforcement. So I think that's a
24 healthy environment to do that. And it's nice to
25 have more than a couple of minutes on a media
26 contact to explain what it is that we do and why
27 we do it. So I'm very appreciative of the fact
28 we've had a chance here.

29 Q Just one minute, please. Thank you. Just one
30 last question on the record-keeping. We heard
31 earlier this week about a form of record-keeping
32 where the police officer couldn't go to the next
33 block until he or she had completed an earlier
34 section of the report. Are you familiar with that
35 kind of record-keeping?

36 A Is that the PRIME records system?
37 Q I think it's the PRIME system.
38 A And the use-of-force reporting process?
39 Q Yes.
40 A I'm not a PRIME expert, but, yeah, it might be
41 taking the cursor and processing past blocks or
42 spaces where the officer doesn't need to make any
43 entry. I'm not too sure about that.

44 Q Okay.
45 A We have PRIME experts that could easily answer
46 that question in a phone call.

47 MR. VERTLIEB: Okay. That's fine, then. Thanks very

Tammy Hammell (Law enforcement presenter)
Questions by Mr. McGowan

1 much, Sergeant.

2 A Thank you.

3 THE COMMISSIONER: Sergeant, thank you very much. Your
4 presentation was very clear and your dedication to
5 your work is obvious. Thank you very much.

6 A Thank you, sir. Thank you very much.

7

8 (PRESENTER EXCUSED)

9

10 MR. MCGOWAN: Constable Tammy Hammell, Vancouver Police
11 Department.

12

13 TAMMY HAMMELL, Law enforcement
14 presenter.

15

16 QUESTIONS BY MR. MCGOWAN:

17

18 Q You're currently a constable?

19 A I am.

20 Q You grew up on Vancouver Island, Constable
21 Hammell?

22 A I did, yes.

23 Q And ultimately attended Camosun College for
24 several years?

25 A I did, yes.

26 Q Following which you joined the Vancouver Police
27 Department some 18 years ago, I understand.

28 A That's right, yes.

29 Q And you've been with them consistently over those
30 last 18 years.

31 A I have, yes.

32 Q I wonder if you might take just a couple of
33 minutes and give a summary of your policing career
34 to the Commissioner.

35 A Absolutely. Mr. Commissioner, I started my career
36 with the Vancouver Police Department back in --

37 THE COMMISSIONER: Could you speak into the mike?

38 A Yes. This is better, Mr. Commissioner?

39 THE COMMISSIONER: Thank you. Yes, that's good.

40 A Okay, thank you. I started my career with the
41 Vancouver Police Department in 1990, and proceeded
42 for the first ten years of my career at a street-
43 level capacity, and during that time, I became a
44 part-time assistant instructor in control tactics
45 and firearms training.

46 After that, I started to teach at the JI,
47 Justice Institute of British Columbia Police

Tammy Hammell (Law enforcement presenter)
Questions by Mr. McGowan

1 Academy there where I spent three years teaching
2 control tactics. Spent some time with the
3 Firearms Department as well. Control tactics
4 being everything from teaching new recruits time
5 and distance, dialogue, verbal communication and
6 skills all they up to and including multiple
7 assailant levels of attacks and firearms. So
8 everything from basic dialogue and presentation of
9 oneself all the way up the scale.

10 After that I returned back to the Vancouver
11 Police Department where I served with the Firearms
12 Department as a full-time instructor teaching and
13 qualifying our own members in the use of their own
14 pistols.

15 After that I took a one-year maternity leave
16 and came back to where I became what we're calling
17 the CEW coordinator, the conducted energy weapon
18 coordinator which used to be with Firearms
19 Section. So before I left to commence my
20 maternity leave, I was the coordinator for the
21 Taser option at that time. It was moved, upon my
22 return, from the Firearms Section to the Control
23 Tactics Section where I joined Sergeant Milligan
24 in the control tactics area.

25 That brings us to where we are today.

26 Q So, Constable Hammell, you're currently the
27 conducted energy weapons coordinator under the
28 Control Tactics Department; is that correct?

29 A That's right.

30 Q Do I understand that until recently, your position
31 was under the Firearms Section?

32 A That's right, yes, it was.

33 Q What was the purpose of the move?

34 A The purpose of the move, the Taser is not a
35 firearm and it doesn't fall under the capacity of
36 a lethal force encounter. It is an intermediate
37 weapon that is used at an intermediate level as
38 we've just heard, and it made sense that the Taser
39 was moved to the control tactics where our other
40 intermediate force options are and are taught.

41 MR. MCGOWAN: Thank you. I'm going to invite you now
42 to give your presentation to the Commissioner.

43 A Thank you.

44
45
46
47

Tammy Hammell (Law enforcement presenter)
Presentation

1 PRESENTATION BY TAMMY HAMMELL (Constable, Vancouver
2 Police Department)
3

4 MS. HAMMELL: Well, thank you, Mr. Commissioner and
5 counsel, and thanks to everyone for coming to hear
6 what we have to say. What I'm going to be
7 focusing on for the next 20 minutes or so is
8 basically what the Vancouver Police Department
9 does in terms of training with the conducted
10 energy weapon, also known as a Taser. So let's
11 just start with that.
12

13 (TECHNICAL DIFFICULTIES)
14

15 MS. HAMMELL: I want to first talk about our course
16 selection criteria. Bearing in mind, now, that
17 when our applicants apply for the course, they are
18 qualified police officers and have been through
19 extensive training with a great knowledge and
20 understanding of our use-of-force model, which is
21 the national use-of-force model that you've seen
22 here today.

23 So what we ask of our applicants is we need
24 to know, first of all, when they come into the
25 Taser program, if they're going to be good
26 candidates for that. Obviously not everybody with
27 the Vancouver Police is a Taser operator. Mainly
28 because that's a financial responsibility that's
29 quite extreme. It's a very expensive tool.

30 What we do is we take the applications from
31 our own members. They have to be recommended by
32 their supervisors or their sergeants. The
33 sergeant must feel that this applicant is
34 competent in the force options that they've
35 displayed or have used out in the field. So when
36 that application comes to me, I will review that
37 and if I'm not satisfied with that information,
38 that the sergeant or the NCO of that applicant
39 hasn't satisfied that interest, then I'll return
40 the application and ask for something more from
41 them to give me the satisfaction that this person
42 is a good applicant.

43 So the conducted energy weapons course
44 consists of a one eight-hour training and
45 certification day. So they're building on top of
46 what they already know and what their skills are
47 out in the field. The first four hours is in a

1 classroom setting. They have a written exam and
2 that is one component of successfully completing
3 the course. So obviously they must pass that
4 exam.

5 Then there's four hours of participation in
6 reality-based training which Sergeant Milligan has
7 alluded to already in that we actually will put
8 these members through practising the skills they
9 have learned the previous four hours regarding the
10 Taser. So we're going to put them in a stressful
11 situation that forces them to use the decision-
12 making skills either to (a) use the Taser, not to
13 use the Taser, and if they do it, how are they
14 going to perform doing that?

15 At the successful completion of the course,
16 for our applicants then what we do now is issue
17 them a personal Taser. So this information is
18 logged, recorded and they walk out to their field
19 of duty with their own personal Taser that they
20 are responsible to manage and maintain.

21 The spark test. This is something that is
22 very important for our operators to consistently
23 do as far as the Taser is concerned. Prior to
24 each shift, we want them to give a one-second
25 spark test to the unit. Basically we're teaching
26 them to look for what sounds right and looks right
27 for the operation of the Taser itself. So that is
28 their prior-to-their-shift test to make sure
29 everything is sounding good. If it isn't, they
30 have to bring it to me or to another qualified
31 armourer who can test and evaluate the Taser
32 itself.

33 So we're looking for the proper arcing
34 between the contact points and they're listening
35 for any breaks that might occur in the spark test.
36 If it sounds good, off they go. If not, they'll
37 come to me.

38 The maintenance of this is mostly done by
39 myself or another qualified armourer within the
40 Vancouver Police Department. We must test these
41 Tasers and download them routinely. So what we do
42 is every six months we need to make sure that
43 Taser is actually downloaded, which means we can
44 create a computer printout of how that unit is
45 actually functioning.

46 Mr. Commissioner, I have brought a sample of
47 that if you're interested in seeing it.

Tammy Hammell (Law enforcement presenter)
Presentation

1 THE COMMISSIONER: No, I don't need to see it.

2 MS. HAMMELL: Okay. Now, also, if the Taser is used in
3 the line of duty by our member, then they must
4 also, in addition to the twice a year, they must
5 bring that in for an evaluation and a download, so
6 that we have that recorded information as soon as
7 possible after that Taser has been used. That's
8 after each trigger pull.

9 So we have -- the Taser can be used in three
10 ways. We have our compliance where it's
11 presented, and the officer may not even have to
12 pull the trigger. So if that is used, they don't
13 have to bring it in until their six months has
14 come and they need to have it downloaded.

15 If they're using it in a contact mode or
16 obviously a probe mode, then they must bring it in
17 as soon as possible following that event.

18 I'll touch a little bit on our Vancouver
19 Police policy here. As you've heard, it's placed
20 at the intermediate weapon force option within the
21 national use-of-force model, so that was that
22 orange portion of the force model that you saw
23 with Sergeant Milligen's presentation. We support
24 the use of an intermediate weapon when lower
25 levels are ineffective. So the officer may have
26 tried to use a level that comes before the
27 intermediate tool. For example, empty-hand
28 control has failed, maybe some other pain
29 compliance tools have failed, or they just won't
30 be necessary to even try. They can be considered
31 but they'll have to go to the intermediate level
32 and also, when higher levels would be
33 inappropriate or not justified.

34 So if our officer doesn't feel that the baton
35 would be a justified use of force in a situation,
36 they would obviously go to the lower levels which
37 would include Taser, and other higher levels would
38 not be appropriate or justified.

39 This is something I'm going to spend a couple
40 of minutes on because I think it's very important
41 that the message get out that the Taser device is
42 not a substitute for lethal force. It's something
43 that has been created through information that
44 might have been miscommunicated. The public has
45 been educated that the Taser device is an
46 alternative but it simply is not.

47 With the Vancouver Police Department, when we

Tammy Hammell (Law enforcement presenter)
Presentation

1 have a Taser at a scene, we may only consider
2 using that Taser if we have another member there
3 who has lethal force backup. Now, lethal force
4 backup obviously is our pistol. Now, it does not
5 have to be out and presented, but it can be just
6 another person or the officer's partner is there
7 with the option to use lethal force if it turns
8 into a lethal force encounter. This is where it's
9 important to help people understand that Tasers
10 can be used at a level where there's grievous
11 bodily harm or death is presented by the subject.
12 The subject behaviour is that high.

13 But if our subject's behaviour is presenting
14 at that level, then we need to respond by
15 presenting a firearm on that person. However, if
16 we are tactfully (sic) sound in presenting a Taser
17 and utilizing a Taser in that same instance before
18 we have to use a firearm and it works, that is
19 fantastic. Because what we want to do is we want
20 to save this person. We do not want to have to
21 use the firearm if we don't have to. So it is a
22 great tool that is a complementary tool. The
23 Taser is a complementary tool to a firearm.

24 THE COMMISSIONER: Sorry, let me just get this right.
25 If the situation calls for lethal force --

26 MS. HAMMELL: Yes, sir.

27 THE COMMISSIONER: -- before a Taser could be used in
28 that situation, there would be two officers
29 present, one with a firearm and one with the
30 Taser.

31 MS. HAMMELL: Yes, sir.

32 THE COMMISSIONER: All right.

33 MS. HAMMELL: And the reason for that is because a
34 Taser is not a duct tape solution. It's not
35 something that works every time, it's not
36 something that we think should be our first
37 priority in any situation. It is simply a
38 complementary tool that could assist in the
39 apprehension of a person before a firearm becomes
40 absolutely necessary. I think that's the biggest
41 message I'm hoping to help people understand
42 today.

43 The Taser starts at an intermediate level and
44 can be used at an active resistant level where a
45 subject is exhibiting that behaviour. It can also
46 move up the scale to a lethal force encounter as
47 long as we have that lethal force backup present

Tammy Hammell (Law enforcement presenter)
Presentation

1 at all times.

2 Do you want me to pause for questions at this
3 moment?

4 THE COMMISSIONER: No.

5 MS. HAMMELL: This is really interesting. It's
6 controlling a cuffing under power. What this
7 means to us is that the Taser is simply a tool
8 that creates a window of opportunity for an
9 officer or more than one officer to move in and
10 control a subject, because the objective in using
11 the Taser is simply to create the opportunity to
12 control that person.

13 So during that five-second cycle, ideally
14 what we would like to see is a window of
15 opportunity for us to move in, in that five
16 seconds, so that we can actually start maintaining
17 and controlling our subject. Now, that first
18 window of opportunity might not happen in the
19 first five seconds. It might be at the end of the
20 five seconds where our subject has decided to
21 comply and that often happens. But officers are
22 trained to find that first window of opportunity,
23 and it will create ideally the -- the desired
24 effect would be not to have to use the Taser a
25 second or third time. Try to minimize how often
26 we use it. So in that first window of opportunity
27 is when officers move in and take control of our
28 subject.

29 The need for multiple cycles can be avoided
30 by controlling or cuffing under power if contact
31 officers are available. So in Vancouver, we are
32 very fortunate. We have a lot of members, we
33 don't have a lot of space to cover, and we can
34 generally get the help that we need. If we
35 utilize the Taser, we're going to have the people
36 we need to assist in maintaining control of our
37 subject once that window of opportunity has
38 presented itself.

39 I'll talk a little bit about the contact
40 stun, using it as a backup. The contact stun can
41 be used when in close proximity to a subject. So
42 obviously you need to be within a certain
43 distance, hands on with the subject. The muzzle
44 of the Taser is pressed to the clothing or to the
45 body and we deliver a contact stun, which is, I'm
46 sure you've heard, a pain compliance tool at that
47 point. It does not cause neuromuscular

Tammy Hammell (Law enforcement presenter)
Presentation

1 incapacitation. It's simply a pain compliance
2 tool. It's much more localized.

3 THE COMMISSIONER: Does your training pinpoint -- or
4 maybe not pinpoint, but indicate where on the
5 person it should be used in that mode?

6 MS. HAMMELL: Yes, it does, Mr. Commissioner. Our
7 training specifically outlines the larger muscle
8 mass of the body or pressure points. I heard
9 Sergeant Milligan talk about the radial nerve in
10 the arm that would create the opening of the hand,
11 because that would be more effective. The more
12 effective you are immediately, the less you have
13 to do later.

14 THE COMMISSIONER: What I'm getting at, are they
15 trained to avoid the heart area?

16 MS. HAMMELL: No, we don't necessarily train that
17 specifically. Where there's muscle mass, for
18 example, the back area, the thighs, the arms, but
19 we don't specifically suggest to avoid the heart.

20 So if it's not effective, we evaluate the
21 location of a contact stun, consider an additional
22 cycle to a different pressure point or consider
23 alternative force options, because the Taser is
24 simply one of the tools in our toolbox and if the
25 situation fits and we use it, and it doesn't get
26 the desired effect, let's use something else.

27 What to do following a Taser usage? This is
28 very important, because once we have our subject
29 restrained and controlled, what do we do with him?
30 It's pretty important in our follow-up procedures
31 here. Immediately, we're going to put them in a
32 seated position, and they will be evaluated by the
33 emergency ambulance service, EHS as it's known
34 here. Now, we're going to do that where there's
35 been any significant force option used on a
36 subject, and it is specifically stated in our
37 policy EHS will come and evaluate anybody that
38 has received a shock with a Taser.

39 A seated position also allows the freedom of
40 the subject to continue to breath easily.

41 We also will expect a Vancouver police use-
42 of-force report. So this is in addition, it's a
43 paper addition to their Crown counsel report to
44 whatever might come with our PRIME in addition to
45 what they're doing now. So we have an internal
46 use-of-force report that they will submit, and it
47 will come to my office and it will be evaluated

Tammy Hammell (Law enforcement presenter)

Presentation

Questions by Mr. McGowan (cont'd)

1 there.

2 Again, when the Taser is used, the operator
3 will have the coordinator download and assess the
4 Taser for record-keeping. Now, if something were
5 to happen to a subject after the Taser happens to
6 be used in the apprehension, then that Taser will
7 be held and that officer will be given another
8 Taser to take out for the remainder until that
9 Taser is deemed fit for the field again.

10 We do provide monthly statistics on our Taser
11 usage. So we provide what's our com stat unit
12 monthly stats on how many Taser usages we've had
13 in each district in the prior month. In addition
14 to that, we also keep a record of each officer's
15 Taser usage, whether it is a compliance so they
16 actually haven't pulled the trigger, whether it's
17 a contact stun or a probe stun, and those records
18 are held and reported onwards as well on a monthly
19 basis.

20 So that's how the Vancouver Police conducts
21 our training from our application process to the
22 training itself in our course and what happens on
23 the field once our members actually utilize Taser
24 to the follow-up completion of an arrest and
25 paperwork.

26 THE COMMISSIONER: Thank you very much. Counsel?

27 MR. MCGOWAN: I do have some questions, Mr.

28 Commissioner.

29

30 QUESTIONS BY MR. MCGOWAN, continuing:

31

32 Q Constable Hammell, you spoke of the criteria for
33 taking the course. Do I understand that not any
34 officer is entitled to take the course with the
35 Vancouver Police Department?

36 A That's true. They must be recommended by their
37 sergeant?

38 Q And what's the purpose of that?

39 A The purpose of that is to ensure that our officers
40 have had experience using force in the field prior
41 to adding to their equipment. So what we have,
42 when an officer starts with this job, they are
43 tasked with many force options. To add to that,
44 we would like them to be competent in the use of
45 those force options prior to giving them another
46 force option. When it comes down to fine motor
47 skills and the usage of force in the field, our

- 1 officers have a lot to think of, so we like them
2 to have the experience of the basic course options
3 before we give them yet another tool to add to
4 their belt.
- 5 Q Is one of the criteria evaluated by the sergeants
6 that make the recommendation a demonstrated
7 ability to exercise good judgment in the field?
- 8 A Yes, Mr. Commissioner, that is very accurate.
- 9 Q Now, you've told us a little bit about your
10 reporting requirements. Do I understand that
11 every use of force requires that a use-of-force
12 report be filled out by the officer?
- 13 A Every use of force when it comes to our Taser
14 program, or our beanbag shotgun program, so less
15 lethal.
- 16 Q Okay. And with respect to the Taser, what
17 specific information is asked for in that report?
- 18 A In that report, it will capture the Taser serial
19 number, it will capture the cartridge number that
20 was used on the Taser. It will capture the
21 subject information, the officer information and a
22 summary of the events that occurred, the location
23 of the incident, whether the officer believed that
24 this person was under the influence of alcohol or
25 drugs at the time.
- 26 Q Is there a spot for the officer to indicate the
27 presence of any potential mental illness?
- 28 A Not yet, although we have been working on that.
29 In the last six months, we've been working on
30 that.
- 31 Q Okay. Is there a spot for the officer to indicate
32 the mode in which the Taser was deployed?
- 33 A Yes. They will check off either the compliance,
34 the contact stun or the probe box.
- 35 Q Is there a spot for the officer to indicate the
36 location of the darts if it was deployed in probe
37 mode?
- 38 A Not specifically, no, there's not.
- 39 Q Okay. Is that something that's being considered
40 by your force?
- 41 A Well, that would be done through -- not on the VPD
42 force form itself. It may be done through the
43 PRIME, but it will be captured in our officer's
44 general report that they will submit.
- 45 Q So you give them specific instructions to note
46 that information in their narrative?
- 47 A We don't specifically say that in there. We also

1 have EHS with their information on where they
2 would observe the darts made contact with the skin
3 if that was the case.
4 Q Okay. Now, I understand that absent a reported
5 pulling of the trigger in the field, the data is
6 downloaded every six months from each Taser?
7 A That's correct, Mr. Commissioner, yes.
8 Q And is there a process in place whereby the
9 downloaded data is compared to reports that are
10 submitted to ensure consistency?
11 A Yes. We have a file for each and every Taser, so
12 it has a serial number indicated on the file
13 itself. Every time there's a download of that
14 Taser, it is inserted into that file and we can
15 marry up the use-of-force report to that specific
16 Taser every time.
17 Q And is that done?
18 A That is done. Any time we can do that. It's all
19 there and available.
20 Q Is it routinely done with each download?
21 A The marrying up of the two?
22 Q Yes.
23 A Well, it would be observed, but it's not
24 documented. So I would look at the use-of-force
25 report and I would look at the download.
26 Q Let me put it this way: Is there any process in
27 place to catch unreported use of the Taser?
28 A No, there is not. No, we rely upon our members to
29 report the use of the Taser. The downloads will
30 capture the dates and the times and the durations
31 of each trigger pull.
32 Q Okay. Are the cartridges signed out?
33 A Yes, they are.
34 Q What happens -- do you keep general statistics on
35 the use of the Taser by your force?
36 A Yes, we do.
37 Q And are those submitted to any body at any time on
38 a regular basis?
39 A On a monthly basis, we submit those directly to
40 the Professional Standards Section.
41 Q Is there a process in place to detect
42 disproportionate use of the Taser by any
43 particular officer?
44 A Yes, there is.
45 Q Okay. What's that process?
46 A When I report the statistics, it'll be recorded
47 which officer by their PIN number, by their last

1 name, and in what fashion they used the Taser, the
2 date and the incident number.

3 Q Okay. Now, you've told us a little bit about the
4 training in terms of the application of the Taser
5 in stun mode to particular locations. What do you
6 train officers with respect to the location they
7 should aim for when deploying the Taser in probe
8 mode?

9 A In probe mode, they would aim at the upper back or
10 the upper chest.

11 Q Okay. Upper back or upper chest?

12 A That's correct, Mr. Commissioner.

13 Q Is that sometimes referred to in policing as
14 "centre mass"?

15 A Yes, it could be, depending on how the subject is
16 presenting themselves.

17 Q When you train in firearms training, you also
18 train to aim for centre mass; is that correct?

19 A Yes, we do.

20 Q And what's the purpose of that?

21 A The centre mass can be on full body visual.
22 Obviously it would be the chest. If the centre
23 mass happens to half the body, we would go for the
24 centre. The reason is it has the greatest effect
25 to stop the threat.

26 Q Is that because it has the greatest chance of
27 contacting a major organ such as the heart or
28 lungs?

29 A If it's a full body view, yes. If it's not, we
30 need to go to where the centre of mass is. If
31 it's going to be the shoulder, then we're not
32 aiming, obviously, for a major organ. It just
33 depends on how the subject is presented and what
34 body parts we have to aim at.

35 Q Do you officers Taser each other in training?

36 A No, we do not.

37 Q Okay. Is that a process that used to occur with
38 Vancouver?

39 A Yes, it is.

40 Q When was that stopped?

41 A It was stopped about a year and a half ago, two
42 years ago perhaps. The reason was the WCB did not
43 want us to be Tasering each other. There was
44 indications that people were -- even though they
45 were being held and helped down to the ground
46 during the tasing, there were some injuries that
47 were occurring to shoulders.

- 1 Q Okay. There was a question asked of Officer
2 Milligan with respect to whether there's a
3 distinction in the policy between the use of the
4 Taser in stun mode or probe mode. Are you able to
5 answer that question?
- 6 A I can tell you that the use of the stun mode is
7 lower than the use of the probe mode, but ever so
8 slightly simply because the probe mode creates a
9 neuromuscular incapacitation. The contact stun
10 mode is localized and it's a pain compliance tool,
11 much like we would use pressure points to create
12 the desire to get our subject to cooperate with
13 us.
- 14 Q Okay. Can you direct me to the section in your
15 policy where that occurs, or is it not set out in
16 your policy?
- 17 A It's not specifically defined, each one, in the
18 policy because the Taser is used at an
19 intermediate level. That's, you'll see, in
20 section 31.01 of the Regulations and Procedures
21 Manual there.
- 22 Q So there's no distinction in the policy between
23 the use in the two different modes?
- 24 A That's right.
- 25 Q Okay. Now, you said that the stun mode is lower
26 down than the probe mode in your view, or in the
27 way you train?
- 28 A That's right, Mr. Commissioner, yes.
- 29 Q What's the lowest level of subject behaviour that
30 you train an officer to consider using the weapon
31 or the devices, as you call it in your
32 presentation, in stun mode?
- 33 A Active resistance.
- 34 Q Okay. What's lowest level of subject behaviour
35 you train the officers to use the device in probe
36 mode?
- 37 A Also active resistance.
- 38 Q Active resistance, we heard earlier, includes
39 somebody who's not fighting or advancing but
40 simply standing and holding onto something, or
41 holding their arms in tight; is that correct?
- 42 A That is correct.
- 43 Q Does the policy make any distinction in terms of
44 authorizing the use of the Taser for active
45 resistance in terms of the underlying offence
46 being investigated?
- 47 A Our -- I'm not sure I understand your question.

- 1 I'm sorry.
- 2 Q Does the policy make a distinction in terms of --
3 does it say anything about the underlying offence
4 being investigated?
- 5 A About the lawful arrest of our subject?
- 6 Q Does it matter whether the person who's standing
7 holding on to something, when you're going through
8 the process of your decision making, the decision
9 whether or not to use the Taser -- you've got a
10 subject who's standing holding on to something,
11 does it matter whether you're attempting to arrest
12 them for a **Liquor Act** violation or shoplifting or
13 something more serious like bank robbery or
14 murder?
- 15 A It -- it does not matter. Our purpose for using
16 it would be based on the behaviour of our subject,
17 for whatever reason we are apprehending them or
18 arresting them.
- 19 Q Regardless of the underlying offence?
- 20 A Yes.
- 21 Q Thank you. You train officers to avoid using the
22 Taser in any particular circumstances. We've
23 heard concerns over pregnancy or questions arising
24 surrounding pregnancy or any conditions at all,
25 weather conditions.
- 26 A Yes.
- 27 Q Is there any circumstances when you say, "Don't
28 use this device"?
- 29 A Yes, there are. Those would include areas where
30 there's a very serious secondary concern,
31 secondary injuries. For example, if a person's on
32 a balcony railing, you're not going to use the
33 Taser because they will fall. If a person is
34 obviously pregnant, don't use the Taser on them.
35 I have actually had to bring one of our officers
36 in who -- thankfully, it was a successful ending
37 to a situation, but it was a deadly force
38 encounter where there was a man with a gun, and he
39 had an opportunity to use the Taser at which point
40 he did, and thankfully it was a very successful
41 outcome. However, we don't use it as an
42 alternative to lethal force, and that had to be
43 discussed and debriefed with him using the use of
44 force.
- 45 Q Okay. Are any of this situations when you suggest
46 avoiding the use of the Taser listed in your
47 policy?

- 1 A Not in the policy. In the training, but not in
2 the policy.
- 3 Q Now, you said you avoid Tasering people who are
4 pregnant. Why is that?
- 5 A Well, a pregnant woman is going to fall down, and
6 that's a concern.
- 7 Q Is that the only concern?
- 8 A At this time, yes, it is, yes.
- 9 Q Okay. When you train your officers, what are they
10 told about the safety concerns surrounding Tasers?
11 Are they told of any safety concerns other than
12 the potential for injury arising from falling
13 down?
- 14 A Yes, we've done some field training ourselves and
15 have, as a result of that actually, changed our
16 pepper spray. Just as an example, the pepper
17 spray we used to carry, we decided to conduct a
18 test whether that -- if you marry the Taser up
19 with that pepper spray, what would happen, and it
20 was inflammable (sic). So what we did is we
21 changed our pepper spray and did another field
22 test to ensure that if a person was pepper sprayed
23 and it was ineffective, and then they used the
24 Taser on that person, that the combination of the
25 two would not become flammable.
- 26 Q Okay.
- 27 A So there's some training in reference to those
28 different areas, yes.
- 29 Q Aside from falling down and flammability, are the
30 officers taught anything about potential negative
31 impact that may flow from the Taser?
- 32 A There is nothing in our training that speaks
33 specifically to that, no, there isn't. And we
34 don't train them that this is something that's
35 going to hurt somebody.
- 36 Q Does your training surrounding the Taser include
37 any reference to what we've heard called excited
38 delirium?
- 39 A Yes, it does, Mr. Commissioner. We have our first
40 section of our training is solely based on excited
41 delirium. In that portion, our officers will
42 learn to recognize what we have learned from the
43 medical people the signs and symptoms that would
44 indicate possibly this person is experiencing or
45 going into a state of excited delirium. If we see
46 those signs and symptoms that have been explained
47 to us from the medical field, then we consider now

- 1 that being a medical emergency and we revert to
2 making sure we save his life under the most
3 immediate circumstance. Because if we can't get
4 them into custody, we can't get them to medical
5 care. At that point, the arrest doesn't matter.
6 At that point, we want to save this person's life.
- 7 Q What do you tell your officers about the
8 desirability of using the Taser when they
9 encounter somebody who's displaying these
10 symptoms?
- 11 A What we teach is that if it is the best method and
12 fastest method to get them to medical care, then
13 do that.
- 14 Q How long is the training on excited delirium?
- 15 A There's about ten slides and probably 20 minutes
16 of discussion on excited delirium. And then we
17 actually go into a reality-based training
18 scenarios as well where we -- at some point, the
19 officers are going to have to recognize if there's
20 an excited delirium and we watch for that.
21 Because we'll set that scenario up so that they're
22 displaying certain behaviours that will lend to
23 suspect excited delirium, and we want them to
24 recognize that and deal with the situation as they
25 would if they were in the field.
- 26 Q Okay. Now, during your slide presentation, you
27 made reference to -- I'm not sure what you called
28 it, but I think it was essentially resistance or
29 handcuffing while the charge is taking place; is
30 that right?
- 31 A Cuffing under power, yes.
- 32 Q Cuffing under power, that's what you called it.
33 And the purpose of that, or at least one of the
34 purposes you explained was to avoid multiple
35 shocks.
- 36 A Yes.
- 37 Q Why is there an attempt being made to avoid
38 multiple charges?
- 39 A Well, just as there is when -- when we use our
40 batons, when we deliver a baton strike, we want to
41 hit as hard as we can to minimize the number of
42 baton strikes we might need to use to restrain
43 somebody. So if we can use that first window of
44 opportunity when it comes to the Taser, then we
45 want to move in, control that subject, thus
46 eliminating any need for further force options.
- 47 Q Okay. I understand the multiple baton strikes.

- 1 The less baton strikes, the less chance of injury;
2 is that right?
- 3 A That's right. And to everybody.
- 4 Q Is it your understanding that the same applies to
5 the Taser?
- 6 A Well, I honestly just don't see the necessity of
7 putting somebody through the pain of a five-second
8 cycle more than once if you don't need to.
- 9 Q Okay, thank you. I've heard you talk about a
10 minimal standard of active resistance. Officer
11 Milligan made reference to active resistance and
12 also passive resistance becoming active
13 resistance. Are those terms dealt with in your
14 Taser policy, those standards, those levels?
- 15 A Not in the Taser policy specifically. Our policy
16 addresses intermediate weapons. It addresses
17 lethal force encounters. So our policy will
18 capture the Taser usage in the intermediate weapon
19 category of our Policy and Procedures and will
20 illustrate, at that level, we may start using the
21 Taser and what our follow-up procedures will be
22 from there.
- 23 Q Okay. What language is used in your policy to
24 denote the minimal level at which a Taser can be
25 used?
- 26 A The language that our officers would understand is
27 the intermediate tools, intermediate weapons.
28 Because our officers are trained and taught that
29 intermediate tools can be used at the level of
30 active resistance.
- 31 Q I see the use in your policy of the term "non-
32 compliant" subject. What does that mean in
33 relation to this national use-of-force wheel?
- 34 A Well, we have -- a subject is going to be one or
35 the other. A subject will be either compliant or
36 they'll be non compliant. Ninety-eight percent of
37 the time, they're compliant. We want to make a
38 warrant arrest, we can approach a person using our
39 communication skills. We can take them into
40 custody without incident. They're compliant.
- 41 A non-compliant subject will be demonstrating
42 either verbally or non-verbally, and communicating
43 with us in a way that is leading us to understand
44 that they are not going to comply with the
45 direction that we're giving them under lawful
46 authority.
- 47 Q Non-compliant would include passive resistance; is

- 1 that correct?
- 2 A No. Non-compliant would be -- non-compliant would
3 include passive resistance, yes, in that if we ask
4 somebody to move away from an area and they refuse
5 to do that, that is non-compliance.
- 6 Q Okay. And there's no distinction between passive
7 or active resistance in your policy?
- 8 A Passive resistance is --
- 9 Q In the Taser policy.
- 10 A Not in the Taser policy.
- 11 Q Okay. Thank you. I have a couple of questions
12 about statistics, Officer. It sounds to me like
13 you're keeping track of an awful lot of
14 statistics, or at least gathering an awful lot of
15 information with the use-of-force reports. Are
16 statistics gathered and compiled and analyzed from
17 those reports to do with Taser or other use-of-
18 force options?
- 19 A Well, Taser specifically, the use-of-force reports
20 will come to me. They will be reviewed by me, so
21 if I feel the need to get more information from
22 the officers involved, I can do that. The
23 information from those reports are captured and
24 sent to, as I referred to earlier, the
25 Professional Standards Section.
- 26 Did you want some clarification of the
27 evaluation?
- 28 Q No, let me ask you this: If I were to ask you, or
29 the Commission was to wish it, would you be in a
30 position, from the statistics you've gathered, to
31 provide information on things such as the number
32 of Tasering incidents, the number of Taserings
33 where the subject was armed, the number of
34 Taserings where displayed certain types of
35 behaviour, statistics regarding injuries to
36 officers, that type of thing?
- 37 A It would be -- it could be done. All those
38 reports would have to be drawn from (a) the use-
39 of-force report that we get internally, and also
40 with the general occurrence report the officer
41 needs to submit to the Crown.
- 42 Q Okay. So my understanding, then, is this is
43 information you have, it could be done, but nobody
44 is currently compiling those statistics or keeping
45 track of them.
- 46 A Right. We're not specifically doing that at this
47 point.

- 1 Q You're keeping all the use-of-force reports, and I
2 understand in each Taserings, you personally are
3 reviewing them?
- 4 A Yes, I am.
- 5 Q How many Taserings incidents roughly have happened
6 in Vancouver, say, over the last five years? I
7 don't need an exact number.
- 8 A Well, I can tell you in 2007, there was about 100.
9 Prior to that, I believe it was maybe 90 in 2006.
10 In 2004 is when we really started to keep more
11 records, and the record-keeping became better and
12 better as of then. So we're looking at about 100
13 cases a year.
- 14 Q For whatever reason, are the numbers of Taserings
15 generally going up?
- 16 A I would say, yes, they are.
- 17 Q Okay. And the number of Tasers the force has
18 obtained, has that increased?
- 19 A Yes, it has.
- 20 Q With all of those use-of-force reports that you
21 have personally reviewed and compared to the
22 downloaded data where appropriate, what, if any,
23 steps have you taken to correct things, provide
24 further information, or make any changes to
25 policy?
- 26 A Well, since early 2006 where I became more
27 involved with the Taser program itself, we changed
28 from what was then the advanced M26 Taser to what
29 is now commonly known to most people as the X26.
30 What we did was we upgraded or revised our
31 manuals, our training manuals to suit that. We've
32 had different occurrences within our own use-of-
33 force usages where we have looked at that
34 information and thought, well, let's have a look
35 and see why this is happening. We became more
36 diligent in training on the contact stun. We
37 changed a lot of that in our manual and in our
38 training.
- 39 Also with the excited delirium concerns,
40 that's been something that's been ongoing since
41 then as well. So we've been adapting and growing
42 and proceeding with all of the concerns that have
43 come forward in reference to public safety.
- 44 Q Okay. And you're reviewing each and every report
45 of a Taser use?
- 46 A Yes.
- 47 Q Have you ever gone to an officer and said, "You

1 know, this might have been a little early. Maybe
2 you shouldn't have used the Taser. Maybe the way
3 you used it wasn't correct." Has that ever
4 happened?

5 A Only in reference to not using enough force.
6 There has been somebody I felt not suited for the
7 Taser program which we did not allow them to
8 successfully complete the course.

9 Q So I take it, then, aside from the instance you
10 told us where somebody used a Taser and it wasn't
11 enough force, you think each and every Taser
12 incident that you've reviewed has been
13 appropriate?

14 A Yes, I do.

15 MR. MCGOWAN: Those are the questions I have, Mr.
16 Commissioner. If I might just have a moment?
17 There may be one more.

18 THE COMMISSIONER: Yes.

19 A Sure.

20 MR. MCGOWAN:

21 Q Just another quick question, Officer.

22 A Sure.

23 Q The cartridges are signed out, you said.

24 A Yes, they are.

25 Q Are the number of cartridges signed out to a
26 particular officer or a particular Taser compared
27 with data regarding the number of discharges in
28 the field, reported use?

29 A Maybe I can answer that by explaining how it
30 works.

31 Q Sure.

32 A Before January of 2008, our process involved a
33 pool of Tasers. So we had 150 Taser operators, as
34 an example, but we would have 50 Tasers. So they
35 would go in and they would sign out a particular
36 Taser by the Taser serial number, and they would
37 take a couple of cartridges and they'd go out to
38 the field.

39 If they used that cartridge in the course of
40 duty that night or day, then they would record the
41 cartridge serial number and the Taser serial
42 number as we've discussed in the use-of-force
43 reports.

44 Now, as of January, 2008, because we've gone
45 to a personal issue system, the information that
46 we're capturing now involves which Taser belongs
47 to -- or which is personally issued to which

Tammy Hammell (Law enforcement presenter)
Questions by Mr. McGowan (cont'd)

1 officer, and they are issued with three
2 cartridges. So now those are each logged on our
3 records system. Now, if they use one of those
4 cartridges in the course of their duty, that
5 cartridge comes to me, or if it needs be, it goes
6 to Forensic Analysis Unit. I will then re-issue
7 them with another cartridge which will be added to
8 their history of cartridges issued to them under
9 the Vancouver Police Department.

10 Does that answer the question?

11 MR. MCGOWAN: It does. It does. Thank you, Constable.
12 Your presentation and participation has been most
13 helpful. Those are my questions.

14 THE COMMISSIONER: Constable, thank you very much.
15 It's very much appreciated that you came and are
16 prepared for this hearing. Thank you so much.

17 A Thank you, Mr. Commissioner.

18
19 (PRESENTER EXCUSED)
20

21 THE COMMISSIONER: Now, counsel, as I understand it,
22 we've not been able to schedule anything for this
23 afternoon.

24 MR. VERTLIEB: No. Try as we might, Mr. Commissioner,
25 unsuccessful just because of people's
26 presentations changing. To accommodate the
27 presenters, we have nobody this afternoon.

28 THE COMMISSIONER: Okay. Can you tell us about
29 tomorrow?

30 MR. VERTLIEB: Tomorrow, we have Dr. Tseng, Dr. Zian
31 Tseng, the cardiologist from San Francisco, and we
32 anticipate he'll be perhaps an hour and a half.
33 There may be one or two other short presenters,
34 and we anticipate tomorrow that we'll be concluded
35 by about 12:30, and that's what we've been able to
36 schedule for tomorrow.

37 THE COMMISSIONER: All right. Thank you very much.
38 We'll adjourn, then, until ten o'clock tomorrow.
39

40 (PROCEEDINGS ADJOURNED TO MAY 9, 2008 AT
41 10:00 A.M.)
42
43
44
45
46
47