

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

Strategy Room 320
Wosk Centre for Dialogue
580 West Hastings Street
Vancouver, B.C.

May 12, 2008

PROCEEDINGS AT
FORUM (DAY 6)

ORIGINAL

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Commissioner:	T.R. Braidwood, Q.C.
Commission Counsel:	A. Vertlieb, Q.C.
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1
Thomas Smith (Manufacturer presenter)
Questions by Mr. Vertlieb

Vancouver, B.C.
May 12, 2008

1
2
3
4 THE COMMISSIONER: Well, good morning everybody.
5 Counsel, I think we're ready to proceed?

6 MR. VERTLIEB: Yes, Mr. Commissioner, we are indeed.

7 THE COMMISSIONER: Yes, Mr. Vertlieb.

8 MR. VERTLIEB: Thank you, Mr. Commissioner.

9 This morning we have scheduled Mr. Tom Smith,
10 this afternoon, the Honourable Ujjal Dosanjh, and
11 that would be the plan for the day, Mr.
12 Commissioner.

13 So if we can start then with Mr. Thomas
14 Smith.

15
16 THOMAS SMITH, a Manufacturer
17 presenter.
18

19 QUESTIONS BY MR. VERTLIEB:
20

21 Q Mr. Smith, welcome to Vancouver. You are the
22 Chairman of the Board of TASER International.
23 Briefly in terms of your own personal background
24 just please tell the Commissioner where you were
25 born and where you grew up.

26 A Good morning, Mr. Commissioner.

27 THE COMMISSIONER: Good morning.

28 A Thank you very much for the opportunity to come up
29 here and speak to you today.

30 I was born at Scott Air Force Base in
31 Illinois in 1967. We grew up travelling quite a
32 bit. I attended college at the University of
33 Arizona where I got a Bachelor of Science in
34 Ecology and Evolutionary Biology, and subsequently
35 went to Northern Arizona University for a Master's
36 of Business Administration, and then had several
37 jobs prior to starting TASER International in 1993
38 with my brother.

39 MR. VERTLIEB:

40 Q Now, your brother is Patrick, and he serves as the
41 CEO of the company?

42 A That is correct.

43 Q And so you and your brother are the two major
44 forces in the company?

45 A Correct, sir.

46 Q Now, you mentioned starting TASER in 1993. The
47 product had been around, though, prior to that

Thomas Smith (Manufacturer presenter)
Presentation

1 time?

2 A Correct. The original Taser systems, which we'll
3 get into in a presentation, came around in
4 actually the development in the late 1960s was
5 when it was first conceptualized.

6 Q Have we covered the background that you would like
7 to convey to the Commissioner before you begin
8 your presentation?

9 A I think so, because we are going to give quite a
10 bit of history and overview of the technology
11 through the course of the presentation today.

12 Q Wonderful. Then we'll turn directly to you, Mr.
13 Smith.

14 A Okay.

15 MR. VERTLIEB: Thank you, sir.

16

17 PRESENTATION BY MR. SMITH:

18

19 A Thank you very much again. Please at any time
20 stop me and ask any questions as we go through
21 this.

22 One of the first things I wanted to discuss,
23 the term "non-lethal". There's been a lot of
24 coverage around the term that's being used. We
25 want to start right up front with the definition
26 wherein that came from, and it does not mean that
27 it's risk free. In fact, in Europe the Non-lethal
28 Weapons Commission established in Ettlingen,
29 Germany, has done quite a bit of extensive study.
30 NATO has the Human Effects of Non-lethal
31 Technology Symposium. At the University of New
32 Hampshire they have the Non-lethal Technology
33 Innovation Centre. The United States Department
34 of Defence has the Joint Non-lethal Weapon
35 Directorate. Even the University of Bradford has
36 a non-lethal weapon program. So it's more to just
37 lay the foundering that the term non-lethal is not
38 something that we coined, it's something that's
39 been discussed around surrounding the industry.

40 So right out of the gate, are Tasers risk
41 free? No, they're not. We cover very extensive
42 warnings in our training and in the material, they
43 do incapacitate and cause you to fall to the
44 ground, and we will talk about those subjects
45 through the course of this presentation.

46 I think it's also important to note that the
47 only term that's defined by the United States

1 Government is the term "non-lethal". There's no
2 definition for "less-lethal", or "less-than-
3 lethal", or any of the other terms that are all
4 synonymous. But this definition as defined by the
5 U.S. Government, its definition specifically
6 states that it's explicitly and primarily employed
7 so as to incapacitate while minimizing fatalities
8 and injury to personnel and undesired damage.
9 Now, part of that definition also incorporates
10 that it does not require a zero probability of
11 producing fatalities or permanent injuries, and is
12 such that the intended effect is that, but that
13 could be a possible side outcome. So that term,
14 the reason we adopted it was really it's the only
15 defined term that exists by a governmental agency.

16 There's been a lot of discussion surrounding
17 obviously the tragic events that had occurred here
18 that brought this Commission to come and take a
19 look at this, and one of the analyses that we've
20 given is a comparison to, for example, airbags and
21 their use in automobiles. Since they came out in
22 1998 there has been tragic incidents which
23 occurred with automobile accidents where airbags
24 have been deployed, and if you looked at a
25 cumulative number of, say, 650,000 people being
26 killed in association with an airbag use, that
27 could also be compared to considered statistics
28 where you would think maybe the number is
29 increasing, when in fact the actual death toll
30 associated with that particular technology is not
31 increasing and, if you look at the comparison to
32 annual miles driven, it's actually decreasing.
33 And I would hope that as recommendations as people
34 evaluate our technologies going forward, I think
35 you would see something similar. Airbags were
36 designed to make automobile accidents safer, much
37 like a taser was designed to make interaction and
38 confrontation between people safer.

39 We're here to talk today about electronic
40 control devices, that is the generic category. We
41 use compressed nitrogen to propel wires at a
42 distance to basically attach to an individual and
43 send an electronic signal into a person. Taser is
44 a trademark. Jack Cover invented the name back in
45 the 1970s, and we acquired that name from him when
46 we started our company in 1993 and have since gone
47 forward.

1 As I was asked earlier by counsel, the Taser
2 came out and developed in the late 1960s and was
3 introduced to the market in 1974 with the device
4 you see on the screen. That is the original
5 Tasertron Taser. It fired two cartridges. It
6 worked a distance of up to, I believe, at the time
7 it was 15 feet. And that product has been around
8 again since the 1970s.

9 Unfortunately when Jack invented the
10 technology, he did not develop it to the point of
11 truly incapacitating. It was more of a pain
12 compliance device. And that's really why the
13 technology had never really advanced over the
14 years.

15 When my brother and I started our company in
16 1993, we produced the Air Taser system, which in
17 the United States was actually introduced to the
18 civilian marketplace. We did not enter law
19 enforcement until late 1999, and there are 200,000
20 citizens carrying this in the United States today.

21 I do want to point out it is prohibited in
22 Canada for civilians to have this technology.

23 I think it's also interesting to point out
24 the reason my brother and I started our company
25 was we had two friends get shot and killed in a
26 road rage incident in Scottsdale, Arizona, and so
27 we started taking a look at, you know, growing up
28 watching Star Wars and Star Trek, how could we use
29 technology to advance the state of self-defence?
30 Basically everything else that was on the market,
31 be it pepper spray, collapsible caveman's baton,
32 and those other types of instruments all worked on
33 inflicting pain. So while we've had great
34 advances in science and talking on cell phones and
35 medicine, we felt we could apply science to end
36 confrontation much, much safer. Even for our mom,
37 who was looking at a way to defend herself, ended
38 up buying a Doberman Pinscher, this is again in
39 the 1990s, we felt it was something that we should
40 take a look at and led to this introduction in
41 1993.

42 After being in the civilian market, we went
43 back and retooled the product and found out that
44 we wanted to design it with much more of a firearm
45 shape to minimize training, and truly focus on the
46 incapacitative effects.

47 Our original Air Taser in 1993 was very

1 similar to the original technologies developed in
2 the '70s, so while it would work in the majority
3 of the cases, it did not work on the people that
4 were motivated and could fight through pain.

5 This product, the Advanced Taser M26, was
6 developed to focus on specifically when it was
7 deployed and it attached both probes to the
8 individual, it would incapacitate and end that
9 confrontation.

10 Again on the device there's a safety that
11 when you turn it on, it turns on a red laser dot
12 to assist the officer in aiming. Once you pull
13 the trigger, it deploys those probes out we'll
14 talk about in a minute. The device runs
15 automatically for five seconds. At the end of
16 five seconds you could pull the trigger to
17 activate again if required in order to keep a
18 subject incapacitated.

19 The success of that product led to the
20 introduction in 2003 of the X26, which was 60
21 percent smaller, 60 percent lighter, and that was
22 focused on being able to be carried on the
23 officer's belt. Again, when officers go into
24 confrontations or situations where they have to
25 arrest, they have to be carrying whatever tool
26 they're going to have with them. They don't have
27 the ability to, say, call time out or go back to a
28 vehicle to pick something up. So we were
29 designing this to get onto the officer's belt.
30 And there was a lot of technology and study done
31 in the 1990s through today researching this
32 technology as it was introduced to the market.

33 We make a variety of cartridge distances and
34 they are colour coded, with the yellow door
35 indicating a distance of 15 feet in length of
36 wire, the silver is 21, the green is 25, blue is a
37 simulation cartridge used for training, and then
38 the orange door, which is out to 35 feet. I point
39 this out, because again it's in the assistance of
40 the officers in knowing the distance they can be
41 from a subject in order to deploy a Taser without
42 having to get close.

43 Basically when the Taser is fired it deploys
44 two darts that are attached by wire. We used
45 compressed nitrogen to propel those two darts out.
46 They are at an eight-degree separation angle. The
47 top dart will always go where the laser sight is

1 pointed. Again this goes back to the training
2 that they are given as it relates to firearms,
3 centre of mass deployment. The top dart is the
4 one they will worry about. The bottom dart fires
5 directly below it, again with an eight-degree
6 spread, so that as you look at the distance the
7 target is from the front of the Taser, for every
8 seven feet of distance, you'll get about a one-
9 foot spread between those probes. So at a
10 distance of roughly 21 feet, if you hit somebody
11 in the upper chest area, the bottom probe would be
12 about 36 inches below that particular probe.

13 I can tell you the average distance that
14 we've seen over the years is a distance of between
15 seven and 13 feet in a typical Taser deployment
16 scenario.

17 One of the other things we did from day one
18 was we were worried about accountability and
19 responsible use. So every cartridge that we
20 manufacture has a unique serial number on it.
21 When the cartridge is deployed it is a single use.
22 It is disposable. When it fires out those two
23 probes and the wires, it also disperses the little
24 AFID or Anti-Felon Identification tags you see
25 down there in the bottom that are serialized. So
26 that in instances you could apply that serial
27 number and issue it to an officer so that if he
28 deployed it on scene, you could actually go back
29 and identify from evidence left where it was used.
30 And then by finding those ID tags, if you were to
31 track it to the specific officer, you could also
32 just confirm that it was the officer's Taser that
33 was fired by the serial number of the cartridge
34 that had been given to him.

35 Again this is an accountability measure. In
36 the U.S. we also track this to the civilians so we
37 can ensure we have proper and accountable use.

38 On the device itself, because we're
39 electronic, we're able to add a lot of technology
40 to this. The back display, when you first arm the
41 system by switching the safety off, gives you a
42 percentage of the battery that is remaining.
43 Again on our previous models they would just get a
44 light that would indicate. On our new X26, which
45 is being used now, they actually can get the
46 percentage of battery so they'll know exactly how
47 much time they have left to be able to use this.

1 When the Taser is activated it also gives
2 information back to the officers in a countdown,
3 five-four-three-two-one, on the display to
4 indicate to the officer how much time is left. So
5 it's about knowing the situation, knowing how much
6 time that Taser is being deployed.

7 It also allows you to select between a
8 flashlight and a laser, and then also when you
9 upload it there's a lot of diagnostic information
10 given surrounding dates and times and temperature
11 that we track.

12 The digital power magazine that powers the
13 Taser has a 10-year shelf life. In fact, the
14 batteries that are used inside of our DPM to power
15 the Taser are the same Duracell batteries that I
16 have here. They're Duracell CR123 batteries that
17 you find in most digital cameras, or even most
18 flashlights. Now, while these batteries on a
19 camera will power maybe 200 flashes, we can get
20 almost 20,000 Taser pulses out of this particular
21 power supply. And again that allows us, it is
22 programmable, that we can program in the field,
23 should we have any software changes.

24 We also built into the Taser something unique
25 called a Dataport system. Every time the trigger
26 is pulled, we record the date, the time, the
27 duration, the temperature and the battery status
28 of the last 1,500 times that the Taser had been
29 deployed. These are encrypted data files and we
30 use a USB plug-and-play system into the bottom of
31 it to download it. Where this can come into play
32 is after a Taser has been fired. You can actually
33 take the Taser from that particular officer and
34 hook it up to a computer through USB and download
35 again when it's been deployed. So you have
36 accountability in command staff oversight of how
37 and where the technology is being used.

38 Also this goes back to how many times it was
39 deployed: was it one, was it five, was it 20? So
40 again it's going to assist in the accountability
41 and the processing of exactly how, when and where
42 this technology was deployed in a specific
43 situation.

44 Those were great, but we also learned through
45 the International Association of Chiefs of Police
46 that video would be even better. In fact, an in-
47 car video in that AICP study, 96 percent of the

1 time when video was present it acquitted the
2 officer of any particular wrongdoing.

3 Again we had the advantage of being an
4 electronic device that we were able to look at the
5 next level of accountability and integrate a
6 camera system that is an option that can be put
7 right into the bottom of our X26, that now when
8 you arm the safety and turn on the red dot, you
9 will see exactly what the Taser sees and it will
10 record up to 90 minutes of audio and video. So
11 again on the accountability and transparency side
12 of this technology, you'll have a video image of
13 exactly what was seen.

14 And now I'm going to show you a video.

15
16 (VIDEO BEING PLAYED)

17
18 This is actual TaserCam footage in Kansas
19 City. These officers have been dispatched to this
20 home. The subject has barricaded himself in a
21 bathroom.

22 The dot you see there in the centre is the
23 laser dot from the Taser.

24 This is a mental subject that is to be
25 returned to a mental hospital, and you'll notice
26 when they open the door of the bathroom, the
27 gentleman facing the camera is holding a butcher
28 knife in his right hand. A butcher knife facing
29 an officer, if he approaches them, can be defined
30 in most instances as a lethal situation, and
31 you'll see how the Taser here is deployed.

32 They give three warnings, and then deploy the
33 Taser. Two Tasers were fired at this particular
34 subject. So that's two Tasers as he starts to get
35 back up, they trigger again and runs for a second
36 five-second discharge. He still has the knife in
37 his hand.

38 They are giving commands to drop the knife so
39 they may enter the room. Now that the knife is
40 out of the room after a third Taser deployment,
41 they are able to take this individual into
42 custody.

43 You will notice at the bottom the flashes on
44 the screen are the serial number of the Taser.
45 They come at about every ten seconds, as well as
46 the date and time. Again this video is correlated
47 back to our Dataport download program as

1 integration to assist in the real events of what
2 the video is recording, whose Taser it was
3 recorded on. And again here the subject is being
4 able to be being taken into custody by handcuffs.
5

6 (VIDEO STOPPED)
7

8 So if you look at the technologies that we've
9 integrated into this, from the tracking of the
10 cartridges, to the neuromuscular incapacitation to
11 the actual control of the way the waveform that is
12 produced by the Taser is monitored, the display
13 information to give back to the officer, the DPM
14 system, the digital power magazine system, that
15 supplies the power, again, our TaserCam, there has
16 been a lot of technology introduced and integrated
17 into Taser systems so that we can assist command
18 staff in the accountable and responsible use to
19 make sure how, when and where it's being used is
20 tracked.

21 Now let's talk a little bit about the
22 electrical output of the Taser and how we got to
23 where we're at with this system.

24 Basically on discussion of electricity it is
25 the flow of electrons. That is what electricity
26 is, it's the flow of electrons through a
27 conductor. Voltage is really the pressure or the
28 distance the energy will jump, and current or
29 amperage is the flow rate, how many electrons are
30 going over a given time period.

31 So if you take a basic look at this
32 technology, what the Taser is in its most
33 simplistic form. If I hold my hand up, my brain
34 is transmitting an electrical signal, so that my
35 fist open and closes as quickly as I can. In its
36 most basic form, the taser has copied that
37 waveform and we plug that in remotely through
38 those two contact points to send a signal in to
39 make your muscles contract and release 19 times
40 per second.

41 Now, again, in its most basic form and
42 there's a lot of science behind this, the fact
43 that this is ongoing is not affecting the
44 heartbeat or the breathing. Those are different
45 electrical systems that exist within the body. We
46 were specifically focused with this technology on
47 muscles, motor muscles that are used when somebody

1 wants to engage in a confrontation and be able to
2 fight.

3 Right here in Vancouver at the World Science
4 Museum you can go down and put your hands on a Van
5 de Graaff generator that generates as much as 20
6 million volts. Again, it's no power behind it.
7 Those Van de Graaff generators have been around
8 for many, many years, and I think it's interesting
9 to note that you can get the static shock on a
10 doorknob from rubbing your feet on a carpet that
11 can be as high as 35 to 50,000 volts.

12 So while there's a lot of sensationalism
13 around the 50,000 volts produced out of the front
14 of our device, that simply tells you that the
15 distance that the energy will arc through
16 clothing, if it does not contact the skin. And
17 again it's not the voltage that is the cause of
18 concern, it's the amperage that we want to measure
19 and regulate that's going into the body.

20 So let's take a look at those specific
21 specifications. We have a high voltage arc, to
22 arc through clothing, but when you actually look
23 at the voltage going across the body, it's between
24 1,200 and 5,000 volts, depending on our two
25 products. But again the current is very, very
26 low. It's less than four milliamps.

27 There had been some testimony previously
28 looking at patents that was completely erroneous
29 regarding this average current being put into the
30 body. That was a different measurement system,
31 and in fact the specifications are very specific
32 that come with every Taser on the amount of energy
33 delivered. And again another type of measurement
34 you could look at are joules. Less than one joule
35 is delivered to the body on the M26 and .07 joules
36 are delivered out of our X26. And if I will give
37 you an external cardiac defibrillator as a
38 comparison, those typically deliver between 150
39 and 400 joules of energy per pulse hundreds of
40 times more powerful than the output of a Taser
41 device.

42 Let's also give a comparison to the energy
43 that's flowing out of a wall outlet, because a
44 110-volt wall outlet, people know that you don't
45 want to stick your finger in a wall outlet and
46 they'll hear the 50,000-volt specification on a
47 Taser, but it's really the flow of amperage. That

1 110-volt wall outlet is hooked up to a power plant
2 that will dump an endless flow of current, as high
3 as 16 amps of current. Where you compare that
4 output to the Taser device of 2.1 milliamps on our
5 X26, 3.6 milliamps on our M26, it is a miniscule
6 amount. Again we're working from the same
7 batteries that power flashlights or cameras, so we
8 are working from a fixed power supply.

9 I think a great analogy is water.

10 Electricity and water are very similar. If I were
11 to tell you to stand under Niagara Falls, the huge
12 volume of water would crush you. That's similar
13 to the wall outlet. It's not falling a very long
14 distance, but it's an incredible volume, or
15 current, of water that's falling that distance.
16 Yet that same water can appear in rain clouds
17 where no one is afraid to go out and get crushed
18 by a rainstorm, because that electricity is
19 falling many, many thousands of feet, a long
20 distance such as the Taser, but it's very low
21 current density when it is falling. So I think
22 that's a good analogy for people to be able to
23 look at a comparison between electricity and
24 something that's more readily available such as
25 the appearance of water.

26 This technology, I mentioned back in the '70s
27 and '80s, even our first system in the '90s, it
28 worked more on a pain compliance. It affected the
29 sensory nerves that are near the surface of the
30 skin that would feel heat, cold, pain. People
31 when they are on drugs, alcohol, emotionally
32 disturbed or choose to fight through pain
33 compliance devices were not affected by most of
34 these devices.

35 What we focused on was making sure we
36 affected the nerves that stimulate motor nerves,
37 muscle tissue that cause your muscles to contract
38 and release 19 times per second. I think one of
39 the big things that we've really found in this was
40 when we were able to get those muscles to contract
41 and release, your muscle tissue sees the signal
42 that's produced within the body and the Taser and
43 can't differentiate between them. You can't tell
44 your muscle "Ignore the Taser wave, I want you to
45 do this." That's one of the reasons this has been
46 so successful in true incapacitation is because
47 that stimulation effect on the tissue is the same

1 and there's nothing you can do to stop it.

2 What I'm going to show you here is a video
3 that graphically demonstrates this concept.

4
5 (VIDEO BEING PLAYED)

6
7 The first system you're going to see is the
8 Tasertron deployed. Again the first stun weapons
9 worked on pain compliance. Given the goal of
10 attacking the camera -- you'll notice all of these
11 attachments, by the way, are on the chest, the
12 front of the individual despite claims we weren't
13 doing that. This was our first system in 1994,
14 again across the chest. Given the goal of
15 attacking the camera, while it hurt, and you can
16 see him grimace, it didn't stop them.

17 When the Advanced Taser M26 came out in 1999
18 with the goal of true incapacitation, now those
19 same subjects when they were exposed to the
20 technology, you get a completely different
21 reaction. It's an immediate incapacitation. When
22 it ends, they recover and respond immediately.
23 There's no lasting effect that would keep them
24 from continuing a fight.

25 The X26 that came out in 2003, again with
26 that safe pulse technology across the chest of
27 these individuals locks them up, completely unable
28 to fight. Then as soon as the five seconds ends,
29 they're right back on their feet. And again
30 that's critical for training that officers
31 understand when this is over they need to either
32 have them in custody or they will recover their
33 full facilities.

34 Again the individual that can fight through
35 the pain technology is now attached to the product
36 and incapacitated without being able to fight.

37
38 (VIDEO STOPPED)

39
40 There's been a myth out there about
41 independent studies. You know, a lot of
42 conversation has occurred surrounding this
43 particular topic. These compendiums that are on
44 the table in front of me here today have been
45 previously provided to the Commission in an
46 abstract form. If you were to print them out,
47 this is the volume of those types of studies.

1 There are 129 medical and field studies published
2 on our technology with less than 20 percent of
3 those studies having been funded or sponsored by
4 TASER International.

5 We have certainly funded studies, starting
6 back in the '90s. I was the first person ever hit
7 by a TASER International device in 1993, as we
8 were trying to learn and understand how this
9 technology worked.

10 But if you look at these studies, there is a
11 sampling up there of computer modelling, animal
12 studies, technical evaluations, medical overviews,
13 as well as the respiration, general effects,
14 exhaustion, drug interaction, blood chemistry,
15 blood markers. There's an incredible knowledge of
16 information out there and I would believe that
17 this is the most studied technology available for
18 police use of force today.

19 Again, as we move forward and look at some
20 samples of the articles and journals that have
21 peer reviewed and published this study, you'll
22 also notice an increase in the studies being done,
23 which I think is fantastic.

24 Again, we started our studies in the '90s
25 prior to introducing this product to the market.
26 We continue that study today and we believe it's
27 fantastic that the research is ongoing.

28 We also have to deal with the challenge of
29 the peer review process because a lot of times
30 when these studies are done, it can take months
31 and years before they're peer reviewed and
32 published, so we have to wait for a lot of that
33 information to come out to the general public. I
34 think it's interesting to note that in 2006, 12
35 different studies and nine posters were done, and
36 you can see the increase between 2007 and present,
37 18 studies were done and 20 posters during that
38 time, again showing the increasing analysis that
39 is being done by the community looking at this
40 information.

41 We also have established fantastic scientific
42 and medical advisors. Most recently last year we
43 got Dr. Richard Carmona to join our Board of
44 Directors. He was the 17th U.S. Surgeon General
45 in the United States, who is helping guide these
46 studies. Dr. Mark Kroll, who sits also on our
47 Board of Directors and chairs our Scientific and

1 Medical Advisors to look at what analysis should
2 be done so that we can minimize the amount of
3 energy being delivered to the body. And Dr. Hugh
4 Calkins, out of Johns Hopkins University, the
5 Director of Electrophysiology and Cardiology,
6 again one of the top hospitals in North America,
7 that's helping guide us in the research that we
8 are sponsoring, so that we can understand how this
9 technology works and minimize the amount of energy
10 being deployed.

11 One of the first studies that was done was a
12 swine study, a pig study, where we established
13 what is the baseline. We have to start somewhere,
14 and this study was done and published in the -- in
15 *PACE*, which is one of the leading physiological
16 journals in the United States. And basically it
17 was establishing a beginning safety margin, and
18 you can see there it was roughly a 20:1 to one
19 safety margin for somebody that was roughly 100
20 pounds on average. And again this was a baseline
21 study that we did on animals as we started our
22 analysis into working with the electricity in the
23 human body.

24 The United Kingdom spent several million
25 British pounds studying this starting back in the
26 year 2000 when our first products came to the
27 market. I think it was interesting that part of
28 their analysis, looking at the M26 and the X26,
29 failed to produce VFBS or ventricular
30 fibrillation, even when applied to the heart's
31 most vulnerable point. Again, I think you've
32 heard that that is something that is of concern,
33 and you'll be seeing in the upcoming presenters
34 that that has been analyzed and it has been
35 demonstrated in the field each and every time a
36 Taser is deployed across the most vulnerable
37 point, the T-wave of the heartbeat.

38 It's also interesting to note that the
39 simulated waveforms failed to evoke ventricular
40 fibrillation and despite our methodology saying at
41 least a 20:1 safety margin, the United Kingdom
42 showed in fact a 70:1 safety margin on the M26 and
43 a 240:1 on the X26 in the studies that they did.

44 They also, the Scientific and Technology
45 Laboratory, went and looked at seven different
46 drugs and the interaction that that has on the
47 body, as well as when it's being deployed by

1 Taser. You'll notice on the middle bullet point
2 there that while these frequently abused drugs
3 have the potential to contribute to any cardiac-
4 related morbidity, or mortality that may arise in
5 the context of Taser use, there is no experimental
6 evidence that the aforementioned pro-arrhythmic
7 factors increase the susceptibility of the Tasers
8 specifically sufficient to cause an arrhythmic
9 event. And that was one -- that study had to be
10 produced and was completed prior to Tasers being
11 put on the streets in the United Kingdom where
12 they have now been deployed for several years and
13 a trial is underway to expand their use because of
14 the success of the program.

15 There has also been drug interaction
16 questions. So one of the studies that we donated
17 research to was done by the Cleveland Clinic,
18 again one of the top heart institutes in North
19 America, where the conclusion of this study was
20 that somebody on cocaine, and this particular
21 study was done on animals, showed that cocaine
22 made the heart less susceptible to electricity-
23 induced fibrillation, completely contrary to some
24 testimony that had been made on Friday. We saw,
25 this study saw actually at the Cleveland Clinic
26 that in fact it increased the safety margin. When
27 an animal is on cocaine and then exposed to the
28 Taser did not increase the risk factor.

29 I mentioned previously the United States
30 Department of Defense, Joint Non-lethal Weapon
31 Directorate. There's a group called the Human
32 Effects for Centre of Excellence. They completed
33 a study on the M26 and the X26 and confirmed that
34 it decreased the overall injury rate to both
35 officers and suspects in conflict situations when
36 compared to alternatives along the Use of Force
37 continuum.

38 It also concludes that the Tasers were not
39 primarily the likely causative factors in any
40 reported fatalities. Again this was a yearlong
41 study that was done with 20 academics and
42 researchers by the United States Government down
43 in Texas.

44 There was also a study that was commissioned
45 back in 2004 at the Potomac Institute. It was
46 also funded by an adverse sponsor from Aegis
47 Industries that was trying to evaluate this

1 technology and find out if it had been used
2 appropriately. The actual results of that
3 particular study confirmed the use of the
4 technology and showed that the odds of starting to
5 contribute to a death, while it is not implied
6 cause, at worst was 1:1000. So what it was
7 showing was that we had a saved-lives ratio of
8 70:1 and again going back to the airbag analogy I
9 referenced earlier, that ratio was roughly 50:1.

10 I think it's also interesting to note that
11 Mr. Stethem had approached our company in 2005
12 with some technology he was working on, asked us
13 to acquire him. We evaluated it. We declined to
14 acquire that company or that technology.

15 There's also a myth out there that there are
16 alternative products that can offer the same
17 incapacitation to a Taser device with lower
18 current or lower power. This has been the
19 fundamental reason that the Tasers didn't work in
20 the '70s and '80s, and I can tell you several
21 competitors who have tried to come to market with
22 lower power devices that simply don't work.

23 And this was an evaluation that was by CRT
24 against one of our competitors on the left, with
25 the Taser X26 on the right. Again the subject is
26 hooked up across the chest and you can notice that
27 it certainly does not incapacitate and end that
28 confrontation.

29 Again on the left a competitor with a lower
30 power device, on the right the X26 showing the
31 incapacitative effects of ending that
32 confrontation as soon as the technology has been
33 deployed. In fact, the fact that it's causing
34 pain, you'll notice on the left in this particular
35 subject, makes him even more violent to attach the
36 subject, where on the right they are not able to
37 fight through it.

38 We have scientifically calibrated these to
39 use the lowest currents necessary to incapacitate
40 and maintain the highest safety margin that we
41 possibly can. That is why 350,000 officers in
42 over 12,750 agencies in 40-plus countries are
43 using this technology today.

44 Where we are in the field, we have over
45 680,000 human volunteers - and this is an
46 estimated number, we obviously can't track every
47 one of them - have been exposed to a Taser. Most

1 of these are law enforcement officers that get
2 exposed to a Taser as part of their training. In
3 addition, there's about another 550,000 actual
4 field uses. That totals well over 1.2 million
5 people that have been exposed to the feeling of a
6 Taser device. Now, they do cause some pain. They
7 cause temporary skin irritations. You may also
8 see some physical type exertion injuries. Again
9 we said previously they are not risk free, they do
10 cause you to fall to the ground. But that's an
11 amazing number of people that have been exposed to
12 this technology.

13 As far as the volunteer database goes, we
14 have over 15,000 documented volunteer forms. We'd
15 be happy to provide those to the Commission. I
16 can also tell you that we have also had people say
17 that we were only using healthy volunteers in our
18 demonstrations and that no offence to the law
19 enforcement community, but a lot of law
20 enforcement officers are not all healthy.

21 This is one class with 66 students as a
22 sample on the left side. You'll notice the
23 average age was 40, compared to the average use on
24 the streets on this field use is in the lower
25 thirties. And just an example of some of the pre-
26 existing conditions, health conditions that these
27 individuals had, which we found out after we
28 exposed them to the Taser. One of them up there
29 with a myocardial infarction means he had
30 previously had a heart attack, yet it still went
31 through an exposure in this one class of a Taser.

32 We also have over 10,000 documented field
33 uses, again be happy to provide this to the
34 Commission. I can tell you when we provided this
35 to the United States Department of Defense to
36 evaluate, they had never received such documented
37 field use from actual volunteers -- excuse me,
38 field uses of this technology as they had when we
39 were actually evaluated when they were evaluating
40 whether to use these by the United States
41 Military.

42 There has also been the discussion of mission
43 creep. It is true that officers are migrating to
44 use Taser devices. I will remind you that eight
45 years there were zero in Canada. The technology
46 had not been introduced, so obviously they've
47 expanded that program. But the discussion also

1 needs to be what are they migrating from? And is
2 this substitution of Taser devices an improvement
3 or is it a detriment? That's certainly a valid
4 conversation that I think needs to be addressed.

5 So let's compare to the other types of force
6 that are available to the law enforcement officer
7 to end confrontation.

8 What you see on the screen here is if
9 somebody, this is assuming a thousand exposures to
10 being hit by a firearm, half the time they're
11 going to die, half the time they're going to have
12 a serious injury. If you punch, kick or strike
13 somebody to inflict pain, 45 to 78 percent of the
14 time you're going to cause an injury. That's what
15 the intent of that force is to do, to end that
16 confrontation. The use of a Taser is much more
17 like playing college athletics in types of the
18 injury profile seen, and we'll talk about the
19 sources of where that data comes from.

20 When the United Kingdom again now analyzed
21 putting the Tasers out on the streets, they did a
22 risk analysis comparing the relative risk of use
23 of force to the other options officers were
24 deploying, and on the basis of those findings they
25 compared CS pepper spray, batons or police dogs,
26 and made the recommendation that Tasers should be
27 deployed on the Use of Force hierarchy between
28 empty hands, physical skills and incapacitant
29 sprays. Typically I've also heard that described
30 as "active resistance", the point where the fight
31 is going to come.

32 The Taser is not a substitute for a firearm.
33 Some of our critics have tried to make that
34 determination. If a firearm or lethal response is
35 recognized, that is typically where a Taser is not
36 going to be used, but a firearm would be used.

37 The DOJ, Department of Justice, National
38 Institute of Justice, funded Dr. William Bozeman
39 at Wake Forest University Hospital to do a
40 comparative analysis over two years where they
41 looked at nearly 1,000 subjects that had been
42 exposed to a Taser and found that 99.7 percent of
43 those people had either no injuries or mild
44 injuries, where three of the subjects had injuries
45 again related to the falls that required
46 hospitalization. That's where the subject comes
47 out in the comparison, the injury rates compared

1 to college athletics, a study that was done and
2 funded by the U.S. Department of Justice.

3 This is a video, again when you're comparing
4 those other uses of force, and I'll talk over it
5 and I won't play the whole video.

6
7 (VIDEO BEING PLAYED)

8
9 This is an individual that unfortunately died
10 in police custody, no Taser was used, no capsicum
11 spray was used. This is the typical individual
12 that you may have heard the term "excited delirium
13 syndrome" exhibits. This person did have drugs on
14 board. They're partially naked. You'll see a
15 physical confrontation. This is one of the levels
16 of force an officer has at their disposal, which
17 is basically hands-on fighting.

18 Again the officer is trying to arrest this
19 individual, has to go hands-on, get into a
20 physical fight to try and prevent him from
21 injuring himself or others, exposing himself and
22 the subject to risk, and unfortunately in this
23 particular instance at the end after this
24 confrontation, the subject did not survive. And
25 if I were to let it play, you'd see other officers
26 come in and it would become basically a big fight
27 between two or three officers and this particular
28 subject.

29
30 (VIDEO STOPPED)

31
32 Pepper spray has been discussed and
33 introduced, and a lot of these use of force issues
34 have been reviewed as they've all come to the
35 market. Pepper spray, when it came out in the
36 late '80s, early '90s went through a similar
37 analysis by the law enforcement community, and in
38 fact a study that was done in Berkeley in the late
39 1990s showed that when pepper spray was used the
40 subjects became more aggressive in 30 percent of
41 the instances. So instead of reducing the use of
42 force instance, it was increasing the use of force
43 by aggravating the particular subjects.

44 When the Taser was first evaluated by the
45 Royal Canadian Mounted Police here, one of the
46 things that they did was exposed officers to OC
47 spray on the left of the screen, and the Taser M26

1 on the right of the screen. That is the same
2 officer in both images. And clearly on the left
3 where they were sprayed with the OC spray it did
4 not end the confrontation, and in fact gave the
5 officer the opportunity to go and attack a bag.
6 Where you can see on the right-hand side of the
7 screen, when the Taser is deployed on these
8 officers, it ends that confrontation immediately.

9 And this was part of the extensive study that
10 was done prior to the introduction of Tasers by
11 police in Canada when they were comparing against
12 the other use of force options available to the
13 officers, with again the same officer on the left
14 and the right with the left side being OC spray,
15 versus the right being M26. You can fight through
16 it because it does cause pain, and if you are
17 trained to fight through pain it does not stop
18 that attack from occurring.

19
20 (VIDEO BEING PLAYED)

21
22 This is a video I'll leave for the
23 Commissioner to review later. It's a fairly
24 lengthy video. It's an individual that's covered
25 in blood that is non-compliant, that basically is
26 intending to do harm. Again what it shows is when
27 they deploy pepper spray on this individual,
28 you'll notice he's naked, he's covered in blood
29 and other syndrome that officers face on the
30 streets. When he gets sprayed with pepper spray,
31 becomes even more violent and basically at that
32 point the big fight is on.

33 Again I'll leave this for the Commissioner to
34 review later because it is a four or five-minute
35 video.

36
37 (VIDEO STOPPED)

38
39 THE COMMISSIONER: Thank you very much.

40 A Pepper spray was studied, as I mentioned
41 previously, when it was introduced to law
42 enforcement, and this is a report out of the ACLU
43 in 1995 where they looked at 26 pepper spray-
44 related deaths in California alone in two-and-a-
45 half years. So that fatality rate would suggest
46 that one person dies after being pepper sprayed
47 out of about every 600 times the spray is

1 deployed. Now, I'm not implying causation, I'm
2 simply relaying that that is an analysis that was
3 done. In a similar calculation, if you assumed
4 that mortality following a Taser use were proven,
5 you would see a rate of better than 1:1000, again
6 the same results that we saw by the Potomac study
7 that I referenced earlier.

8 So if you were to use that type of an
9 analysis in arrest-related deaths surrounding the
10 potential use of either OC spray or Taser, if you
11 looked at the rate per 10 million in population
12 over a given year, you would see a much higher
13 ratio in pepper spray versus the taser. And I
14 think that again goes back to the analysis in use
15 of force comparison, and that is assuming the
16 worst-case scenario, which would be the proving of
17 a fatality with a Taser-related death.

18 THE COMMISSIONER: Let me just pause here.

19 A Yes, sir.

20 THE COMMISSIONER: I'm just trying to understand this.
21 When you say "rate per 10 million".

22 A Yes, sir.

23 THE COMMISSIONER: Well, 10 million haven't been hit
24 with the Taser.

25 A Right. If you'll notice in the bottom left there,
26 on the Taser data there, in Canada there were 20
27 arrest-related deaths in Canada over eight years
28 with a population of 33 million, so we're simply
29 doing a ratio --

30 THE COMMISSIONER: Oh, I see.

31 A -- across the country. So in California alone
32 there were pepper spray 26 arrest-related deaths
33 over two-and-a-half years with a population of 31
34 million. So it's simply trying to give an
35 analysis and a comparison against general
36 population rates and arrest-related deaths.

37 Did that answer your question, sir?

38 THE COMMISSIONER: Yes, thank you.

39 A Thank you.

40 So let's talk about those other types of
41 force and what type of injuries they leave.

42 These are impact projectiles. This
43 particular subject was hit with either rubber
44 bullets or beanbag rounds, I'm not positive, but
45 these are the types of injuries that subjects are
46 receiving when those other types of force are
47 employed.

1 On the right this gentleman lost his eye,
2 obviously a big contusion on the left, from being
3 hit by a sponge round. Again, that's what those
4 are designed to do.

5 Even a baton, which is again the caveman's
6 baton that's been made collapsible, it is designed
7 to inflict pain when it's used on an individual to
8 make them comply.

9 What I'm going to show you, this is a video
10 of Nathaniel Jones in Cincinnati, Ohio in 2003
11 that was captured in the use of a baton on a
12 particular subject, that this subject again at the
13 end did not survive.

14
15 (VIDEO BEING PLAYED)

16
17 This particular incident is what led the City
18 of Cincinnati to deploy Tasers to every officer at
19 the beginning of 2004. This was highly covered in
20 the United States, and again this is the
21 deployment of the use of force of a baton on a
22 subject in Cincinnati.

23 Now, as the officer brings the baton out,
24 again to get this person into custody, they just
25 start hitting him repeatedly with the baton
26 strikes. Again a barbaric way to end the
27 confrontation.

28 This suspect again did die in police custody.
29 It was widely covered throughout the United
30 States, and this is what led again Cincinnati to
31 put a Taser on every officer, so that they didn't
32 have to go hands-on and use this old type of use
33 of force to end the confrontation. And if I let
34 the video continue on, it would be more and more
35 officers showing up with a baton to continue and
36 try to take this person into custody.

37
38 (VIDEO STOPPED)

39
40 These are the typical device, signature marks
41 you'd see from the deployment of a Taser. There
42 are straight little fishhooks on the end of it
43 that can penetrate the skin. They will leave
44 little penetration marks, such as you see here as
45 deployed on this particular subject. These are
46 what they termed the mild injuries that were
47 discussed in the Wake Forest University Hospital

1 study. Again, from the deployment of the Taser,
2 those are the types of marks that you're going to
3 see.

4 So we've done the theoretical study. We
5 started with animal studies. We've been doing
6 human studies. But let's look at what the real
7 world results are on the streets where Taser
8 programs are being implemented.

9 You'll notice Cincinnati. I just showed you
10 the beating video from Nathaniel Jones. We're now
11 seeing officer injuries down 70 percent, suspect
12 injuries down 40 percent and force complaints down
13 50 percent with the introduction of the Taser.

14 Every agency, to my knowledge, that has
15 introduced the Taser device has seen a decrease in
16 injuries to officers and suspects where they have
17 been deployed.

18 I mentioned previously the Taser is not a
19 substitute for a firearm, and a lot of critics see
20 our column there where we've seen a reduction in
21 lethal force. The reason that shows up is because
22 the earlier in the confrontation that the Taser is
23 deployed, it prevents the escalation to the
24 firearm being the only option left for that
25 officer to end that confrontation.

26 So for example, in Phoenix, we still had 11
27 firearm fatalities related to police that year,
28 but that was down 54 percent from the previous
29 year because we were able to eliminate the suicide
30 by cop scenario, or the individual that had a
31 broken bottle, a knife or a rock, where they were
32 able to use a Taser.

33 In fact, in Miami and Seattle, over a 12-
34 month period, and most recently San Diego, we've
35 seen no lethal force shootings occur since they've
36 introduced the Taser, compared to being several a
37 year with 12 to 15 bullets being fired out of
38 police rounds in given years, which I think is --
39 really shows the way the Taser has revolutionized
40 law enforcement.

41 There is also a myth that we are prescribing
42 Taser applications for the treatment of excited
43 delirium. That is obviously something that is not
44 the case, but I can tell you where that source
45 came from. In our training materials where we
46 have this discussion we cite a study that was done
47 right here in British Columbia by the office of

1 the Police Complaint Commissioner, where they had
2 a medical review panel convened in 2004, you see
3 the names listed up on the screen, where they
4 actually said that:
5

6 The single application of a Taser made before
7 the subject has been exhausted, followed by a
8 restraint technique that does not impair
9 respiration, may provide the optimum outcome.

10
11 Again, the early use of a Taser would provide the
12 optimum outcome. So that is right out of our
13 training materials of a study that was done here
14 in British Columbia, not something that had been
15 generated by our company.

16 Again, another video that shows that type of
17 an individual that's experiencing excited
18 delirium.

19
20 (VIDEO BEING PLAYED)
21

22 This gentleman is naked, has his pants around
23 his ankles, is on PCP. This is the LA County
24 Sheriffs. They've had to shut down traffic in
25 this particular intersection, and in this
26 particular case they do use a Taser to end this
27 confrontation. They try other means. They try
28 verbal. You'll see here in a moment as he
29 approaches the vehicle. They try pepper spray.
30 It has no effect. And then they are able to use
31 the Taser to end this, to put the subject on the
32 ground without injury to themselves or to the
33 subject.

34 That is the pepper spray being deployed.

35 You'll notice they have the firearm cover on
36 the left.

37 At that point the Taser is deployed. The
38 subject then goes to the ground, allowing the
39 officers to safely approach.

40 Again they don't want to approach him in this
41 particular situation because he was face up, that
42 they could have been hit with injury. They've
43 given the command several times. They do deploy
44 the Taser the second time.

45 Now, again that's not deploying the probes,
46 per se, but rather just a reactivation of pulling
47 the trigger on the device for another five

1 seconds. At this point the subject rolls over.
2 They can move in now and safely take him into
3 custody without risk of injury to themselves or
4 further injury to the subject.
5

6 (VIDEO STOPPED)
7

8 So those agency statistics. In Peel Regional
9 Police Force, which is obviously over by Toronto,
10 237 Taser uses since 2005 with a 97 percent
11 success rate. And again going back to that
12 creepage issue, we're not seeing an increase in
13 use of force. We see a decrease in pepper spray
14 usage. We also see a decrease in officer
15 injuries. We also see a decrease in suspects
16 receiving medical attention. So I think that's
17 something else that again when we're looking at
18 the introduction of a new technology, obviously
19 you'll see more uses of that technology, but what
20 is it displacing?

21 In Phoenix we referenced earlier one of the
22 top ten agencies in the United States. We saw a
23 67 percent reduction in suspect injuries, and a 54
24 percent reduction in lethal force uses.

25 Cincinnati, the case you saw earlier, across
26 the board, reduction in officer/suspect use of
27 force assaults, overall use of force down 50
28 percent -- again, other uses of force down 50
29 percent. So it's displacing those other options
30 that they would have used previously.

31 In Granite City, Illinois, where they had
32 about \$750,000 a year Worker Compensation claims
33 with a 66-person agency, after the Taser being
34 introduced they have not spent a penny, to our
35 knowledge, on a Worker Compensation claim. Again,
36 showing the reduction in not having to get into
37 those hand-fight injuries where officers get hurt.

38 In Toronto, as reported for 2006, no officer
39 or suspect injuries or statements of claim, and
40 it's proven to be an effective intermediate force
41 option for the frontline officers across the city.

42 Hamilton Police Services had 60 deployments,
43 which was 31 percent less than their first year.
44 Again this is addressing the creepage issue. They
45 had a fair number of uses their first year. In
46 the second year with the Taser it was 31 percent
47 less than the first, and the Chief there, the

1 Deputy Chief attributes that decline because the
2 community became aware of the Taser and as the
3 Taser is just pulled out and shown in presence,
4 we're seeing a reduction in use. The Taser there
5 is determined to be an intermediate force option,
6 such as the baton and the pepper spray, and can be
7 used in that force when someone is actively
8 resisting with the police officers.

9 In Winnipeg, Acting Chief Doug Webster had
10 the Tasers used 160 times in 2007. They began
11 using them in 2006 with no reports of death or
12 injury and no substantiated allegations regarding
13 their use. Out of those 160 uses in Winnipeg
14 you'll notice that 40 percent of the cases, in 65,
15 just showing the Taser - again just showing it,
16 never having to use it - ended that confrontation
17 with what they determined red-dot compliance, or
18 putting the red dot of the Taser on somebody's
19 chest, the citizens being aware it would be used,
20 and ending that confrontation. There's the best
21 use of force is just the presence of it, ending
22 that confrontation without having to actually
23 deploy the system.

24 In Edmonton, 250 field uses in 2007.

25 Calgary had 80 uses, and again you're seeing
26 these higher numbers at agencies that have more of
27 the Tasers deployed to officers throughout the
28 force. When you see less numbers, it's usually
29 less numbers of Tasers deployed throughout a
30 particular force.

31
32 (VIDEO BEING PLAYED)
33

34 This was down on the Island off of Victoria,
35 of use that received some coverage a few years
36 ago. Again an individual that's on a rooftop
37 throwing bricks. He's got two butcher knives in
38 his left hand. You'll notice all the force
39 options that are there, present to take this
40 person into custody. This is a Taser deployment
41 where it ends the confrontation. They're able to
42 take the subject into custody without injury to
43 him or the officers.

44 The Taser is obviously in the circle. Then
45 as they approach they reach in and pull the two
46 knives away from him and deploy the Taser to
47 immobilize him.

Thomas Smith (Manufacturer presenter)
Presentation

1 And again here after the Taser has been
2 deployed, the officers are able to then roll him
3 over, take him into custody, and then that
4 situation that had been quite a long standoff.

5
6 (VIDEO STOPPED)

7
8 We've also received a number of support
9 resolutions that when we've been able to give our
10 education and provide the facts, we get support
11 resolutions from not only the law enforcement
12 community, also the National Executive Institute,
13 the National League of Cities, which in the United
14 States is a political body, the LULAC, the League
15 of United Latin American Citizens, another
16 activist group in the United States. That one is
17 very interesting because originally that
18 organization was going to come out with a
19 recommendation of a ban of the use of Taser
20 devices. After they learned about the Tasers they
21 actually put out a support resolution with the
22 successful use of this in reducing injuries in the
23 Houston area where every officer in the City of
24 Houston has a taser on their hip. It's the fourth
25 largest in the country.

26 THE COMMISSIONER: Mr. Smith, you have been going
27 pretty long, and this is not an endurance
28 competition. Would you like to have a break?

29 A I've actually only got a few more slides, if you
30 want me to continue.

31 THE COMMISSIONER: No, no, continue.

32 A Thank you very much, though.

33 The last one there was also the U.S.
34 Conference of Mayors, an organization by all the
35 mayors of the United States and supporting and
36 asking for funding to expand Taser programs.

37 Overseas I mention 40-plus countries.

38 France has over 4,000 of these systems
39 deployed. President Nicolas Sarkozy has talked
40 about the expansion of literally tens of thousands
41 of them throughout the country over there because
42 they have shown very good success with the law
43 enforcement area.

44 In fact, in the United Kingdom, I referenced
45 earlier, they spent millions of pounds studying
46 the technology. Then they introduced them to the
47 street. 95 percent of officers in the United

1 Kingdom have asked to have a Taser. 96 percent
2 still don't want a firearm, but 95 percent of them
3 have asked to carry a Taser. And just this past
4 September they started a field trial where non-
5 firearm officers in the United Kingdom are now
6 using this technology. So the Bobby, which is one
7 of the most conservative police forces in the
8 world and forever has been known as somebody that
9 has only had a nightstick, is now in the midst of
10 a trial where they are actually deploying Tasers
11 to non-firearm officers, and in fact just today
12 the Home Secretary in the United Kingdom, Jacqui
13 Smith, put out a quote:

14
15 The Taser is making a real difference on our
16 streets, not only keeping the public safe,
17 but also protecting police officers. I am
18 committed to giving our police officers the
19 weapons they need. If the trial shows the
20 Taser to be a valuable tool, I can envision
21 -- envisage a day when they could be
22 routinely issued to all officers.
23

24 Stumbled on that word, sorry. Again that just
25 came out today because it's been such a successful
26 program in the United Kingdom and being deployed
27 hundreds of times over the last several years when
28 it's been used.

29 So again in summary we have over 12,750
30 agencies using this in 45 countries. We have
31 4,500 agencies where a Taser is deployed on every
32 officer. We have 45 almost countries using this,
33 over 350,000 officers carrying it. And in Canada
34 there's 160 agencies using almost 2,300 of M26
35 technology and almost 4,200 of the Taser X26
36 technology.

37 I would also like to talk about our
38 perspective on one of our critics, Amnesty
39 International. Obviously they have been very
40 critical of the use of this technology and some of
41 the science, and calling for more independent
42 studies.

43 We put out a press release in 2004 that
44 challenged Amnesty International to come up with a
45 specific medical testing protocol that they didn't
46 feel that was addressed that could be ethically
47 addressed. We also joined them to jointly select

1 a team of medical experts with us. We also
2 challenged them to jointly fund a 50/50 study with
3 TASER International. I have to tell you, sir, the
4 silence has been deafening.

5 Unfortunately Amnesty has done no studies.
6 All of their research is based on media clippings
7 and headlines. They have not gone out and done
8 any science to support their accusations, and
9 again we have challenged and wanted to work with
10 them.

11 Even the gentleman that testified to you on
12 Friday, when he had come out with some statements
13 about us, we were asked to provide him some
14 funding so he could go do research. All he has
15 done to date was the review of other people's
16 research, and we wanted to provide him some
17 funding to take a look at it and he declined.

18 Again, so we are trying to work with people
19 that are critical to take a hard look at this,
20 because we have done research, it has been done
21 independently, and it is ongoing.

22 One of the other interesting things, there
23 has been political pressure that has forced some
24 departments in California back in 2005 to remove
25 Tasers from the streets. They had an individual
26 that was a knife-wielding man that actually ended
27 up getting shot and killed while Tasers were on
28 their shelf. And an agency down there talked
29 about the fact that because they had pulled the
30 Tasers they did not have another option to end
31 that situation, where in that same area two months
32 later the same situation, a gentleman with a sword
33 was able to have a Taser used to end that
34 confrontation without having to take his life. So
35 political pressure on some of these instances has
36 had an effect on use of force.

37 We also have to look at the relative risks.
38 These are estimated fatalities in North America
39 from firearms, 240,000 since the year 2000; drug-
40 related deaths; alcohol-induced deaths; even
41 deaths from falls, deaths from bed, chair or
42 furniture falls; arrest-related deaths have been
43 6,000 during that time period as reported by the
44 Bureau of Justice Statistics in the United States.
45 That's roughly 500 a year.

46 Over that certain time period there has been
47 roughly, according to our critics, 330 related

1 instances where a Taser has been used. Again I'll
2 point out that is their number from media
3 clippings, and those, a lot of instances when the
4 medical examiners have looked at them, did not
5 come out with a ruling where Taser contributed.
6 Even in less than 30 cases there has been listings
7 of Taser possibly contributing, but undetermined
8 at this point in those particular instances. So
9 again I think we had to have a relative risk with
10 over 1.3 million people almost exposed to a Taser,
11 compared to what else is going on around us.

12 There has also been this myth about unarmed
13 subjects pose little risk to law enforcement, that
14 should not use a Taser or any force against
15 somebody that is unarmed.

16 A study that was commissioned in 2005 looked
17 at officer injuries, officer assaults. You will
18 notice on that right-hand column over 13,000
19 officers injured by in confrontation with an
20 unarmed subject, compared to officers injured with
21 somebody with a firearm at 195, and a knife at
22 142. What that statistic right there shows is
23 that it's 68 times more likely to have a person
24 injured, or an officer injured by an unarmed
25 person rather than somebody that's carrying a
26 firearm. The ratio we would suspect is even
27 higher in Canada because there are fewer firearms
28 available to the general public than there are in
29 the United States.

30 So I think one of the things that if as you
31 take this analysis, if not a Taser device to end
32 the confrontation between people, what force
33 option is that officer going to be left to use to
34 end that confrontation and end it effectively and
35 take that person into custody? Repeatedly, over
36 and over again where a Taser has been deployed, we
37 have seen a reduction to injuries and officers.

38 And again we are very grateful to be up here
39 and participate with this, with the Commission.
40 We'd be happy to provide, as we already have, some
41 of our abstract information and any further
42 information.

43 And I would also point out that later this
44 week at the Heart Rhythm Society in San Francisco
45 there are going to be three new human studies
46 being presented on Thursday and Friday this week
47 regarding the use of Tasers on humans, again that

31
Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

1 have been studied recently.
2 THE COMMISSIONER: Well, thank you very much, it's very
3 complete.
4 I think we'll have a brief break, then, while
5 counsel reflect on this. Ten minutes, Mr.
6 Vertlieb? All right, we'll have a ten-minute
7 break.

8
9 (PRESENTER STOOD DOWN)

10
11 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
12 (PROCEEDINGS RECONVENED)

13
14 THOMAS SMITH, a Manufacturer
15 presenter, resumed.

16
17 THE COMMISSIONER: Yes, counsel.
18 MR. VERTLIEB: Thank you, very much, Mr. Commissioner.

19
20 QUESTIONS BY MR. VERTLIEB, continuing:

21
22 Q Mr. Smith, thank you so much for asking to come
23 and make this presentation.
24 I want to say at the outset that I don't in
25 any way, and we don't here in any way challenge
26 your character or any of your integrity. What I
27 would like to do, though, is put some of the
28 questions that others will be raising or have
29 raised, and just to give you an opportunity to
30 fully explain your corporate position.

31 Now, this company was started by you and your
32 brother in 1993, and I gather it was a very small
33 company in terms of sales?

34 A In 1993?

35 Q Yes.

36 A Yes, it would be zero.

37 Q And you and your brother, certainly in the 2000s,
38 have done a very good job of building this up and
39 your sales have grown tremendously over the last
40 four or five years?

41 A Yes, sir, we are a public company, traded on the
42 National Markets in the United States, so all of
43 our financial results over the last several years
44 are public record.

45 Q And the result is that you have enjoyed a very
46 good compensation package and have an extensive
47 shareholding in the company?

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

- 1 A Yes.
- 2 Q And you must be very proud of what you have
3 accomplished, both in terms of building this large
4 company with a \$500 million capitalization or so,
5 you must be very proud of what you've done?
- 6 A Yes, sir.
- 7 Q Now, in terms of the product you're selling,
8 though, your company is really dependent on the
9 acceptance of law enforcement and corrections
10 people; is that a fair comment? Your revenues, in
11 other words would be adversely affected if law
12 enforcement and corrections people start to worry
13 about your product?
- 14 A Yes, sir.
- 15 Q And that's something that's very much of concern
16 to you as the Chairman of the Board, you want to
17 ensure the viability of the company and the
18 continued growth?
- 19 A Yes, that's part of my fiduciary duty.
- 20 Q And part of the law enforcement and corrections
21 business, which has become the main part of your
22 business, I gather?
- 23 A Yes, over the last several years.
- 24 Q Part of it, though, is that even if law
25 enforcement people want to buy your product
26 because they really like it, you recognize that
27 there can be political considerations that can
28 really impact on the viability of your company?
- 29 A Yes, sir.
- 30 Q And so you're always very worried about the
31 political pressure that may be brought to bear
32 around the use of your company product?
- 33 A It's certainly something we monitor, yes.
- 34 Q All right. So in terms of your own interest, you
35 bring your obligation, your fiduciary duty to the
36 company, as you say, to the presentation that you
37 make when you come here and elsewhere in North
38 America about your product? That's only natural.
- 39 A Yes, sir, and we're very proud of what we do.
- 40 Q Now, would it then be fair to conclude from your
41 perspective that if this Commission expressed
42 concerns about the product, that it could have a
43 negative impact on the growth of your company, or
44 the value of the shares?
- 45 A Well, I can't specifically comment on what
46 somebody's going to perceive, but we would
47 certainly welcome, as I have stated through my

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

- 1 presentation, studies have been done, are ongoing
2 and will continue to on-go, and we would certainly
3 welcome that, and I believe this is part of that
4 process.
- 5 Q Now, you mentioned studies. You did mention this
6 morning that about 20 percent of the people who
7 have commissioned studies on this have been
8 supported in some way, directly or indirectly, by
9 TASER?
- 10 A Yes, sir, and those are footnoted in the abstracts
11 that we provided to you, which ones we had funded.
- 12 Q Well, the abstract that we had did not include 120
13 references.
- 14 A Correct. We gave you a subset of the animal and
15 human studies only, and we can happily provide the
16 additional studies that were referenced in my
17 presentation.
- 18 Q Now, in the material that you filed with the
19 Commission, and I assure you that everything that
20 you have said and everything you have filed will
21 be part of the record, you include a paper from a
22 Dr. Kroll.
- 23 A Yes, sir.
- 24 Q Correct? Now, Dr. Kroll is not a medical doctor,
25 he's a Ph.D.?
- 26 A Correct.
- 27 Q And he sits on the Board of TASER?
- 28 A Yes.
- 29 Q And he's paid by TASER on a yearly basis to do
30 work for TASER?
- 31 A Yes, sir.
- 32 Q In Dr. Kroll's paper, I don't know that he
33 mentioned that, but what does he make
34 approximately from TASER annually right now?
- 35 A I would have to get back to you on that exact
36 number. There is Board fees that he gets,
37 receives from sitting on our Board of Directors,
38 and then there's also consulting fees that he
39 receives in addition to that.
- 40 Q Do you have an approximate amount for us?
- 41 A Sir, I'm sorry, I don't, no, in total.
- 42 Q Could it be perhaps a quarter of a million dollars
43 or so per year, something in that range?
- 44 A Again I'm not sure. I know the Board fees are
45 stated in our proxy that he receives, and I
46 believe that information is also detailed there.
47 I just don't have that number.

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

- 1 Q That's fine. Perhaps you can just get that to us.
2 A Absolutely.
3 Q Dr. Kröll, I don't think -- are you planning to
4 have Dr. Kröll come or just having Dr. Ho come?
5 A Well, he'd be more than happy to. That would be
6 up to the Commissioner if he would like to extend
7 that invitation.
8 Q No, just your present plan is for you and Dr. Ho
9 to present on behalf of the company, as I
10 understand it.
11 A Well, we're the only two that have been invited.
12 If there were again further invitation, I'm sure
13 he would accept. I can't speak on his behalf.
14 Q Okay. You see, though, I'm not even sure about
15 the invitation. I actually was told that you
16 wanted to come, but we want you to feel welcome.
17 A I asked to come because I felt this is again an
18 important -- extremely important and critical
19 situation over a tragic event that started here,
20 and I believe part of our responsibility is to
21 participate. I have testified in Ottawa in front
22 of your National Parliament. I have gone to
23 Toronto at a public speaking forum. I asked to
24 attend today to share our information. So we have
25 been very forward, forthcoming and believe we need
26 to be a part of a process that's examining this
27 because we're obviously the manufacturer and we
28 have a lot of information to share.
29 THE COMMISSIONER: Well, rest assured, sir, this would
30 not be complete without your presence.
31 A Thank you.
32 MR. VERTLIEB:
33 Q Now, in your Appendix "A" list of articles that
34 you sent, and we appreciate you sending that to
35 us, there's no mention of studies by Dr. John
36 Webster or Dr. Nanthakumar. Dr. Nanthakumar and
37 his group is from the University of Toronto.
38 A Yes.
39 Q Are you familiar with these studies, particularly
40 the most recent one of Dr. Nanthakumar?
41 A I am not intimately familiar with them. I am
42 obviously aware that studies were done, and I do
43 believe in the 129 number that those studies are
44 included.
45 Q The studies of Dr. Webster - and he has presented
46 here to the Commissioner - and Dr. Nanthakumar, do
47 you view those two studies as supporting the

- 1 suggestion that there may be a potential in
2 certain limited circumstances for Taser to
3 contribute to VF, ventricular fibrillation?
- 4 A I can comment on Dr. Webster's study, that I
5 believe it shows the extreme level of having to
6 peel back the skin to crack the chest open, put a
7 conductive gel to actually take the stimulation
8 wave of the Taser to affect the heart. So I think
9 what it shows, you know, obviously that's not a
10 real world scenario that would ever be faced on
11 the streets. So I think it shows the extreme
12 mechanism that had to be done to cause that
13 particular instance to occur. And I believe he
14 had stated to the Commission also his relative
15 belief in the probability of it being very, very
16 remote.
- 17 Q But in the second study of Dr. Webster, I think
18 there was a concern about the gel. So in the
19 second study, you correct me if I'm wrong, there
20 was no gel used because of a concern; is that
21 right?
- 22 A Again I have not read each specific study, so I
23 don't know for sure. Again, I let the medical and
24 scientific advisors read those and advise me.
- 25 Q So you haven't read Dr. Webster's studies, then?
- 26 A No, sir.
- 27 Q Nor Dr. Nanthakumar's?
- 28 A No, sir.
- 29 Q In your submission you've explained that you refer
30 to Taser as "less lethal option", and that's
31 paragraph 115. I don't know if you have it handy.
32 I'll just read that for you, it's brief.
- 33 A Yeah, I do have it in front of me, sir.
- 34 Q You say:
- 35
- 36 Taser devices represent an effective, safe,
37 less lethal option for modern law
38 enforcement.
- 39
- 40 Now, you say "less lethal" there, but today, maybe
41 I misheard you, I thought you were saying "non-
42 lethal". Am I confused in that?
- 43 A Both, and I think I had explained, both of those
44 terms as well as "less than lethal" are all used
45 interchangeably. What I was trying to point out
46 is that the term "non-lethal", which we do use, is
47 the only term that is defined by a government

1 body.

2 THE COMMISSIONER: Well, you said that non-lethal does
3 not totally exclude risk.

4 A That is correct.

5 MR. VERTLIEB:

6 Q And then at paragraph 115 in your submission, you
7 say, and I'll just read this, you say they are
8 generally safe:

9

10 The best scientific medical research
11 indicates they are generally safe.

12

13 What do you mean by "generally safe"?

14 A Well, there again it goes back to what Mr.
15 Commissioner just asked. They are not risk free.
16 They do cause incapacitation. They can cause
17 somebody to fall to the ground. We cover the
18 general warnings of possible outcomes that can be
19 a result of being exposed to a Taser. So in the
20 general sense they are safe, but they are not
21 without risk.

22 THE COMMISSIONER: As I understand it, your
23 understanding or your point is that when you speak
24 of risk it's two things: (1) the marks left by
25 the probe, and (2) injury from fall.

26 A That we have seen, yes, sir.

27 MR. VERTLIEB:

28 Q Is one of the possible outcomes death?

29 A I would never say never. It's certainly a
30 possibility of any interaction that includes
31 confrontation. What we have to rely on is the
32 medical science to bear that out.

33 Q So you mentioned warnings. I just had the
34 "Volunteer Warnings, Risks, Liability Release"
35 that you have on our website.

36 A Yes, sir.

37 Q And I assume that's your TASER document?

38 A Yes. We just recently updated that about a week
39 ago, also. We can happily provide the new copy.

40 Q Well, here's the one that we just took off
41 recently, and let me just read this. This is from
42 the "Warnings" section:

43

44 It is important to remember that the very
45 nature of use of force and physical
46 incapacitation involves a degree of risk that
47 someone will get hurt or may even be killed

1 due to physical exertion, unforeseen
2 circumstances and individual
3 susceptibilities.
4

5 A And I can give you a description. If you were to
6 - which we warn on - Taser somebody standing on
7 the top of a 20-story building and they fall off
8 that building, the outcome would most likely be
9 death. Certainly we also warn that if somebody
10 has doused themselves in gasoline, we produce a
11 high-voltage, risk that you could potentially
12 ignite the fumes, so there are certainly
13 applications where that could be a potential
14 outcome.

15 Q Well, I don't know that we need many scientists to
16 tell you you could kill yourself coming off a 20-
17 story building, but this is a release that's for
18 volunteers. These people aren't on 20-story
19 buildings, I'm assuming. Right?

20 A That is correct.

21 Q So these are for the volunteers that are part of
22 your program for your testing?

23 A Correct. Because we have also seen an instance in
24 Taser use where a gentleman fell and hit his head
25 on a curb and that head injury did lead to death,
26 and certainly that is something that we warned
27 for.

28 Q So in this warning where you say the risk that
29 someone will get hurt or may even be killed due to
30 physical exertion, what do you mean by "physical
31 exertion"?

32 A Well, the Taser, as I explained in the
33 presentation, causes the muscles to contract and
34 release 19 times per second, which is a physical
35 exertion that again produces the ability or
36 capacity that somebody could fall and potentially
37 sustain a head injury. We've seen some shoulder
38 injuries, as was documented by Wake Forest. We've
39 seen a couple of injuries that required
40 hospitalization related to those falls. And
41 physical exertion injuries, for example, could be
42 muscle pull, or just as one example.

43 Q Well, I'm focusing on the not reference to "hurt",
44 but the one "may even be killed" in your warning.
45 What does "individual susceptibilities" in
46 your warning mean?

47 A I would say specifically something that's

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- 1 unforeseen or something that somebody may have a
2 higher degree of risk. Again when we're looking
3 at the warnings in an application of use of force,
4 unfortunately in our litigious society we do need
5 to cover risks, so there's no specific definition,
6 other than to say that that is a potential outcome
7 that you could have an injury.
- 8 Q Would it mean people with some sort of heart
9 disease, perhaps?
- 10 A We have not seen that demonstrated again in the
11 literature, but again I think some of the studies
12 that will be conducted in the future will
13 hopefully continue to evaluate that, but I would
14 never say never.
- 15 Q We've heard from people, including yourself, about
16 data and statistics. When you were before the
17 Commons Committee from the Federal Government, you
18 suggested that there had been a documented
19 reduction to officers and subjects in injuries.
20 And you said that here again today. Just so you
21 know, officers from the Vancouver Police
22 Department were here the other day and they told
23 the Commissioner that they have no statistics to
24 support that claim. The Commission would be
25 really interested in your data. What's the basis
26 of your statement, what statistics are you relying
27 on?
- 28 A Well, we're relying on some of the ones that I
29 showed you here from the Peel Police Department,
30 from Toronto, from the agencies that do report and
31 collect those type of statistics that are made
32 publicly available, that we have seen reduction in
33 injuries to the officers and suspects. So what I
34 have given you and what I showed there were
35 specific instances where that data was provided to
36 the media and through public sources on the
37 reduction of injuries sustained by those officers
38 and suspects.
- 39 Q No, I understand. But this is a British Columbia
40 inquiry and we would, as you can appreciate, have
41 particular interest in our own province.
- 42 A Yes, sir.
- 43 Q so when I was reading from your Commons Committee
44 presentation, and this I guess was in January.
- 45 A Yes, sir.
- 46 Q January 30, 2008. What you said to those Members
47 of Parliament, you said:

1 We have seen injuries go down in Winnipeg,
2 Toronto, Calgary --

3
4 - and then you say -

5
6 -- Vancouver --

7
8 - you say -

9
10 -- Montreal, Quebec, everywhere they have
11 implemented the taser we have seen injury
12 rates to officers and suspects decrease.

13
14 So that's what I really wanted to ask you about
15 Vancouver, forgetting the other cities, the
16 Vancouver Police Department people have been here
17 and they said they don't keep statistics. We're
18 just wondering if you have some statistical
19 information that would be of interest to the
20 Commissioner that we haven't seen?

21 A I was more giving a general reference to the area
22 because I know there's other agencies in this area
23 that we'll have to check and find out. For
24 example, Victoria, I believe, reports or tracks.
25 I'm not positive on that, but I will have to get
26 back to you. I was, again because this is
27 obviously taking place in British Columbia, it's
28 of national interest in Canada, so we were trying
29 to point out a reference across the country, and I
30 will, whatever information we have, I'd be happy
31 to provide.

32 Q Victoria was here, as well, and I don't recall
33 they keeping statistics on this subject. So
34 whatever information statistically you have that
35 supports that, that would be helpful.

36 A Yeah, and again I'm not familiar geographically
37 with every location here, so we'll happily take a
38 look at that.

39 Q Now, you mentioned Toronto. What protocol do they
40 follow about the use of Taser in Toronto?

41 A Sir, you'll have to ask them. We're not familiar
42 with all the protocols that are used at the
43 different agencies.

44 Q What use of force standard is used in Toronto?

45 A Sir, I don't know. What we, most agents, almost
46 all agencies, they need to have a good policy,
47 they need to have good training. But those

- 1 policies are set by the individual commanders or
2 command staff of those agencies and there are
3 variations by those agencies around the world. So
4 we don't know specifically each standard that's
5 used where our products are deployed.
- 6 Q So returning to some of the science around this,
7 you know that the Commission has heard from Mr.
8 Reilley and Dr. Webster, and you've heard about
9 Dr. Tseng.
- 10 A Yes, sir.
- 11 Q These are names known to you?
- 12 A Yes, sir.
- 13 Q And they spoke to the Commissioner about their
14 opinions that scientific literature does not
15 support the contention that Taser cannot
16 contribute to death. You know that that would be
17 the thrust of their presentation?
- 18 A Well, I don't agree that they said, Dr. Webster
19 and Reilly in particular and what we saw in the
20 media, I have not seen their transcripts or read
21 them, I think they said the risk is very low. And
22 again for Dr. Tseng, he's only done a literature
23 review. He's not done any research himself. So
24 again I can't speak specifically about what they
25 did or didn't say.
- 26 Q But I think you're right, that they do speak of
27 the low risk of contributing to someone's death.
28 And you know that that conclusion seems to be
29 supported by the work of Dr. Nanthakumar in
30 Toronto?
- 31 A Well, again, I think he's relying on animal
32 studies and what we have transitioned away from
33 the animal studies to human studies because they
34 are much more specific, and I believe you're going
35 to hear later this week in the human studies we've
36 not seen that same model. One of the reasons I
37 think that needs to be pointed out that pigs are
38 used in the initial studies is they are much
39 easier to defibrillate than a human. I mean,
40 that's a known fact in etymology or in the study
41 of these animals, they are selected because of
42 their extreme sensitivity to electricity. So that
43 gives us a basis to start, but now we have
44 transitioned to human studies, which obviously is
45 much more realistic, in the use of our device.
- 46 Q So to the suggestion that perhaps more than 300
47 people in North America, including 20 in Canada,

- 1 have had death contributed to by the Taser, are
2 you suggesting that each of those people would
3 have died even if they had not been Tasered?
- 4 A Sir, I said that in Ottawa and I'll say here I'm
5 not going to make that statement. What I will say
6 is that when we've relied upon the medical
7 community to examine those particular instances,
8 and including the inquests here that have been
9 done so far in 16, I believe, of the 20 incidents,
10 the Taser was not listed as a contributing factor
11 in those reviews. So out of the 300-plus number
12 that our critics have put forward, it's less than
13 30 where we have been listed as potentially
14 contributing, and maybe a couple where we've been
15 listed as causative. And I think that's one of
16 our biggest challenges is in-custody death has
17 been around for a long time and unfortunately it's
18 not going to go away. That's 500 a year is the
19 rough number.
- 20 What we're looking at is the scientific
21 community to come out with a ruling, and we have
22 not seen that science study that has been done
23 that says if you have scenario "A", "B" and "C"
24 occurring, that you're going to have a fatality as
25 an outcome. But we have seen a lot of the rulings
26 on those particular instances say that the Taser
27 was not listed as a contributing factor.
- 28 Q So what about the 30 that you mentioned where
29 Taser was found to be contributory?
- 30 A That is a number again that is out there and, you
31 know, that was a determination made by those
32 medical examiners. I'm not sure what you're
33 asking about them.
- 34 Q Well, if that determination was made by medical
35 examiners, why if, when I ask you the question
36 about whether or not you accept that people can
37 have their death contributed by Taser, why are you
38 having trouble?
- 39 A Well, because you asked me earlier, causative --
40 and there is a big difference between contributory
41 and causative. Causative means the Taser was the
42 cause, the cause of death. Contributory, the
43 person is overweight, had an enlarged heart, was
44 on drugs, was hit with a Taser, handcuffed, all of
45 those things, listed as a contributory to an
46 outcome and I think that is a very, very big
47 distinction, especially even in the legal world

- 1 between cause and contributory.
- 2 Q No, I understand. That's why I'm asking you.
- 3 That's exactly why I'm asking, though, if those
- 4 other factors had been present and not the Taser,
- 5 you're saying those people would have died anyway?
- 6 That's exactly what I'm asking.
- 7 A Again I'm not going to try and guess what would or
- 8 would not have been an outcome from that
- 9 particular situation.
- 10 Q Are there any subsets of people that would have a
- 11 heightened state of risk and negative consequence
- 12 from being Tasered, such as smaller people,
- 13 pregnant people, people who are in a heightened
- 14 state of agitation?
- 15 A And again we have to rely on the medical science
- 16 studies that have been done that have yet to
- 17 produce scientific evidence that shows that that
- 18 is the case. Now, certainly we warn somebody that
- 19 is pregnant, incapacitation - has been described
- 20 repeatedly - could cause somebody to fall so
- 21 that's certainly a risk. But also the discussion,
- 22 if not the Taser again, then what? Are you going
- 23 to hit them with a baton or something like that?
- 24 So we are relying on the science that is being
- 25 done when we formulate our warnings, and again
- 26 we're not saying never. We're saying it's a
- 27 miniscule risk that exists out there. But we have
- 28 to rely on science studies to back that.
- 29 Q Leaving aside the contribution to death, there are
- 30 issues around Taser that would result in skeletal
- 31 injuries and significant injury, as well?
- 32 A Skeletal?
- 33 Q Yes.
- 34 A Oh, such as an injury from a fall?
- 35 Q Broken vertebrae from the actual Taser itself.
- 36 A We've certainly had those claims. And again I
- 37 think that would be something that would be a
- 38 physical exertion type injury. Somebody that has
- 39 osteoporosis, for example, the mere act of
- 40 sneezing could cause a similar type of injury.
- 41 Q Do you have any thoughts about whether the
- 42 individual Tasers in the field should be
- 43 periodically tested for output?
- 44 A The device is calibrated such that it cannot
- 45 output any more power, it's running at 100
- 46 percent. So we do not recommend testing the
- 47 output. We recommend more testing the function.

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Questions by Mr. Vertlieb (cont'd)

1 When we see a failure of the electronics in the
2 field, it's resulting in a reduction of power,
3 where it's not producing the output desired to
4 achieve incapacitation, of the unit itself. Most
5 of the unsuccessful uses of the device is where
6 one of the probes may miss. The officer simply
7 misses, or it is not within the two inches and
8 it's not conducting the electricity to the
9 subject, and it's not having the desired effect on
10 the individual.

11 Q So you don't see any need for the field of units
12 to be tested periodically to make sure that
13 they're performing from an electrical standpoint
14 the way you want?

15 A I would not see a need, no, sir.

16 Q What is the cost of one of these Tasers, the X26?

17 A In U.S. dollars the list price is about \$800, and
18 that is just for the Taser, then there's the
19 cartridges and other accessories.

20 Q And the cartridges, per cartridge, how much is
21 that?

22 A They range between \$18 and \$25 apiece, depending
23 on the distance.

24 Q You said the officer, if the officer misses, I
25 think you mentioned this, you're training people
26 to shoot for the centre of mass, which is the
27 large part of the body?

28 A Correct. Again, it goes back to the same training
29 they conduct in their firearms that they aim for
30 the centre of mass of the body, which is the
31 largest target area.

32 Q Have you ever thought of training people not to
33 shoot at the heart?

34 A Sir, again we have not seen the medical risk that
35 would say that is necessary. In the videos I
36 demonstrated here, the shots were to the front of
37 the subjects and a lot of our studies have looked
38 at that exact analysis.

39 Q So what might it take to make you rethink the
40 shooting at the heart training?

41 A I can't say for sure unless there was some medical
42 evidence that came forward and said specifically
43 every time this occurred we would see this
44 outcome, and again when you're looking at training
45 the officer, we're following the protocol that
46 they use in the use of force in deployment of the
47 standard issue revolver that they have in the

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

1 muscle memory of that training. Again, when
2 you're trying to incapacitate, to ask that officer
3 to try and hit an extremity, with our device or a
4 firearm, is just not a probable.

5 Q I just want to, you mentioned again this use of
6 force. When you were at the Commons in Ottawa, I
7 think you said to the Parliamentarians:

8
9 That 86 percent of police forces placed the
10 Taser at the "active resistance" point on the
11 Use of Force continuum.
12

13 You said that, I think?

14 A Yes, sir. That's in the results we've had where
15 we've gone out and asked the departments where do
16 they put them in their Use of Force continuum.

17 Q What is your definition of "active resistance"?

18 A My definition of "active resistance" is the
19 threat, or violence, you know, if you're coming
20 towards me and my fists come up and the indication
21 of violence, and you're going to come hands-on,
22 there is going to be a physical confrontation, I
23 believe that's the definition of active violence.

24 Q So you're speaking of someone who was appearing
25 combative or assaultive?

26 A Yes, sir. That's the most also generic term that
27 I've heard, and again I'm not a Use of Force
28 expert, but that's the terms that I've heard.

29 THE COMMISSIONER: I'm sorry. Counsel, did you say
30 "active violence" or "active resistance"?

31 MR. VERTLIEB: "Active resistance".

32 THE COMMISSIONER: I think the answer was in terms of
33 "active violence".

34 A I'm sorry, sir.

35 THE COMMISSIONER: Although the question was put in
36 terms of "active resistance", I believe in your
37 answer you used the term "active violence". But
38 at any rate, your example was someone coming
39 towards the policeman.

40 A Yes, sir.

41 THE COMMISSIONER: In a violent manner.

42 A For the indication of violence going to occur.

43 THE COMMISSIONER: All right.

44 MR. VERTLIEB:

45 Q And so you have defined how you view the term
46 "active resistance" to the Commissioner. You've
47 just said it again here now.

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

- 1 A Yes, sir.
- 2 Q And so what you're suggesting the way you say it
3 is that it could be behaviour that you see as
4 combative or assaultive behaviour?
- 5 A Yes, sir. That's again my definition. The
6 departments will make their own determination of
7 what their definition is, and there is a wide
8 variety. One example is a fleeing subject. Some
9 departments consider a fleeing subject active;
10 others consider that passive.
- 11 Q Now, I think your company is proud of the training
12 routine that people are put through when they come
13 down to the plant in Scottsdale?
- 14 A Yes, and we do travel on the road. We do about 30
15 courses a month and it is a two-day course.
- 16 Q Jus because training is part of the reason that
17 we're here, what do you offer the Commissioner
18 about training protocols? Tell us what you're
19 doing in your company for training, and perhaps
20 that may lead to some thoughts you have about what
21 training should be done in the field.
- 22 A We provide, to become a Taser instructor, as I
23 mentioned, it's a two-day course. We'd obviously
24 be happy to have the Commission attend one of
25 those and witness for themselves the material. We
26 also would be happy to provide the training
27 material to you. Again over the two days there is
28 a practical, as well as a PowerPoint presentation,
29 where there is a lot of coverage about the
30 technology, the warnings, and examples, and we
31 emphasize in there that's where the volunteers can
32 get exposure to a Taser, and then there's a lot of
33 hands-on practice where the officers conduct
34 drills to get familiar with how the device works,
35 with hitting the target, and it's really the
36 training about the technology and how it can work.
37 And then we emphasize that they will have to
38 develop the policy and training for their agency
39 in the use of this technology.
- 40 Q And it's a full two days of training?
- 41 A Yes, sir.
- 42 Q And how many hours each day?
- 43 A I believe it's eight hours each day.
- 44 Q So you're putting people through 16 hours of
45 training?
- 46 A Yes, sir, to become an instructor.
- 47 Q And that's comprehensive training?

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

1 A Yes, sir, for an instructor.

2 Q Now, one of the trainers came here and said that
3 they train the police here and it's about a five-
4 hour training.

5 A That would be a user course.

6 Q Yes. What's your thought about that? You might
7 be able to shed some assistance here to the
8 Commissioner on training. Does that sound like
9 it's sufficient training, or do you recommend
10 more, or what are your thoughts?

11 A Well, again what we looked at was the way training
12 is done in the field for the pepper spray, the
13 physical hands-on, and each department is going to
14 have its own training standards. So from our
15 perception to give an officer an instructor-level
16 -- and by the way, we don't do very many user
17 courses, the instructor, it's a train-the-trainer
18 program. Once that person becomes an instructor,
19 they go back and set policy at their agency for
20 training the users. So our policy has recommended
21 a minimum of four-hour training just on the Taser.
22 In addition to that, they would also be covering
23 Use of Force policy, how it's going to be used at
24 their particular department.

25 So we're following the rest of the industry
26 in providing a standard recommendation that's
27 usually exceeded today by agencies. But the
28 officer that's a user is really just going to be
29 trained in how the device works and how it's going
30 to fit within their policy. Where the instructor,
31 because they're going to be doing this over and
32 over and over again will spend a lot more time
33 getting in-depth knowledge on how the Taser device
34 works.

35 Q So there's nothing that you want to pass on to the
36 Commissioner about thoughts of training here in
37 British Columbia as far as you know it?

38 A I'm not familiar enough with the training that's
39 being conducted here to make any comment.

40 Q Now, I just wanted to deal with a product just for
41 a moment. The darts come out, it's about 200 feet
42 per second, is that correct, something like that?

43 A 160 to 200, depending, yes, sir.

44 Q And because of that, they are not in any way
45 classed as a firearm?

46 A Correct. We use compressed nitrogen to launch the
47 probes.

Tom Smith (Manufacturer presenter)
Questions by Mr. Vertlieb (cont'd)

- 1 Q Now, before you and your brother started this
2 initiative, the former product was using
3 gunpowder?
- 4 A Yes, sir.
- 5 Q And so that meant it was subject to federal
6 regulation in the United States; is that correct?
- 7 A Well, it just meant that it was covered under the
8 Alcohol, Tobacco and Firearms For Sale, yes.
- 9 Q and so that's a government agency that would
10 regulate that product?
- 11 A Well, they don't regulate it, it's just they'd
12 have to meet the code that is established by ATF
13 for selling a firearm.
- 14 Q Right. But once it's on compressed nitrogen, is
15 there any government regulation that applies to
16 this product?
- 17 A We fall under the U.S. Consumer Product Safety
18 Commission. We also for any export outside the
19 United States fall under the U.S. Department of
20 Commerce that, for example, other than Canada is
21 the only country we can export to without a U.S.
22 Commerce licence. But, for example, to sell to
23 the United Kingdom, we have to submit an
24 application to the U.S. Department for each person
25 that we would ship to in the country.
- 26 So even if we had a licence for person "A" in
27 the United Kingdom and person "B" wanted to get
28 it, I would have to get a separate licence. That
29 process then is done behind the scenes where they
30 look at Department of State, Department of
31 Defense, there's nine U.S. governmental agencies
32 that will look and evaluate whether that product
33 can then be exported before they issue us an
34 export licence.
- 35 Q But again to focus on British Columbia, when you
36 sell a product to British Columbia, is there any
37 government control on that?
- 38 A I don't know specifically in Canada. I can tell
39 you research was done by the Canadian Police
40 Research Centre. There was also some other
41 studies done by the RCMP that I referenced in my
42 study here. I don't believe they were allowed to
43 be in the country prior to the introduction of our
44 product to law enforcement, and I can't
45 specifically comment on the changes that occurred
46 within the laws to allow them to come into Canada.
- 47 Q So the compressed nitrogen, as far as you know,

Ujjal Dosanjh (Interested groups and individuals
presenter)

Questions by Mr. Vertlieb

1 makes it not a firearm classification?

2 A Correct, in the United States in terms of our
3 having to comply with the firearm regulation.

4 Q Now, when you spoke earlier to the Commissioner
5 about these probabilities of contributing to
6 death, I just really think it would be helpful to
7 be clear on what your view is. Obviously that's
8 of great importance to many people. Do you accept
9 that there's a low probability of risk of Taser
10 contributing to death?

11 A I think it's extremely low.

12 Q Do you accept that?

13 A Yes, I've said that. Again there's no use of
14 force option, ours included, that's the magic
15 bullet that works 100 percent, and there's no risk
16 of use of force that says you're not going to have
17 a negative outcome.

18 MR. VERTLIEB: That's very helpful. Thank you.

19 THE COMMISSIONER: Mr. Smith, thank you very much for
20 coming and the time that you have spent with us.
21 Your presentation was very clear and is very much
22 appreciated. We'll adjourn now till 1:30.

23 A Thank you, Commissioner. Thank you, counsel.

24 MR. VERTLIEB: You're welcome.

25

26 (PRESENTER EXCUSED)

27

28 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

29 (PROCEEDINGS RECONVENED)

30

31 THE COMMISSIONER: All right. I understand we're ready
32 to go.

33 MR. VERTLIEB: Thank you, Mr. Commissioner. The next
34 presenter who is here at our request is the
35 Honourable Ujjal Dosanjh.

36

37 UJJAL DOSANJH, an Interested
38 groups and individuals
39 presenter.

40

41 QUESTIONS BY MR. VERTLIEB:

42

43 Q Mr. Dosanjh, we've known each other a long time.
44 It's always nice to see you and this is an
45 interesting way for the two of us to visit, but
46 let me just briefly run through your background.

47 You have an undergraduate degree from Simon

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- 1 Fraser University. Tell us, please, what the
2 degree is in and what year that was received.
- 3 A It was long ago, 1973, BA Political Science.
- 4 Q And then after that degree what did you do?
- 5 A UBC Law School, graduating in 1976.
- 6 Q And after your graduation from UBC Law School in
7 1976 you articulated and were called to the bar when?
- 8 A September '77.
- 9 Q And tell us about your career as a lawyer. How
10 many years were you in active practice of law?
- 11 A I'd say from 1977 to about 1991 when I got
12 elected, and then about two or three years of
13 inactive practice as a backbench MLA until I was
14 inducted into Cabinet in April of 1995.
- 15 Q And what was your first Cabinet position?
- 16 A Minister of Government Services and several other
17 things.
- 18 Q And you were ultimately named to be Attorney
19 General of our province. Tell us the years that
20 you served as Attorney General.
- 21 A August of '95 to February of 2000.
- 22 Q And following your term as an Attorney General you
23 were then Premier of our province?
- 24 A Yes.
- 25 Q And you served until the spring of 2001?
- 26 A Correct.
- 27 Q And you returned to the practice of law and
28 entered public life again in the year 2004?
- 29 A Yes.
- 30 Q And you were elected as a Member of Parliament for
31 Vancouver South?
- 32 A Correct.
- 33 Q And tell us about the position you held in the
34 government.
- 35 A I was the Minister of Health for the Paul Martin
36 government, and now I am member of the Official
37 Opposition, re-elected in 2006, and I've been
38 through several critic portfolios. Currently I am
39 the Public Safety critic.
- 40 Q And tell us about the Ministry of Public Safety
41 and what your duties are as critic.
- 42 A Well, my duties as critic are to look at all of
43 the public safety and national security issues,
44 and comment on them, either in response to
45 government positions or otherwise, and as well sit
46 on the Standing Committee of the House on Public
47 Safety and National Security.

Ujjal Dosanjh (Interested groups and individuals
presenter)
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1 MR. VERTLIEB: Well, with that background, Mr.
2 Commissioner, perhaps Mr. Dosanjh, you could make
3 your presentation.
4

5 PRESENTATION BY MR. DOSANJH:
6

7 A Thank you.

8 Mr. Commissioner, I want to start with a bit
9 of history, and then go into what's happening
10 currently and what I think should happen. I am
11 not a scientist and I am not an expert on the Use
12 of Force. I am a mere public individual who, in
13 my current capacity, has both an obligation and a
14 responsibility in fact to look at these issues in
15 a critical way.

16 I was the Attorney General, as I said, from
17 middle of '95 to early 2000, and during which time
18 towards the end of that period, I was approached
19 as the Attorney General to approve a pilot project
20 for the introduction of Taser into British
21 Columbia. I don't recall whether or not I knew at
22 that time whether Taser was being used anywhere
23 else in Canada at that time, but I knew that it
24 wasn't being used in most places, at least in
25 Canada.

26 I recognized at that time that this was a
27 tool that needed some care in the way it ought to
28 be used, and I was briefed several times, I'd say
29 at least two or three different times, in the span
30 of a year with respect to this. I was given
31 several assurances at the time I approved the
32 pilot:

33 One, that the Taser is absolutely safe to
34 use. In fact, it saves lives because in most
35 instances where a gun might be drawn by a police
36 officer, that would not be required, and it would
37 be safer for the police officers, as well as the
38 public on whom it might be used.

39 Secondly, I was assured that this matter had
40 been in fact thoroughly researched. In fact, in
41 one of the reports of that time, in the '99 report
42 by Darren Lauer, who was dealing with this issue
43 on behalf of the Victoria Police, he uses the
44 words to the effect that this was already over-
45 researched. To say that it was over-researched as
46 a matter would be an understatement. Those are
47 the words I remember, perhaps paraphrasing him.

1 And not to comment on the previous witness this
2 morning, I heard sort of the same kind of words
3 from Mr. Smith saying that there is an abundance
4 of research now.

5 Thirdly, I was told that it would be used
6 absolutely sparingly. It would be used in
7 situations where the person would be assaultive or
8 combative, a threat to himself or herself, or to
9 the police, or to some third person or persons.

10 And in fact what has happened, if I move to
11 the next section of my comments, what has happened
12 has, in fact, been contrary to all of the
13 assurances that I was given. At least, that's my
14 layperson's view.

15 Firstly, there has been usage creep. The
16 usage of this particular device has increased
17 several-fold, many-fold, over the last number of
18 years. And in fact it is now being used in
19 situations where it was never intended to be used.
20 I remember that the protocol that was in place for
21 its use at that time placed it fairly high up in
22 the continuum of Use of Force. Now, in fact, the
23 usage creep is absolutely evident and clear to
24 anyone who cares to examine it. When you see an
25 82-year-old man lying in bed with a knife being
26 Tasered, or fare evaders or skippers who don't pay
27 fare and are simply running away being Tasered by
28 the Transit Police, that was not something I would
29 have ever imagined would follow from the initial
30 pilot and the approval of Tasers in British
31 Columbia.

32 We now know, as has been made clearly evident
33 again by the *Canadian Medical Association Journal*,
34 that the research to date is inadequate or
35 insufficient, and sometimes misleading. And, in
36 fact, now we know that in certain circumstances
37 the Taser alone can cause arrhythmia and, in fact,
38 disruption of the heart, if I can use layperson's
39 language, and therefore sometimes death.

40 I also find out from the guidelines that the
41 RCMP have or others have, as I said, that it is
42 not placed at an appropriate position in the
43 continuum of Use of Force and therefore it is
44 being used as a substitute for ordinary good old-
45 fashioned policing, or talking to people, or using
46 perhaps other techniques or weapons that might be
47 more amenable to fewer injuries to individuals

1 that are being apprehended.

2 As well, I understand that the reporting from
3 all of my research and reading, that the reporting
4 of the Taser incidents is not adequate and it is
5 not streamlined across the country. And I believe
6 that that, in fact, needs to be done.

7 I believe that TASER has said, TASER
8 International and others on its behalf, or who
9 might agree with TASER International, they have
10 said that there is no conclusive evidence that
11 Taser alone kills.

12 I believe they have it all wrong, Mr.
13 Commissioner. From my point of view as a public
14 individual, it is not the Canadian public or the
15 Canadian governments that have the onus to prove
16 that there is conclusive evidence that Taser
17 sometimes may kill. I believe the onus is on the
18 manufacturer and the police forces that use the
19 Taser to persuade Canadians that there is no
20 conclusive evidence that Taser kills. And that, I
21 believe, they have not been successful in doing.

22 And I believe the question of onus is very
23 important, because sometimes we are being given
24 all of this information in a way somehow where we
25 are being asked to disprove the claims that are
26 being made on behalf of the Taser by the
27 manufacturer or others. I say to you that it is
28 really the onus is on TASER International and on
29 the police forces to persuade us that the Taser is
30 safe.

31 Ultimately, Mr. Commissioner, as you said so
32 eloquently the other day as reported, that the
33 trust between the Canadian population and the
34 police forces is the best tool or weapon that they
35 have in their hands at their disposal, and I
36 believe that to regain that trust I think the
37 police forces need to do more work, and we as
38 public individuals, and particularly the
39 governments need to do more work. And here are
40 some suggestions that I want to make to you.

41 (1) I believe that this particular tool must
42 be repositioned on the continuum of Use of Force
43 higher up than it is today. And Mr. Kennedy, the
44 Complaints Commissioner, the RCMP Complaints
45 Commissioner's recommendations are, I believe,
46 appropriate in that respect. I believe that there
47 ought to be national standards for the use of

1 Tasers across the company.

2 I do recognize that the RCMP by itself,
3 because it's the national police force, as well as
4 local police forces in many parts of the country,
5 it cannot change its own Use of Force guidelines
6 without having others change with it, otherwise it
7 would create a chequerboard situation across the
8 country. Therefore I believe that we need to try
9 and persuade all governments and all police forces
10 to actually reposition this tool higher up on the
11 continuum of Use of Force.

12 How we do it? I don't have any solutions.
13 We have a federation where provinces are
14 responsible for local policing and therefore we
15 have to depend on their judgment. And I would
16 urge you to when you make that recommendations on
17 the repositioning of this particular tool on the
18 continuum of Use of Force, that you make a
19 recommendation urging Canadians and governments at
20 all levels and police forces to actually arrive at
21 common standards across the country, and common
22 standards with respect to other issues, such as
23 better training. And I believe we need to
24 actually more adequately train our police forces
25 with respect to using this particular device.

26 Better and more streamlined, more transparent
27 reporting of these incidents. I know you're not
28 dealing with the Dziekanski matter at this point,
29 but just yesterday we saw some evidence of how the
30 RCMP released the information with respect to the
31 Dziekanski matter pursuant to an **Access to**
32 **Information** or **ATIP** request federally. I believe
33 that there is a lot that leaves to be desired in
34 that approach. For instance, that **Access to**
35 **Information** request doesn't disclose whether or
36 not Mr. Dziekanski was Tasered once or twice or
37 thrice, at what intervals, for how long, and
38 whether or not he was armed. And I must confess,
39 I fail to understand how releasing that kind of
40 information would jeopardize an ongoing
41 investigation of the matter if one was underway.

42 So I believe that you need to be very
43 forceful in making a recommendation with respect
44 to better and more transparent reporting. And
45 streamlined reporting, if at all possible, across
46 the country so that we could gather that data to
47 assist us in further research, which I must say is

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1 sorely needed.

2 I was told then back in '98/'99, if I
3 remember the years correctly and I might not, that
4 this matter has been abundantly researched. Now
5 we know that that wasn't true. And I believe that
6 we need to have a recommendation from you that
7 there needs to be more independent research, in
8 fact, government-sponsored independent research,
9 so that no one can say a particular institution
10 that outside of the public institutions has a
11 vested interest in a certain outcome of that
12 research. Because I believe that that research is
13 very, very important in the way it's done and who
14 does it and who funds it.

15 Mr. Commissioner, those are my submissions,
16 and I would be happy to answer any questions if I
17 may be able to.

18 THE COMMISSIONER: Well, Your Honour, I am very happy
19 about you being here and I don't think it's been
20 said yet, you are part of the Safety Board
21 investigation into this matter.

22 A I am part of the Public Safety Committee that has
23 been hearing on this matter.

24 THE COMMISSIONER: Yes.

25 A And we are currently discussing a possible report.

26 THE COMMISSIONER: And I think I can go this far at
27 this early stage, that I have mentioned and you to
28 me, that in the event that I could reach the same
29 conclusion as they did, it would certainly be good
30 for this country if there was one report -- or not
31 one report, but at least similar recommendations.

32 A Similar reports.

33 THE COMMISSIONER: Counsel have you any comment?

34 MR. VERTLIEB: Yes, thank you, Mr. Commissioner.

35

36 QUESTIONS BY MR. VERTLIEB, continuing:

37

38 Q Mr. Dosanjh, in terms of the work in the Public
39 Safety Committee that you're doing, who have you
40 been hearing from and over what period of time
41 have your hearings been going on?

42 A I don't recall the exact number of hearings.
43 We've actually had several hearings, several weeks
44 of hearings. We actually have visited the airport
45 and had a couple of days of hearings at the
46 airport itself. We heard from CBSA, the RCMP,
47 other police forces, like Toronto and Vancouver.

1 We've heard from Mr. Dziekanski's mother's lawyer,
2 Mr. Kosteckyj. We've heard from Mr. Bagnall's
3 sister and another relative. We've heard from
4 Cameron Ward and Murray Mollard. We've heard from
5 the Taser manufacturer that you heard from this
6 morning, Mr. Smith. And a couple of coroners
7 recently we've heard from, from across the
8 country, and several other individuals from
9 British Columbia and other places in the country,
10 and some medical experts.

11 Q Now, in your years as Attorney General and then,
12 of course, as Premier, you would have had
13 knowledge of the way in our province policing
14 works, the municipal structure and then the RCMP.
15 What is the issue between the municipal forces and
16 the RCMP from the civilian governmental
17 standpoint?

18 A Well, I think that the civilian oversight is
19 different for municipal forces. The RCMP is
20 governed by a federal Act, the **RCMP Act**, and they
21 have a different complaints process, different
22 oversight and the municipal forces have a
23 different oversight process. And I believe when I
24 was the Attorney General I spoke out loud,
25 actually, and thought out loud many times about
26 harmonizing those, not to the lower level, but to
27 raise it to a higher level and make it better.

28 I believe that I understand that there is a
29 renegotiating of the RCMP contract coming up in
30 British Columbia. I believe that British
31 Columbia, because at least two-thirds of British
32 Columbia is policed by the RCMP, we are in fact
33 the largest users as a province of the RCMP. We
34 have at least a third of the RCMP that works in
35 British Columbia for us as British Columbians.
36 And I believe in that respect it is impractical to
37 have two complaints processes and oversights, and
38 I think that as part of the renegotiating of that
39 contract, the authority can be delegated, either
40 under the current **Act** or by a simple change to
41 that legislation to a common oversight board or a
42 complaints process where the municipal police
43 forces and the RCMP would be governed by the same
44 oversight process.

45 I believe that's desirable. I think it's
46 practical. I know there would be resistance from
47 the RCMP. I hope not, because nobody likes to

- 1 change and hand over jurisdiction to the province,
2 because they view themselves as a federal force.
3 But the fact is when they work in British
4 Columbia, a vast majority of them when they're not
5 working on drug offences and the like, which are
6 federal, they are a provincial police force.
- 7 THE COMMISSIONER: Let me just interrupt for a moment.
8 You have used the word "oversight" and you used
9 the word "complaint committee". Is there a
10 difference?
- 11 A I believe there is a difference. Complaints
12 process is a process obviously to deal with
13 complaints. That should be rigorous, open,
14 transparent, and independent of any particular
15 police force. The oversight, I believe, is how
16 you manage the police forces. Currently you have
17 several police boards for the municipal police
18 forces, each municipality has its own police
19 board, and we have in fact for the RCMP you don't
20 have any such boards. You only have perhaps
21 advisory committees. So these jurisdictions such
22 as Surrey and other places that are being policed
23 by the RCMP, they would have no such boards, local
24 boards that have an oversight function, generally
25 management function or oversight function.
26 And I believe that if you were able to
27 renegotiate the contract to bring all of that
28 under local control, still retain it as a federal
29 force, I think that would be good. I know that
30 may not be possible, that would be, I think, very
31 good to have some local accountability and local
32 control.
- 33 Q Mr. Begg was here last week. He's an Assistant
34 Deputy Ministry in the Solicitor General
35 Department. Do you know him from your days as
36 Attorney General?
- 37 A I remember Kevin Begg. If I remember correctly, I
38 think he was the Director of Policing at that
39 time. He dealt with all of the police forces on
40 my behalf, and was reporting to me through the
41 Deputy Attorney General and others.
- 42 Q Just in terms of oversight, because he spoke of
43 that as well, what's the benefit to the community
44 to have civilian oversight? And then I'm going to
45 ask you the benefit to the police of having the
46 same.
- 47 A I think civilian oversight simply makes the

1 policing more accountable and more sensitive to
2 the concerns of the public. And in fact all of
3 the rules and regulations and guidelines that are
4 made, they are made in full public view, and they
5 are not made by police officers coming together
6 and consulting perhaps with the community or
7 others, but drawing up those guidelines and
8 protocols themselves. I think they would be open
9 to rigorous examination.

10 What was the other...?

11 Q Do you see a benefit to the police in having that
12 kind of oversight?

13 A Well, I think that we are a democracy, and all
14 institutions, independent or otherwise, function
15 better or are much more responsive to the needs of
16 the communities if they consult the communities,
17 if they are accountable to the communities, and I
18 think that that would be of great use.

19 If I may, in terms of the civilian oversight,
20 if I can just add to the recommendations that I
21 made, I would suggest, Mr. Commissioner, that any
22 guidelines, any updated guidelines or reviewed
23 guidelines that might be put in place, should be
24 actually put in place by civilians with a large
25 contingent of civilians sitting with the police
26 officers so that when you are creating guidelines
27 for Taser use, and when you are determining where
28 it should be placed on the continuum of Use of
29 Force, that that public view and public scrutiny
30 is an integral part of that process.

31 Q Mr. Dosanjh, there may be a view in some quarters
32 that the governments did not do proper due
33 diligence before allowing Taser use in the
34 province. What can you say about that?

35 A Well, I guess the government in British Columbia
36 at that time was me in terms of the Taser. I was
37 the Attorney General. I was told and in fact what
38 I was told is reflected in the two reports by
39 Darren Lauer - I'm sure you have them, the '99
40 report and the 2000 report - that in fact he
41 repeats those assertions that this matter had been
42 abundantly researched, in fact, over-researched.
43 I was assured that it was safe. I am not a
44 scientist, and I was assured that it would be
45 placed fairly high up in the continuum of Use of
46 Force. And all three propositions have turned out
47 to be not true. And am I disappointed? Yes,

1 absolutely disappointed, because when you are in
2 the public realm and public domain, making these
3 kinds of decisions, you depend on people coming
4 in, giving you advice based on the research that
5 they have conducted. And should there have been
6 more research? Absolutely. Did I know that at
7 that time? No.

8 Q Is there anything else that you wish to add in
9 terms of recommendations or any other comment that
10 might be of assistance to the Commissioner,
11 anything else that we haven't covered?

12 A No, I have said as much as I am going to say,
13 other than just talk to the police through the
14 Commission here, that the fact is that the
15 confidence and trust between the police forces and
16 Canadians, particularly the RCMP and Canadians,
17 has been sorely tested with the Dziekanski matter.
18 And, you know, it is a matter that can, if one
19 opens up processes and makes them accountable to
20 the public and receives public advice and public
21 participation with an open embrace, I think it can
22 lead to good things. If one simply clams up and
23 decides that what we were doing was good and the
24 status quo is fine, I think we're in for trouble.

25 Thank you.

26 MR. VERTLIEB: Thank you.

27 THE COMMISSIONER: Well, I very much appreciate, sir,
28 you bringing your experience and knowledge here.

29 A Thank you.

30 THE COMMISSIONER: Very helpful, indeed.

31 A Thank you.

32
33 (PRESENTER EXCUSED)

34
35 THE COMMISSIONER: All right. Now, tomorrow,
36 gentlemen, what have we got for tomorrow?

37 MR. VERTLIEB: Well, tomorrow, Mr. Commissioner, we
38 have Dr. Lu, the psychiatrist, and Dr. Mike
39 Webster, who is a psychologist, whose special area
40 of interest is in crisis management. And we hope
41 to have those presentations in the morning.
42 Again, we have some issues around the convenience
43 of those presenters. We may have a couple of
44 other shorter presentations, just to round out the
45 day. But we're mindful of your instruction that
46 at all times keep the convenience of these
47 presenters uppermost in our minds.

1 THE COMMISSIONER: All right, thank you. I understand,
2 too, there is still some ongoing work in order to
3 have the people, for want of a better phrase I'll
4 say, from the Tramway come, and that is still
5 under negotiation?

6 MR. VERTLIEB: Maybe Mr. McGowan could assist you.

7 MR. MCGOWAN: It is, Mr. Commissioner. We have
8 extended an invitation to the Transit Police to
9 come. There had initially been an indication that
10 they would accept our invitation and come
11 tomorrow. They have now expressed some reluctance
12 in that regard and are considering their position.
13 I am told they should let us know today.

14 THE COMMISSIONER: Thank you very much. Till tomorrow
15 at 10:00.

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17 (PROCEEDINGS ADJOURNED TO MAY 13, 2008 AT
18 10:00 A.M.)
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