

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

Room 801
Federal Courthouse
701 West Georgia Street
Vancouver, B.C.

April 23, 2009

PROCEEDINGS AT
HEARING (DAY 41)

ORIGINAL

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Counsel for Vancouver Airport Authority:	D. Stewart, C. Friesen
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Counsel for Constable Kwesi Millington:	R. Hira, Q.C.
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Counsel for TASER International, Inc.	D. Neave, J. Spencer
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1
Gregg Gillis
In chief by Mr. McGowan

Vancouver, B.C.
April 23, 2009

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3
4 THE REGISTRAR: Order. The hearing is now resumed.

5 THE COMMISSIONER: Good morning.

6 MR. MCGOWAN: Yes, Mr. Commissioner. We have one
7 witness scheduled for today. It's Corporal
8 Gillis. Come forward, please, sir.

9
10 GREGG GILLIS, a witness,
11 sworn.
12

13 THE REGISTRAR: Would you state your full name, please.

14 A My name is Gregg Gillis. My last name is spelled
15 G-i-l-l-i-s. I'm a corporal with the Royal
16 Canadian Mounted Police presently posted to
17 British Columbia.

18 THE REGISTRAR: Thank you. You may be seated.
19 Counsel.

20 THE COMMISSIONER: Thank you, corporal.

21 MR. MCGOWAN: Corporal Gillis, you can feel free to
22 stand or sit, whatever you're most comfortable
23 with.

24 A I'll stand if it's all right. Thank you.

25 MR. MCGOWAN: If you're going to stand, I'm going to
26 ask you to make sure you keep your voice up
27 because the microphone is set somewhat low.

28 THE REGISTRAR: I'll have to change the mike if he
29 wishes to stand.

30 MR. MCGOWAN: Perhaps we'll just take a moment to do
31 that.
32

33 EXAMINATION IN CHIEF BY MR. MCGOWAN:
34

35 Q Now, officer, just before we get into your
36 substantive evidence, I'm going to spend just a
37 couple of minutes going over your background.
38 You've been with the RCMP since 1990?

39 A That's correct, Mr. Commissioner.

40 Q And you presently hold the rank of corporal?

41 A That is correct.

42 Q And your current position is Regional Use of Force
43 Coordinator?

44 A That is correct.

45 Q And you've held that position since January of
46 this year?

47 A That's correct.

2
Gregg Gillis
In chief by Mr. McGowan

- 1 Q Prior to that you were the officer in charge of
2 training for the Richmond Detachment?
3 A That is correct.
4 Q And when we're speaking of training, we're
5 speaking primarily of use of force and related
6 training; is that right?
7 A That is correct.
8 Q In your time with the RCMP, you have extensive
9 general duty policing experience in British
10 Columbia?
11 A That's correct.
12 Q You also have some plain clothes experience?
13 A That's correct, Mr. Commissioner.
14 Q And extensive training and experience in the area
15 of use of force training and Taser training?
16 A That is correct.
17 Q And at the present time and for the last several
18 years, training of officers and matters related to
19 that have been your primary involvement with the
20 RCMP; is that correct?
21 A It's been a significant amount of my duties, Mr.
22 Commissioner, yes.
23 Q And in fact, in 2007, you were involved
24 extensively as a Taser trainer with the force,
25 correct?
26 A Yes, that's correct.
27 Q And in that capacity you were the officer
28 primarily responsible or at least in part
29 responsible for training three of the officers who
30 have been before us here; is that correct?
31 A Yes, that's correct. I was primarily responsible
32 for that training and its delivery.
33 Q You've satisfied yourself that you were the Taser
34 trainer for officers Bentley, Rundel and
35 Millington?
36 A That's correct, Mr. Commissioner.
37 Q And that training took place, am I correct, in
38 2007 with respect to each of those officers?
39 A That is correct.
40 Q Are you able to assist us with respect to the
41 months they were trained?
42 A It was in the summer. I don't have specific
43 recall as to the officers and the specific class
44 they attended, but my recollection and from
45 checking the records is it was in July and August
46 of 2007, held at the Richmond Detachment.
47 Q Now, you understand that it's because of your

3
Gregg Gillis
In chief by Mr. McGowan

1 involvement as the trainer of those three officers
2 that the Commission was asked to call you and in
3 fact did call you for that purpose?
4 A That is my understanding.
5 Q And when you were advised you were going to be
6 called as a witness, the Commission asked you to
7 come for the specific purpose of addressing the
8 training of those three officers?
9 A That is correct.
10 Q We didn't provide you any material with respect to
11 the incident itself or ask you to provide us an
12 opinion on that incident?
13 A No, you did not.
14 Q Now, I'm going to ask you some questions about the
15 Taser training of these three officers. I'm sure
16 that over the years the training changes somewhat;
17 is that correct?
18 A Training is reviewed as a living document so it's
19 constantly adapted and changed and re-evaluated
20 and developed.
21 Q All right. When you're answering my questions, I
22 want you to keep your answers, if you could
23 please, focused on the training that would have
24 been given to these three officers in the summer
25 of 2007.
26 A Yes, I will do that.
27 Q I wonder if you could just start by giving the
28 Commissioner an overview of the training course,
29 perhaps a little bit of information about duration
30 and the topics covered. And I wonder if in doing
31 that it might be of assistance to you to have a
32 look at the training materials which you've told
33 us you provided, including the syllabus. Would
34 that be of assistance?
35 A I think that would be helpful since that's, I
36 believe, available to the various parties.
37 Q Now, I understand we have exhibits filed 61 and
38 62, which are very similar to this, in fact
39 contain most of the same slides. But this is the
40 actual presentation, a copy of the one which you
41 delivered to these three officers in the
42 PowerPoint form, correct?
43 A Yes, it is.
44 Q And the very top page of this is the syllabus,
45 which contains an outline of the course you
46 delivered to these three members, correct?
47 A That is correct.

4
Gregg Gillis
In chief by Mr. McGowan

1 MR. MCGOWAN: Mr. Commissioner, I wonder if this
2 package could be collectively the next exhibit,
3 please.

4 THE COMMISSIONER: Yes, all right.

5 THE REGISTRAR: That'll be marked as Exhibit 100.

6
7 EXHIBIT 100: Copies - Bundle of PowerPoint
8 training aids for Taser courses
9

10 THE COMMISSIONER: Well, we've reached a milestone.

11 MR. MCGOWAN:

12 Q Now, with that in hand, officer, I wonder if you
13 could just kindly provide the Commissioner with a
14 brief overview of the course duration and
15 curriculum.

16 A Yes. The course as set out in the course training
17 standard, Mr. Commissioner, is two eight-hour
18 training days, because the RCMP considers under
19 policy that a training day is eight hours.
20 Specifically in this case, the first page that's
21 titled "Training Syllabus Program," indicates the
22 information that was covered with the officers and
23 an approximate timeline for completing that. I
24 can advise you that the course is in Richmond,
25 each ran for two days consecutively, and that the
26 courses ran two ten-hour days in length.

27 So the course starts off, as it indicates
28 there, there's an introduction. There's the
29 setting of the course objectives. The officers
30 are told what the testing standards will be for
31 evaluation. And then from there we move into a
32 series of PowerPoint lectures over various
33 components related to learning how to use and
34 deploy the conducted energy weapon. And as part
35 of that PowerPoint process, the officers also
36 engage in a degree of hands-on training in the
37 sense that there's conducted energy weapons or
38 Tasers on the desk in front of them, cartridges,
39 batteries, the various components, which they will
40 handle at various points during the training to
41 become familiar with them. And then there's the
42 appropriate breaks.

43 Then in the afternoon we go into more
44 information. So for example, talking about the
45 practical application, how to test the device in
46 the morning when you start your shift or in the
47 evening to confirm that it's working properly, for

5
Gregg Gillis
In chief by Mr. McGowan

1 example, and we actually get into some of the
2 actual practical applications in relation to
3 whether it's being used in the probe mode or the
4 push stun mode. And then we do a scenario-based
5 training demonstration. And then from there we
6 lead into concluding the day with the medical
7 information.

8 And then the next day we carry on with the
9 training, with the day primarily based on
10 security-based training. So the officers, having
11 had the information provided to them about the
12 device, where the device is to be used and
13 suggested methods of deployment, covering policy,
14 medical implications, those sort of issues, on the
15 second day the officers are then given a series of
16 scenario-based training sessions where they
17 actually use the device in role-play situations
18 with actors, determining whether or not it's the
19 appropriate response, and if it is, they're
20 evaluated on their use, their deployment, and
21 their articulation as to their assessment of risk
22 and why they felt the use of the CEW was or was
23 not appropriate.

24 There's an examination process during that
25 process in the sense that they're evaluated by the
26 instructor, and there's also a written examination
27 during the two-day course as well.

28 Q The written examination, is it multiple choice?

29 A It's a mixture of short answer --

30 Q Yes?

31 A -- multiple choice and paragraph answer, depending
32 on the questions.

33 Q Okay. It's graded, I take it?

34 A It's graded. It's a standardized exam that's been
35 developed by the Policy Centre in Ottawa, and the
36 same exam is given to all officers taking the
37 course across Canada.

38 Q And is there a score that's required in order to
39 pass the written portion of the training?

40 A Yes. The minimum score in order to pass is an 80
41 percent pass mark.

42 Q Okay. So 80 percent is required in order to
43 become certified as a Taser operator?

44 A That's correct. And so those questions would
45 include information related to the practical
46 application of the device, the technical data,
47 policy, but there's also some short answers where

6
Gregg Gillis
In chief by Mr. McGowan

1 officers are given some scenarios in writing,
2 paragraph scenario, and then they're asked to
3 assess the risk, assess the appropriateness of the
4 CEW and, if it was used, how it was used, whether
5 officers should be present, those sort of issues.
6 Q Fair enough. Could you just very briefly give us
7 a sense of what the practical component of the
8 exam consists of.

9 A The primary portion of the practical exam is
10 evaluation led by the instructors that are in the
11 room. The officers, for example, when they're
12 handling the device have to show that they're
13 handling it in a safe fashion. So in other words,
14 if they're pointing it in a safe direction, that
15 their finger is indexed up on the side of the
16 device when they're handling it, doesn't go near
17 the trigger unless they make a conscious decision
18 to fire the device. So handling is evaluated,
19 their ability to holster and unholster the device
20 appropriately.

21 And then the largest portion is a scenario-
22 based session where they're provided information
23 consistent with an operational call for service
24 that they would be given enough information to
25 conduct a risk assessment on, so similar to an
26 operational deployment where they as police
27 officers are dispatched to a call and given
28 limited information from a dispatcher. They
29 respond to that area and are met with a person, an
30 actor, who engages in a role-play with them. The
31 actor sticks to a set script. The instructor
32 controls that actor's actions with hand signals as
33 to whether he wants the person to escalate or de-
34 escalate or change the behaviour, move towards the
35 officers, step back, show their hands, those sort
36 of coaching points. And the officers have to
37 assess what's unfolding before them; if it's
38 appropriate, use the CEW; if it's not, that's
39 acceptable as well. At the end of the scenario
40 they're asked to articulate what the information
41 they had on the call was, what they were met with,
42 what they observed, what their assessment of risk
43 was, whether or not they felt the CEW was
44 appropriate, and if so, why. What their arrest
45 authority was, and then any after-care of follow-
46 up issues. And they're evaluated on their
47 judgment and their practical application and their

1 ability to explain and articulate what they did at
2 the end of the scenario.

3 Q And those are all matters that they're expected to
4 perform competently at the --

5 A Exactly.

6 Q -- completion of the course?

7 A Exactly. And they're put through two -- a minimum
8 of two scenarios each during --

9 Q Yes. And they have to perform adequately on both
10 scenarios in order to pass?

11 A That is correct.

12 Q Now, once certified, how long did that
13 certification last, at least at that time in the
14 RCMP?

15 A At that time in 2007, the certification was valid
16 for three years from the date of training.

17 Q All right. Are you able to confirm either from
18 your recollection or inquiries you've made that
19 each of these three officers did pass their Taser
20 training course?

21 A They did pass their Taser training and they were
22 within the three-year period at that time.

23 Q Now, Exhibit 100 that we've place before you,
24 that's a PowerPoint that's displayed on a screen
25 during the course of the instruction; is that
26 correct?

27 A Yes. There's a series of PowerPoint slides for
28 the classroom lecture-based portion of the
29 training.

30 Q Are hard copies of the PowerPoint presentation
31 also provided to the members in attendance?

32 A They are, and then additionally the same format or
33 information, Mr. Commissioner, is placed on the
34 training drive within the office so that the
35 officers can access it electronically. So at a
36 later date, if the officer couldn't find or didn't
37 have with them their material, they could look at
38 the same information electronically.

39 Q Do you also provide other materials to the
40 officers during the course of the instruction?

41 A Well, yes. There's other materials in the form of
42 actual CEWs: the battery packs, Taser cartridges.
43 We'll show them information, for example, on --
44 the medical sheet will be passed around so they're
45 familiar with the sheet that's presented to the
46 hospitals, that sort of information.

47 Q Do you provide them with a copy of the portion of

8
Gregg Gillis
In chief by Mr. McGowan

1 the Operations Manual containing the Taser policy?
2 A Yes. When we come to the section that -- because
3 of course there's quite a significant series of
4 PowerPoint slides in Exhibit 100.
5 Q Yes.
6 A One section of that is the policy and procedures
7 area. Just prior to that lecture being given --
8 the RCMP policy is electronic. It's available to
9 all RCMP officers on the computer system. So we
10 go to the computer the morning of the course, we
11 log on and we print out the actual hard copies of
12 that policy. And then each officer is
13 individually issued a copy for the lecture and we
14 go through the policy point by point.
15 Q Now, one of the areas covered in the course is
16 reporting?
17 A That's correct.
18 Q And the form that's used in the RCMP, or least at
19 that time was used, was the 3996?
20 A That's one of the methods of reporting, yes.
21 Q And were officers provided with a copy of that
22 form and instruction on its use during the course?
23 A They were provided a copy -- a sample copy of a
24 filled-out or completed report.
25 Q Yes?
26 A And that was reviewed while we discussed how an
27 officer after an event would log onto the system,
28 where they would find that report in our forms
29 system, and the methodology for completing the
30 report. And that report would additionally be
31 supported, of course, by their notes and the other
32 written information that would be on an
33 operational file specific to the call.
34 MR. MCGOWAN: I wonder if I could please see Exhibit
35 63, Mr. Registrar.
36 Q Sir, I'm placing before you a copy of Exhibit 63
37 opened several pages in to a portion of the
38 Operations Manual titled 17.7, Conducted Energy
39 Weapon, amended 2007-08-08.
40 Now, it's our understanding that that was the
41 Taser policy or the portion of the Operations
42 Manual in force at the time of this incident.
43 Does that accord with you understanding?
44 A That would be correct.
45 Q Okay. Now, I see that it was amended on 2007-08-
46 08. Are you able to tell us whether this was the
47 form of the Operations Manual you used during your

9
Gregg Gillis
In chief by Mr. McGowan

1 training sessions with these officers?
2 A It would be the session that would have been used
3 on any courses after that date. As I stated
4 earlier, the policy that's presented is what's
5 online at that time and that date of the course.
6 Q Can you assist us at all with what changes may
7 have been made between this version and the
8 previous version?
9 A I think there might be another witness that's
10 coming in the form of Inspector Lightfoot that
11 might be better able to answer that.
12 Q Okay.
13 A But I will attempt to assist as we go through the
14 policy if I notice anything that I see has
15 changed.
16 Q Okay, fair enough. And I think there may be -- if
17 I might just see the exhibit one more time.
18 Officer, do you know the amendment date of
19 the policy that you would have used during the
20 training of these three officers?
21 A I would have to actually see the document, Your
22 Honour. I'm sorry, I can't remember when the
23 policy is amended for various policy sections off
24 the top of my head.
25 Q That's fine. Thank you. When policies are
26 amended, are the amended copies made available --
27 A Yes. When --
28 Q -- routinely?
29 A -- a policy is amended, the RCMP notifies us with
30 an e-mail that tells us the policy has been
31 changed.
32 Q When you say "us" you mean the membership
33 generally?
34 A The membership of the RCMP.
35 Q Okay. At the time you were teaching in Richmond
36 in 2007, the Taser course, how did an officer get
37 selected to attend the course?
38 A The course, Mr. Commissioner, would be offered to
39 primarily the front line personnel. Their
40 supervisor would then assess which people they had
41 that were not trained, and then once they had an
42 idea as to how many officers that were not
43 trained, they would assess of that group of
44 officers which ones they supported for training.
45 So it would be based on a supervisor's
46 recommendation.
47 Q If a uniform member had expired, are you able to

1 assist us with, if they made a request, how long
2 it would take to get into a course?
3 A It would be entirely dependent on when the next
4 course was being offered. So for example, in
5 Richmond in the summer of 2007, the primary focus
6 was on new user training --
7 Q Yes.
8 A -- so just running this two-day course that we're
9 talking about. And then in the fall was the
10 timeframe that was scheduled for running the one-
11 day recertification course. And so --
12 MR. HARRIS: Sorry to interrupt. We are competing with
13 his horrible noise outside the window here. It
14 might help if the witness sit down and speak
15 closer to the microphone and that way we'll get a
16 better broadcast. It's just impossible to hear at
17 the back there.
18 A I can try speaking up, Mr. Commissioner.
19 THE REGISTRAR: Mr. Harris, perhaps if you could move
20 to the far table, there's a speaker right above
21 the table.
22 THE COMMISSIONER: All right. Let's try this.
23 MR. MCGOWAN: Corporal Gillis, unfortunately we do have
24 very loud construction right behind a number of
25 the lawyers so --
26 A I'll try raising my voice and speaking up.
27 MR. MCGOWAN: Do what you can to assist us by keeping
28 your voice up and I'll do the same.
29 Q Now, the question I was asking you was about the
30 number of courses and the availability of them in
31 2007 in Richmond where you were the trainer.
32 A That's correct.
33 Q Okay. And you had told us that the summer
34 training sessions were primarily for new users?
35 A That's correct.
36 Q And you had fall sessions for recertification?
37 A That were planned for the fall, yes.
38 Q Okay. To attend a recertification course, do you
39 have to be current or could you be expired for
40 some time?
41 A No, the goal would be, for example, Mr.
42 Commissioner, that if you were expired or about to
43 expire as far as your certification, that that
44 would be the primary group that would receive the
45 training. So an officer who took a user course
46 six months earlier wouldn't necessarily be loaded
47 on a recertification. The goal would be to have

1 those persons who had been -- either had their
2 certification expire --
3 Q Yes?
4 A -- or that reasonably would have it expire in the
5 next few months. Those would be your target group
6 for loading on that course.
7 Q Were there regular Taser training courses offered
8 during the year 2006 and the first half of 2007 in
9 Richmond?
10 A I'm sorry, I don't have that information because I
11 was not in charge of the Taser training at that
12 time. I was in a different job function.
13 Q Fair enough.
14 A I'm trying to recall whether or not there was any
15 offered, and I'm sorry, I just don't have specific
16 recall of that.
17 Q That's fine. It's not a matter that I'd asked you
18 to inform yourself of before coming here, so
19 it's --
20 A That's right.
21 Q -- understandable it's not something you know.
22 Now, I take it from what we've heard here that the
23 Taser training course contains not only
24 information about Taser training but that training
25 in the context of the IMIM and use of force
26 principles generally. Am I right about that?
27 A That's correct, Mr. Commissioner. This would be
28 just another tool that would be available to an
29 officer that builds on their existing skill set
30 and their existing learning.
31 Q Okay. So the training of the use of this
32 intermediate weapon, the Taser, is conducted in
33 the context of the IMIM and that model which we've
34 all seen a number of times, the wheel or the
35 circle?
36 A That is correct. And with the understanding that
37 the officers have operational experience to go
38 with that, as they're being trained as in-service
39 officers, not as recruits.
40 Q Okay. Now, from looking at that diagram and
41 hearing some of the information we've heard, I
42 take it there is what might be called a minimum
43 level of subject behaviour required before the
44 Taser becomes available to an officer as one of
45 the force options they might utilize. Is that a
46 fair description?
47 A Well, actually what's more important is actually

1 the situational factors. So it's driven by the
2 specific incident that the officer finds himself
3 in, the specifics of that event and their
4 assessment of that information. Then from there,
5 as part of that assessment process, the behaviour
6 is part of that assessment process.

7 Q Yes.

8 A And then once faced with that cavalcade of
9 information, choosing an option to try and resolve
10 the problem is where the officer would then go.
11 And if appropriate, they could consider an
12 intermediate device, which in this case would
13 include the CEW.

14 Q In the summer of 2007 when you trained these
15 officers, what did you train them was the minimum
16 subject behaviour necessary before the Taser would
17 be triggered as one of the available options?

18 A That it would be consistent with their training
19 from their oleoresin capsicum training, that they
20 could consider the use of OC spray or pepper spray
21 as an option, that they could also then consider
22 the CEW as a potential option. But the key factor
23 would be, in combination with those -- the
24 critical issue here, the situational factors, that
25 the person was demonstrating some sort of
26 resistance in an active form towards the officers
27 or a behaviour greater than active resistance.

28 Q So is that the language you would have used,
29 resistance in an active form or active resistance
30 or some behaviour greater than active resistance?

31 A That's correct. And then there would have been an
32 example given of that.

33 Q Okay, fair enough. Now, I take it the training
34 isn't once -- from what you've said, that once the
35 behaviour reached that stage, the Taser is always
36 appropriate. There must have been further
37 instruction about the assessment necessary. Am I
38 right?

39 A Exactly. Again, it goes back to your earlier
40 statement. This builds on the officer's existing
41 skill sets and it's about their evaluation of the
42 totality of the circumstances which, if they deem
43 that they need to respond with a tool to try and
44 control that person, that the Taser could be
45 appropriate but it doesn't make it appropriate.
46 It's the officer's decision as to what methodology
47 they're going to use to resolve or solve the

1 problem.
2 So I guess we don't prescribe that A plus B
3 equals "you will use the CEW."
4 Q Okay, I understand. Were officers trained in your
5 courses in 2007 to consider other force options
6 prior to resorting to the Taser?
7 A Yes.
8 Q Were officers trained to only resort to a force
9 option including the Taser if they had rejected
10 lesser force options or those that were
11 inappropriate in the circumstances?
12 A Sorry, could you ask the question just one more
13 time?
14 Q Yeah. Did you train your officers in 2007 that it
15 would only be appropriate to resort to the Taser
16 if lesser force options had been rejected or were
17 inappropriate in the circumstances?
18 A Rejected in the sense that if their risk
19 assessment, for example, was that one of the other
20 options wasn't appropriate. So for example, the
21 officer had considered OC spray but felt, based on
22 the situational factors, that it wasn't
23 appropriate.
24 Q Yes.
25 A Then yes, it would be appropriate for them to
26 consider the CEW as an intermediate option at that
27 point.
28 Q Okay.
29 A Equally, if they considered the CEW as an option,
30 they could also consider those other options and
31 revert back to the other tool if they felt it was
32 situationally appropriate. So it's driven by the
33 officer's assessment of risk. But if --
34 consistent with the training and the policy, if
35 it's appropriate for the use of the CEW and they
36 felt that was the tool that was going to be most
37 likely to resolve the situation, keeping in mind
38 the safety of all the various parties involved,
39 then they could resort to that tool if that was
40 their assessment.
41 Q Prior to resorting to the tool, were officers
42 trained that they must first determine or decide
43 that lesser force options, such as officer
44 presence or communication or soft hand control,
45 would not be sufficient to resolve the situation?
46 A Well, that's -- if we were to look at it the way
47 the question has been laid out, that would be

1 implying that it's kind of a continuum of choosing
2 different options and moving incrementally
3 forward. If the officer is present and they're
4 considering the use of an intermediate device,
5 generally one would -- because again, it's driven
6 by the situational factors so I'm trying to talk
7 in generalities -- one would assume that officer
8 presence has already been established. So that is
9 part of the equation for control is that if the
10 officer is present, it should have some degree of
11 effect on a person as far as social controls. So
12 the officer would take that into consideration as
13 part of their risk assessment.

14 But the training does not require the officer
15 to specifically eliminate other options before
16 moving to the CEW. So again, it's based on their
17 assessment of risk, and the totality of the
18 circumstances is what drives the event.

19 Q Is it a general principle of use of force that
20 would have been incorporated into the Taser
21 training course that officers should use the least
22 amount of force necessary to resolve a situation,
23 taking into account the situational factors and
24 their assessment at the scene?

25 A Well, that's always a professional goal is to try
26 and resolve any given situation with a minimal
27 amount of force. But it's -- so the officers are
28 told that that's a professional goal that they
29 should strive for. But we accept in dynamic
30 situations that that isn't -- especially when they
31 unfold quickly, that isn't always the case.

32 Q Okay.

33 A But that's part of their assessment phase when
34 they're looking at all those situational factors
35 and assessing risk, is is there something I can do
36 here to establish control that is lesser than
37 other options, and also keeping in mind the
38 potential risks to the officers, the general
39 public, the people they're dealing with. All that
40 has to be taken into account as the situation's
41 unfolding.

42 Q Is that a fair summary of one of the messages that
43 would have been incorporated into your Taser
44 training courses in 2007?

45 A Yes, consistent with the training on the IMIM.

46 Q Now, I take it one of the matters that was covered
47 in your course is the possibility of deploying the

1 Taser on more than on occasion against a single
2 subject during an event.

3 A That is correct.

4 Q Were officers trained that they were to apply an
5 assessment to each application of force with the
6 Taser?

7 A Part of their response to controlling an
8 individual includes an assessment of risk, but it
9 again is driven by the situation and the context
10 in which the officers find themselves in. So the
11 timeframe for doing that is going to be driven by
12 the situation and how it's unfolding. But yes,
13 the officers were taught to, wherever possible,
14 assess risk and assess whether or not the device
15 was still required to be used, and/or possibly the
16 need to transition to another option.

17 Q Okay. And would that generally speaking apply to
18 each deployment of the Taser?

19 A In theory it would, yes. It's again driven by how
20 fast the situation is unfolding before them.

21 Q Now, I've seen mention in the Taser policy that
22 we've seen and in the slide presentation which you
23 gave, I've seen reference to the Taser challenge,
24 a verbal challenge. Is that something --

25 A That's correct.

26 Q -- that you trained in 2007?

27 A Yes, it was.

28 Q Please tell the Commissioner just in a general way
29 what training you gave with respect to the
30 challenge and when it would be appropriate and
31 when it ought not to be given.

32 A Well, the first issue the officers were taught,
33 Mr. Commissioner, was if it's tactically
34 appropriate, to try and use the verbal skill
35 specifically, if you're about to fire the Taser,
36 to if possible issue the Taser challenge. And the
37 Taser challenge is, "Police," to clearly identify
38 yourself as a police officer in the event that for
39 some reason that hasn't already been evident to
40 the parties present. So one of the reasons we
41 train that is that we accept that a plain clothes
42 officer could be using the device and may not
43 necessarily have been fully recognized by persons
44 he's dealing with and people in the area that the
45 police are present.

46 The second part is to yell out, "Stop," to
47 try and get the person to halt or discontinue

1 their actions that may require the use of the CEW.
2 And then from there, the rest of the warning was
3 specific at that time to the Taser itself, and it
4 was, "Stop or you'll be hit with 50,000 volts of
5 electricity." And that was based on information
6 that was gleaned during the development of the
7 training from a neurolinguist, who advised that
8 the use of the large number and the electricity
9 was designed to solicit a response when somebody
10 cognitively thought about the potential of that
11 occurring.

12 And so the officers would have been taught
13 that if it's at all tactically feasible, issue the
14 challenge of, "Police. Stop. You're going to be
15 hit with 50,000 volts of electricity."

16 Q Do I take it from what you've said that one of the
17 purposes of the challenge is to attempt to gain
18 compliance without actually deploying the weapon?

19 A That's the goal.

20 Q Were officers trained on the option of displaying
21 the weapon, short of firing it, in order to gain
22 compliance, as one option?

23 A I'm not -- is this -- again, we've had some
24 discussions prior here. So the concept of showing
25 the device --

26 Q Displaying the weapon. Pulling it out, showing
27 it, as one increment of the response short of
28 firing it in an attempt to gain compliance by
29 displaying?

30 A No, they were not taught that. The RCMP training
31 protocol is --

32 Q And -- sorry.

33 A They're not taught that.

34 Q Okay.

35 A They're taught that the protocol of the RCMP is
36 the device stays holstered, Mr. Commissioner. If
37 you determine that it's appropriate to potentially
38 use the device, to draw it, and if appropriate
39 issue the Taser challenge prior to deployment.

40 THE COMMISSIONER: So you don't spark it either as a
41 warning?

42 A No, Mr. Commissioner, we don't.

43 MR. MCGOWAN:

44 Q And you don't simply show it as a warning? At
45 least the training in 2007 was such that it
46 wouldn't simply be showed as a warning?

47 A No. Gen --

1 Q Except in the --
2 A Generally speaking, no. That's the challenges
3 with issues surrounding use of force is that there
4 always could be some sort of circumstance where
5 that might be appropriate because the timeframe
6 allows that.
7 Q Yes.
8 A So it's not a rapidly unfolding situation. So it
9 could happen, but it's not something officers are
10 specifically trained to do.
11 THE COMMISSIONER: When the challenge is given, is the
12 Taser then pointed or still holstered?
13 A It should be pointed at that point and drawn.
14 MR. MCGOWAN:
15 Q So the idea of the challenge is perhaps not
16 different from what we've heard about displaying
17 the weapon. It's an attempt to show the weapon,
18 give the challenge.
19 A A last attempt to de-escalate the situation before
20 firing.
21 Q Okay. And I don't want to put words in your
22 mouth. If I'm mischaracterizing your evidence,
23 you correct me, please. You understand that,
24 right?
25 A Yeah, I understand that.
26 Q Is one of the topics covered with the officers
27 during training the anticipated response of the
28 subject after being tasered in both probe and push
29 stun mode?
30 A Yes, Mr. Commissioner, it is.
31 Q And is there a range of responses that you cover
32 in that section of the training, anticipated
33 responses?
34 A Yes, there is.
35 Q I wonder if you could just briefly summarize that
36 portion of the instruction for the Commissioner.
37 A We go into quite some depth on that in the course,
38 both with video clips but also when we do the
39 exposure sessions to show the officers different
40 responses. But to summarize all of that two days
41 of training in relation to what we're talking
42 about specifically, the officers are told that
43 when the device is fired -- and I'll talk about
44 probe mode first. When it's fired with the
45 cartridge attached, the probes are deployed, that
46 if there is good contact with the probes, a good
47 degree of probe spread in the area of where

1 they're contacting, and if the electrical current
2 is fully transferred to the body, so that it
3 causes the interruption of motor control, that the
4 expected reaction would be that gravity will take
5 over and the person will fall to the ground, that
6 the person will remain immobilized during the
7 five-second cycle, that the second the cycle ends,
8 the person can immediately become active again and
9 come back up to their -- stand back up and carry
10 on with whatever behaviour they were displaying
11 previously. So that's the perfect outcome.

12 And it can go back to the not-desired
13 outcome, which is that there's some sort of
14 failure. So in other words, the CEW or Taser
15 itself, the actual unit, fails to transfer any
16 electricity, so there's a problem with the device.
17 Incrementally from there, that there's some sort
18 of --

19 Q If I could just stop you to clarify. If there's a
20 complete failure in the way you're just talking,
21 do you train there would be no reaction from the
22 subject?

23 A There would be reasonably no reaction because
24 there -- so what I'm talking about, Mr.
25 Commissioner, is for example if the capacitor in
26 the device happened to fail at that moment so the
27 device wasn't able to deliver electricity, then
28 clearly there'd be no effect. Incrementally
29 forward from that, that if there's any
30 interruption to the electrical flow that it will
31 minimize the effects or possibly have no effect,
32 that if there is a problem in relation to an air
33 gap -- so for example, if the Taser probe was
34 fired and it hangs up in clothing and there's some
35 sort of gap between where the Taser probe is
36 making contact and the person's body, that that
37 can have an effect. Twofold: cumulative gap,
38 because the Taser doesn't have enough power to
39 push across an air gap of greater than two inches,
40 that there may be no effect, or incrementally, if
41 there is a inch-and-three-quarter gap, that there
42 may be some effect but it will be reduced because
43 the full electrical energy isn't transferred to
44 the body.

45 And then the other issue we talked to them
46 about is that the probe spread isn't that great,
47 so in other words they're in close to the person.

1 That too can have an effect. All of which would
2 lead to a person not falling down and it not
3 having the desired effect with immobilizing the
4 person during that five seconds.

5 Q Now, you talked about the possibility of a larger
6 gap, not quite two inches, having a reduced
7 effect. Do you teach about the possibility of
8 intermittent current being passed through by
9 either the movement of the probe or some other
10 factor?

11 A Yes, that's covered. So that would be -- the
12 example you're using would be a good one of the
13 probe is maybe hung up in a piece of clothing,
14 like a jacket, that at one moment, depending on
15 how I'm standing and the movement of that
16 clothing, that there's an air gap created of an
17 inch, which takes away the ability -- or two
18 inches, that takes away the ability for that
19 electrical energy to complete the circuit, to
20 cause neuromuscular disruption. But that as I
21 move, if that brings that probe into contact with
22 my body, it would then result in an increased
23 electrical flow, the connection between -- of the
24 circuit, and thus increased effect on me. So that
25 it could be -- intermittent, I think, was the word
26 you used and that's a very good one to describe
27 the effects.

28 Q What are officers told about the potential impact
29 on a subject of intermittent current in that sort
30 of circumstance?

31 A That reasonably it would be expected that the
32 person would show a reaction when the electrical
33 current is obviously stimulating the muscle
34 groups.

35 Q Yes?

36 A But that when it's having no effect, that the
37 person's behaviour may stay consistent with what
38 they were doing before. So for example, a person
39 standing with an intermittent effect might remain
40 standing but may show as they're being affected
41 the signs particularly from the pain stimulus if
42 they're subject to feeling the pain and reacting
43 to the pain stimulus.

44 Q Do you give training respecting the noise of the
45 weapon providing some possible indication as to
46 its efficacy?

47 A Yes. If there is no noise -- so in a cartridge

1 deployment, when I fire it, if I don't hear any
2 noise of the device, so the opening and closing of
3 the circuit, which is often described by people as
4 a clacking sound -- if I don't hear that, then
5 that tells me that -- one of two things. It tells
6 me that the device is working properly and the
7 electrical energy is being transferred to the
8 person's body, and so as a result they're feeling
9 the effects of the neuromuscular disruption. Or
10 it could mean that there's been a complete and
11 total device failure, which is very rare. So what
12 the norm would be is that the person is
13 experiencing the effects.

14 If I can hear any noise, so the arcing --
15 because electricity has -- when it hits the body
16 through the probes, there's a degree of resistance
17 in the body. And so electricity will take the
18 path of least resistance. So if the air gap
19 creates a degree of resistance and it's easier for
20 the device to arc the electricity at the cartridge
21 point where it's attached to the device, it will
22 arc there, and as it jumps across that air gap, it
23 makes a sound, and that's a cracking or the
24 cackling or clacking sound.

25 So the sound, if I can hear sound when the
26 device is deployed, it indicates that the device
27 is either not effective or it's limiting its
28 effects.

29 Q Do you teach that the noise necessarily means that
30 there's no impact on the subject?

31 A The noise can mean that. It's up to the officer
32 then to assess, because the other side of that
33 equation would be, well, on one hand I'm receiving
34 the information audibly of that sound. I'm also
35 visually observing the effects on the person. So
36 the two in combination allows me to assess that
37 information to determine if it's having an effect
38 and what degree that effect is.

39 Q So do I take it from what you've said that in the
40 face of the cracking or clacking, you train
41 officers to resort to their other symptoms to
42 determine whether the weapon is having an impact
43 on the subject?

44 A When they hear that sound, that's a critical piece
45 of information telling them that the device may
46 not be effective and that the electricity may not
47 be fully transferred to the person, and so as a

1 result they have to take that into consideration
2 while they're making their assessment.
3 Q Okay. And what other observations would you train
4 them to make to determine whether the weapon is
5 having an impact or is having some effect?
6 A Well, the most significant one would be the actual
7 actions of the person that they fired the device
8 at, Mr. Commissioner. So what is that person that
9 you fired the device at physically doing -- Are
10 they standing up? Are they moving? Are they
11 saying anything? What's their physical
12 reaction? -- would be critical to that assessment
13 process.
14 Additionally if they're able to see whether
15 or not at that point -- although it's difficult
16 particularly in a high stress event -- would be to
17 see whether or not the probes appear to be
18 attached or if the filament maybe is broken, that
19 sort of thing. But it's rather difficult to do in
20 a high stress event due to the finite degree of
21 focus that would have to be developed to spot
22 those subtle cues.
23 Q Thank you, officer.
24 THE COMMISSIONER: And what's the point of using the
25 Taser?
26 A Well, the goal is, unlike any other tool that we
27 have, Mr. Commissioner, it's -- when it works
28 properly, it immediately immobilizes and
29 incapacitates the person because of the electrical
30 energy causing an interruption in the motor
31 control.
32 THE COMMISSIONER: And once the person is
33 incapacitated, does that mean that he's down?
34 A Well, down, and then the second phase of that
35 would be in control. So if there was --
36 reasonably what we would teach the officers would
37 be to move forward and handcuff. So once the
38 person -- the handcuffs are applied at that point,
39 or that the officer's observation of the person
40 indicates that they're now choosing to comply and
41 not offering any resistance.
42 THE COMMISSIONER: And once he's down, is that the end
43 of the use of the Taser?
44 A It's going to be driven by the situation. In some
45 cases it may be. In others, though, if the
46 officers are attempting to handcuff and have
47 accomplished the goal of handcuffing, it could be

1 appropriate to consider continued use of the CEW.
2 So it would be driven by the circumstance that the
3 officers face themselves with. Generally
4 speaking, that once the handcuffs were applied,
5 that would be the point where -- and consistent
6 with the training, once the handcuffs are applied,
7 that's where we suggest in training that you would
8 safe the device, disengage the cartridge, reload
9 the device and holster it.

10 THE COMMISSIONER: All right.

11 MR. MCGOWAN:

12 Q Now, just to cover off a couple of other things
13 about anticipated responses, what did you teach in
14 2007 would be the anticipated response to the
15 application in stun mode?

16 A In stun mode? It's primarily pain compliance. So
17 as a result, it would be -- the two things that
18 you would expect from that is compliance from the
19 person. So that's the goal any time you apply a
20 pain compliance technique, whether it's a pressure
21 point with your thumb or, quite frankly, OC spray,
22 which is large pain compliance, is to goal
23 reorient the person and have them de-escalate
24 their behaviour, or goal reorient them enough that
25 you can accomplish your goal of, for example,
26 handcuffing them. So that would be the primary
27 goal of a push stun.

28 Secondarily, when I push stun or drive the
29 CEW into a portion of the body and the device is
30 activated, it does cause some degree of localized
31 motor dysfunction in that area. So an example
32 would be is if I have a clenched fist and I'm
33 holding on to something and an officer was to
34 stimulate in around the radial nerve point, the
35 primary effect would be pain stimulus, but there
36 would be some degree, because you're stimulating
37 that motor group, to cause some degree of
38 involuntary release of the motor group control to
39 hold on to something. It would interrupt that.
40 But it doesn't affect any other part of my body,
41 so I'm still able to stand, I'm still able to move
42 my other hand, that sort of thing.

43 Q Did you train your officers that in the face of a
44 push stun application of the Taser, they should
45 expect a typical pain response, perhaps movement
46 or audible noise, screaming?

47 A Yes. Yes. Consistent with any other pain

1 stimulus technique.

2 Q When the Taser is being used in either probe or
3 push stun mode in a situation where there's more
4 than one officer present, did you train anything
5 regarding communication between the members about
6 the use of the Taser?

7 A Well, the -- yes. The goal would be is for the
8 Taser operator to direct the other officers to
9 move in to arrest. But again, it's based on the
10 assessment of the situation. So in the reality of
11 an operational context, what often happens is, is
12 that when the CEW is deployed and if there's other
13 officers present and they see an opportunity to
14 move in, to arrest and control, to handcuff the
15 person, that they will. What we teach them on the
16 course is the perfect or best outcome would be if
17 you're forced to use the CEW, that is you fire it,
18 and the person -- it works -- the person is
19 immobilized and goes to the ground -- that your
20 partner or partners at that point can then move in
21 to complete arrest and control.

22 Q If during the application of the handcuffs or the
23 attempted application of the handcuffs, one of the
24 officers was going to use the device in push stun
25 mode for one of the purposes you've discussed, do
26 you train anything about advising other officers
27 that that is taking place or not?

28 A It's always advisable to advise the other officers
29 that you're planning on using the device,
30 particularly in a dynamic event. And the primary
31 reason for that is that you could push the device
32 into the person, get the anticipated response and
33 remove the device, or the person could move to
34 avoid further contact, and with other officers in
35 close proximity they could be contacted by the
36 device. So it's more just significantly to warn
37 them that it's going to be used. But it's also so
38 that it assists them with their risk assessment as
39 to the level of resistance they're feeling from
40 the person or anticipated effect.

41 So that concept of: I'm not bringing my arm
42 behind my back. An officer has my arm and is
43 trying to manipulate it behind my back. I have
44 mechanical superiority over them so they can't
45 quite get it to the point of handcuffing. Another
46 officer uses the CEW in around this side of my
47 body to try and gain pain compliance, that the

- 1 officer reasonably trying to handcuff me would
2 expect to have some degree of reduced resistance
3 from that arm to facilitate or assist in the
4 handcuffing process.
- 5 Q So you're talking about a cooperative effort
6 during a handcuffing scenario?
- 7 A In a perfect world.
- 8 Q Okay.
- 9 A How that unfolds in an operationally dynamically
10 unfolding event isn't always perfect, but that's
11 what we talk about in training is the goal. We're
12 trying to have that perfect situation occur. And
13 then the officers are armed with that information
14 so that they can accurately assess risk when
15 they're in the field.
- 16 Q I take it that cooperative effort ideally, you
17 would train, requires some degree of communication
18 between the officers.
- 19 A Generally speaking, yes.
- 20 Q Now, the push stun mode and the probe mode of the
21 Taser, do they fall in the very same place on the
22 IMIM wheel there?
- 23 A Yes. The CEW when it's deployed is an
24 intermediate device, and so as a result we are
25 clear with the officers that it's up to them to
26 explain why they used the device in a specific
27 means. So if they choose to use it in probe mode,
28 they need to be able to articulate and explain to
29 the satisfaction of initially internal review and
30 potentially external review as to why they used it
31 in that role. Equally, nothing changes because a
32 cartridge is attached. The same rules apply in
33 relation to assessment of risk: if it's deemed
34 appropriate, explaining why it was appropriate.
- 35 Q Okay. So just to be clear, there's absolutely no
36 difference in terms of the IMIM or the use of
37 force wheel whether you're using it in probe mode
38 or stun mode? It's the same intermediate device
39 and the same level of subject behaviour. Another
40 assessment is required before deploying it.
- 41 A Correct, Mr. Commissioner. So it would be the
42 situation that would drive the appropriateness of
43 which mode you used it in.
- 44 Q Now, sometimes there's reference, when empty hand
45 control is being discussed, to the use of stuns by
46 officers.
- 47 A That's correct.

25
Gregg Gillis
In chief by Mr. McGowan

1 Q That form of empty hand control and the use of the
2 term "stuns" there, I take it that has no
3 application to the use of the Taser in stun mode?
4 A It's similar in the sense that both are designed
5 to disrupt the thought process, so that again, my
6 conscious thought is: I'm not going to let you
7 handcuff me. I'm resisting, keeping my hands from
8 being brought behind my back. A stun technique is
9 used to interrupt the thought process and in doing
10 so interrupt my ability to maintain that degree of
11 control, to allow you to facilitate your goal,
12 which is handcuffing.
13 Q Yes. You're talking about them having similar
14 purposes.
15 A Yes.
16 Q I'm talking about in terms of a use of force
17 assessment and where the device falls on the
18 wheel. It falls always in the intermediate device
19 category?
20 A Yes. The CEW is indicated on the IMIM that's
21 before us. It's that pink or fuchsia area that
22 runs for -- approximately at seven o'clock
23 position up towards the 11 o'clock position --
24 Q Yes.
25 A -- indicating intermediate devices. That is where
26 the CEW falls, whether it's used in a probe mode
27 or in a push stun mode.
28 Q And would that have been something you would have
29 made very clear to your officers during training?
30 A Yes. And it's reinforced on the exam that the CEW
31 is an intermediate device.
32 Q Now, we've heard a little bit of evidence about
33 trigger pulls, and perhaps I'll just ask you a few
34 leading questions here to see if I have and the
35 Commission has a clear understanding of this. And
36 you can just tell us if this is what you trained.
37 I take it you trained that a single pull of the
38 trigger would result, absent any engagement of the
39 safety, in a five-second deployment.
40 A That's correct.
41 Q And that the officer always has the option of
42 shortening a deployment by engaging the safety?
43 A That's correct.
44 Q And that in order to achieve a deployment of
45 longer than five seconds, the trigger would have
46 to be depressed for the duration of the five
47 seconds and then any longer period?

26
Gregg Gillis
In chief by Mr. McGowan

1 A Yes. So if you wanted the device to run for ten
2 seconds continuously --
3 Q Yes.
4 A -- you'd need to press and hold the trigger.
5 Q For ten seconds?
6 A Yes.
7 Q And I take it your training would have made it
8 clear that as long as the trigger is depressed,
9 the device will continue to discharge?
10 A Yes.
11 Q Absent removing the finger or engaging the safety?
12 A That's correct, Mr. Commissioner.
13 Q Those would be the only two ways to stop the
14 device?
15 A Yes, that's correct.
16 Q And that's what you would have trained?
17 A That's correct.
18 Q Now, we spoke a short time ago about reporting
19 requirements. What did you train officers about
20 reporting on their Taser use when you gave your
21 training in 2007?
22 A Well, clearly the officers would make notes in
23 their memo book in relation to the use, that they
24 would document the use as part of any narrative
25 portion of their reports that they were doing,
26 that they would also advise a supervisor that they
27 had deployed the device. But I think where we're
28 going with this critically is that they would
29 actually go onto the RCMP form system, draw out a
30 form 3996, the CEW reporting form, and would
31 complete that report and then submit that report
32 and two forms. They would do a copy to the file
33 that they were working on, so obviously there was
34 an incident the specific officer was called to.
35 That's the operational file held at that
36 detachment. A copy would go to that file for
37 review by the supervisor. But additionally, once
38 they complete the form, Mr. Commissioner, and they
39 hit the send button, it automatically downloads
40 that information into a national databank that is
41 subject to review.
42 Q Did you teach them anything about the care that
43 ought to be taken when recording details of an
44 event in which the Taser was deployed?
45 A I'm not sure that I understand the question. But
46 they were taught that they should make notes and
47 do the appropriate reporting in relation to the

1 use of the device.

2 Q Did you teach them anything about the degree to
3 which they should attempt to be accurate and
4 complete?

5 A Well, it's consistent with any other report as a
6 police officer that I complete. I'm to do it with
7 the greatest degree of accuracy that I am able to
8 from my recall.

9 Q Now, officer, we spoke briefly before you came to
10 court today, and one of the things we discussed
11 was the Taser camera. We see a slide relating to
12 the Taser cam in your presentation. Do I
13 understand that in 2007 you trained members that
14 Taser cameras were not available through the RCMP?

15 A That's correct. We evaluated them and there's
16 some issues about their functionality, the main
17 one being that the way the camera attaches to the
18 device and the way officers are taught to hold the
19 device. Just where the lens is at it's often
20 blocked by the officer's finger so it has a degree
21 of limited value, and there's some issues
22 surrounding the quality of the video. It's being
23 evaluated as far as its use. But we talked about
24 it because it's out there. It's an available
25 option. It's a nice-to-know on the training
26 course. But to be clear, the RCMP does not have
27 them available to officers and they're not an item
28 that's in our possession as an organization.

29 THE COMMISSIONER: I understand too that the view is
30 very narrow.

31 A That's one of the challenges. And the other
32 challenge with the device is that it only turns
33 on, Mr. Commissioner, when you arm the device. So
34 an example would be that if an officer was to arm
35 the device and have it pointed at the ground, it
36 provides limited audio pickup and gives us a very
37 good picture of the ground.

38 MR. MCGOWAN:

39 Q To be clear, this was not a device that was
40 available to officers in 2007?

41 A No, it was not.

42 Q Or an option, I should say. Now, we talked a
43 moment ago about the manner in which the device
44 could be deployed for longer than five seconds.
45 What did you train officers about the
46 circumstances when they ought to resort to that
47 type of deployment, that is depressing the trigger

1 for a time period longer than five seconds to
2 extend the deployment?

3 A That that would be a marked departure from the
4 norm. But that if they needed to -- for example,
5 my example earlier, if they needed to press and
6 hold the trigger for ten seconds for some reason,
7 that they would need to clearly articulate why
8 that was required. And we were very clear that
9 the CEW, in the eyes of the RCMP, is not to be
10 used as a methodology of restraint. So in other
11 words, I don't deploy the device to immobilize
12 somebody who's demonstrating a behaviour that
13 requires the management of that behaviour,
14 requires me to use or that the CEW is appropriate
15 for me to use, that when the person is
16 immobilized, that I then use that device as a
17 means to keep that person under control until
18 additional officers arrive to assist with
19 handcuffing, for example. That if it's
20 appropriate to use it to control behaviour, fire
21 it. If the person then was to attempt to re-
22 engage you, then if you needed to redeploy it, but
23 that you wouldn't use it as a means of just
24 keeping them immobilized.

25 So if you needed to use the device for more
26 than the five-second deployment, there would need
27 to be a reason for that that you would have to be
28 able to clearly articulate.

29 Q What sort of reason might that be, in the training
30 you gave?

31 A For an officer to do that? You're using it in a
32 push stun mode. You're applying it as a pain
33 stimulus to try and control an arm. You press the
34 trigger and push it into the person. You're
35 assessing what's going on. The person's hand
36 doesn't come out or arm doesn't come out
37 immediately, but eventually it is controlled and
38 the person's handcuffed, so you remove the device
39 from contact with the person because you're
40 gaining the appropriate response to the pain
41 stimulus and the limited degree of motor control,
42 and you release the trigger. On a download we
43 might find that you held that trigger for seven
44 seconds. So as a result, you would have to
45 explain in your articulation about the
46 reasonableness of the use of that in a push stun
47 mode, for example, for greater than the five

1 seconds.

2 You'd also have to be cognizant as well of
3 the fact that while the download time may show us
4 a seven-second trigger pull, that it could
5 actually have been 6.1 in reality because first of
6 all the device rounds up to the next number. But
7 then the second portion of that issue is that the
8 device may not have been in contact with the
9 person during that cycling period. So for
10 example, you activated it, pushed it into me, so
11 we lost a split second while it was applied to me.
12 It ran until I started to stop the behaviour or I
13 started to comply, and you removed the device. As
14 soon as the device no longer is in contact with
15 me, there's no electrical current to the body, but
16 the device could still be running for another
17 second or two seconds while you shut it off.

18 Q Are officers trained that the standard method of
19 deployment is to pull the trigger and release and
20 allow it to run its five-second course?

21 A That is correct.

22 THE COMMISSIONER: Just let me pause for a moment.
23 Your understanding is that in terms of the
24 rounding up, any minute fraction of time that the
25 trigger is held over five seconds will round it to
26 six?

27 A My understanding is if it's 5.1 seconds, that it
28 will round up to the next number up, number 6, Mr.
29 Commissioner.

30 MR. MCGOWAN:

31 Q But 5.09 would go down?

32 A I would defer to somebody who's got the background
33 with TASER International on that. My
34 understanding is that 5.1 and higher rounds it up.
35 So in theory I would agree with you, but I have to
36 admit I don't know that for a fact. I haven't
37 tested it.

38 Q What's the source of your information?

39 A For that specific issue?

40 Q Yes.

41 A Is the information based on the testing that was
42 done by Bodycote Corporation in relation to when
43 they -- independent lab when we were first
44 evaluating the device. And the additional
45 information, obviously that's been provided by
46 TASER International. But I refer more to the
47 Bodycote information from our testing.

1 Q Fair enough. So the training communicated to the
2 members that the standard operation of the device
3 was to pull the trigger, release, and let it run
4 its five-second course. You've told us that.

5 A That's correct.

6 Q And did I understand from what you said that they
7 would be trained that it would be quite an unusual
8 circumstance in which the device would be deployed
9 for longer than the five seconds?

10 A It would be an unusual circumstance that they
11 would have to articulate and explain, yes.

12 Q Okay. What were officers told in your training
13 sessions in the time period we're speaking of
14 about deploying the Taser multiple times against a
15 single subject during a single event?

16 A That any multiple application -- any use of force
17 carries risk. That the more you multiply a use of
18 force, risk increases. So the example that's used
19 is that if you strike somebody once with your
20 baton, there's clearly a risk of injury. If you
21 strike them more than once and it starts to become
22 multiple times, that obviously the risk of injury
23 increases for that person with each additional
24 strike. That the CEW, while there's no medical
25 information that is available that supports that
26 it's a cause of death or that it has a direct
27 relationship on core body functions such as
28 cardiac care or respiration, that increased
29 exposure does carry increased risk.

30 So an example would be on the first exposure
31 there's an increase of risk to the person when
32 they fall. And then during that five-second
33 period when the muscles are contracting and
34 relaxing, that there is the potential for a stress
35 type injury similar to a sporting event. So
36 pulled muscles or strained muscles, pulled or
37 strained ligaments, potentially for the person to
38 suffer a stress fracture on a bone, for example,
39 if they're susceptible to that.

40 So equally, if I do more than one, I continue
41 to increase the risk of those sort of injuries.
42 So if you do multiple deployments, as part of your
43 after-care follow-up that you have to assess the
44 condition the person's in afterwards and be able
45 to recognize there might be increased risks from
46 additional deployments.

47 And we talked about the information

1 specifically around studies that have been done
2 that showed that the CEW, when a person's exposed
3 to it, does not have a direct impact on breathing,
4 and the information that we have that indicates
5 that it should not have any effect on cardiac
6 care, so on heart functioning.

7 Q That's information you communicated to your
8 members?

9 A That's correct.

10 Q Were they given training about in what
11 circumstances deploying the Taser more than once
12 would be appropriate and wouldn't be appropriate?

13 A Yes.

14 Q Tell the Commissioner about that.

15 A Well, they were told that obviously the best case
16 scenario would be that if -- this is making an
17 assumption, of course, that all the risk
18 assessments have occurred and it's appropriate to
19 use the device in a probe deployment mode -- that
20 I would discharge the device, the person would be
21 affected, go to the ground and that they would
22 cease their behaviour that would require any
23 further use of force other than the handcuffing
24 and taking them into custody. But secondarily to
25 that, the best case scenario would be a five-
26 second deployment, and during that time or
27 immediately thereafter that the additional
28 officers at scene would move in and handcuff,
29 arrest and control the person at that point,
30 de-escalating and resulting in some control, but
31 that in reality additional deployments may be
32 necessary.

33 So an example would be the Taser is deployed,
34 the person goes to the ground, additional officer,
35 the partner or partners move in to arrest and
36 control. They're trying to pull the person's arms
37 behind their back, the cycle ends, and the person
38 now before the handcuffs are applied starts to
39 pull their arms back, so it's overpowering the
40 officers' ability to control them. That at that
41 point, if your assessment of risk was that a
42 second deployment of the CEW would allow those
43 officers to bring that person's hands together and
44 handcuff them, that that would be appropriate and
45 it would be far less injurious to that person than
46 two or three officers physically fighting with
47 that person and taking the chance of causing joint

1 injuries, that sort of thing, from having to
2 physically fight with the person. So as a result,
3 a multiple deployment might be necessary to
4 facilitate arrest and control.

5 Q Do I take it from what you've said that the
6 multiple deployment, for it to be appropriate,
7 there would have to be a continuation of the
8 subject behaviour that --

9 A There would have to be something that the operator
10 is assessing as a degree of resistance that makes
11 it appropriate for them to continue to use the CEW
12 in an effort to control that person.

13 Q I saw a reference in one of the slides you used to
14 the device as a less lethal force tool --

15 A Yes.

16 Q -- or less lethal weapon.

17 A Yes.

18 Q Is that the language that you used --

19 A Yes, it is.

20 Q -- as opposed to non-lethal when you were giving
21 your training course?

22 A We use the terminology -- I believe -- less lethal
23 is the terminology the RCMP uses in our training
24 because it's our training program that we've
25 developed.

26 Q Yes.

27 A And that's linked to the National Tactical
28 Officers Association definition of less lethal
29 tools. And equally, it results in our perception
30 in relation to how this device is used. We don't
31 see it as a lethal device, so that's why we refer
32 to it as lethal -- sorry, less lethal.

33 Q Tell the Commissioner if you can what the officers
34 were told in October of 2007 -- you've given us
35 some information but I want to see if I can make
36 sure we're clear on it -- in terms of the risks
37 associated with deployment of force tools and
38 specifically the Taser against a subject.

39 A That any deployment of force carries risk of
40 injury. That exponentially as we increase any
41 application of force, that there is an increased
42 risk, and that as part of our duty when we're
43 using force on people is after-care. So that's
44 part of the assessment process. So the concept
45 that if I strike somebody once with a baton, I
46 obviously have to be cognizant of I struck the
47 person on a leg, checking, seeing and assessing

1 once they're taken into custody and there's a
2 degree of control resolved in assessing that
3 injury. That if I had struck them multiple times,
4 that I need to be obviously paying attention to
5 potential multiple strikes.

6 With the CEW, that I have to be aware that
7 the deployment of the CEW, that the greatest risk
8 is from secondary injuries, so the concept of
9 cartridge deployment, a person falls to the
10 ground, that they may injure themselves when they
11 fall. After I've made the assessment for that
12 potential for injury, then the next issue I have
13 to look at is the potential for muscular injuries,
14 those sort of things that we talked about as the
15 result of the tensing of the muscles, and that if
16 I do more than one deployment of the device, I
17 exponentially increase the risk for those types of
18 injuries, and so as a result, have to be cognizant
19 of that. But that there is no medical information
20 that supports that the device -- electrical output
21 of the device causes a risk to cardiac care or to
22 respiration.

23 THE COMMISSIONER: Does less lethal mean it can be
24 lethal?

25 A We accept that any tool that we use has the
26 potential. So a good example would be is that the
27 CEW intended to be used in a less lethal fashion
28 is used, it's appropriate, the person falls, and
29 in falling strikes their head or breaks their
30 neck, something like that, and it results in the
31 death. The way we view that is that that death is
32 of course linked back to our initial deployment of
33 the tool. It wasn't the intended or expected
34 outcome but it can happen.

35 MR. MCGOWAN:

36 Q Did you train officers that one of the things they
37 ought to take into account when assessing whether
38 to use the tool is the potential risks that the
39 application of force carries with it?

40 A I'm sorry?

41 Q Is the potential risk carried by the use of a
42 force response by an officer one of the things
43 that they are trained to take into account in
44 making their assessment as to whether to use a
45 force option?

46 A Yes.

47 Q What were officers trained about the degree of

- 1 pain that would be experienced by a subject by the
2 deployment of a Taser in October 2007?
- 3 A They're told that the experience for most people
4 is that it is very or extremely painful, whether
5 it's in the probe deployment mode or in push stun.
6 Equally they are exposed to the device so they
7 have a first-hand knowledge in relation to the
8 effects.
- 9 Q Were they trained to take that consequence into
10 account in their assessment as to whether to
11 deploy the Taser initially or multiple times?
- 12 A Pain stimulus with any tool that we use, OC spray,
13 control tactics, is always one of the
14 considerations as part of my assessment of risk
15 and trying to decide what option or tool I should
16 use to manage that risk.
- 17 Q Now, you've made reference to the ideal situation
18 where a person is tasered for a five-second
19 deployment and other officers present have some
20 involvement after that. I take it your Taser
21 training didn't just cover the actions of the
22 officer using the device but also the response of
23 other officers present?
- 24 A That's correct.
- 25 Q Okay. Tell the Commissioner what you trained
26 ought to be the response of other officers present
27 following the application of the Taser in probe
28 mode.
- 29 A To -- obviously they're at the situation so
30 they're assessing risk and what's going on in
31 front of them. That where safe to do so and
32 tactically appropriate, to move in and to effect
33 arrest and control of the person. So in other
34 words, if the CEW has been used, it's effective,
35 that as a backup or cover officer that my role
36 would be to move in and handcuff the person, and
37 then from there take care of the normal issues of
38 policing: the arrest, the control, the assessment
39 of the person, those sort of issues.
- 40 Q What do you train officers about the ideal timing
41 of moving in? For example, are they trained to
42 wait until the deployment is finished so the
43 electric current stops, or are they trained to
44 move in as quickly as possible? What are they
45 told about that?
- 46 A It's based on their risk assessment. So if their
47 assessment of risk is that they can safely move in

1 during the five-second cycle while the device is
2 cycling, that that is absolutely an option for
3 them to consider. And the upside to that is it
4 reduces the ability of the person to actively
5 resist their efforts to handcuff the person. But
6 it's based on their risk assessment.

7 Secondarily to that, the other option is to
8 allow the device to cycle for five seconds and,
9 based on the assessment of risk, move in after
10 that. So an example where the officers wouldn't
11 always move in to handcuff right away would be if
12 the officers perceive the potential presence of a
13 weapon system, for example. They may choose to
14 wait rather than move in during that five-second
15 period and maybe be in close proximity to the
16 person when they access a weapon system.

17 So there's going to be situations where it's
18 appropriate to move in quickly but there's also
19 going to be times where it's appropriate for the
20 officers to stand off, assess, and then move in in
21 a more controlled fashion. It's entirely going to
22 be delivered -- dictated by the situational
23 factors, the specific event, and the officers'
24 assessment of risk. That said, the five-second
25 period, even if one goes to move in during that
26 period, often ends before the handcuffing is
27 accomplished. That's just the reality. It's a
28 fairly quick timeframe.

29 Q Were officers trained that there's no concern
30 about during a probe deployment the current being
31 transferred to the officer if they touch somebody?

32 A That's correct. And that's one of the reasons
33 when we do our exposure training with the officers
34 that two other officers are present and holding
35 onto the person to support them but also holding
36 them in a fashion that's consistent with what
37 they're taught for handcuffing techniques. So
38 they can see first hand that while, for example,
39 I'm exposed to the CEW, that the two people
40 holding onto me in a manner consistent with they
41 way you'd touch a person for handcuffing, feel no
42 effects from the electricity.

43 Q So that doesn't interfere with their ability to
44 move in immediately at all?

45 A No.

46 Q The ongoing deployment of the Taser?

47 A No. Unless they -- it is possible for there to

Gregg Gillis

In chief by Mr. McGowan

Cross-exam by Ms. Roberts (for Government of Canada)

1 be --

2 Q I should add, in a dry environment.

3 A Even in an active environment there's limited risk
4 of the electricity transferring to me as the
5 arresting officer if I don't place my hands in
6 between the two contact points or if I don't
7 somehow get tangled up on the filament from the
8 CEW. So the officers are trained to move in
9 towards the arms that they're going to control, so
10 as a result that minimizes that risk.

11 MR. MCGOWAN: Thank you, officer. Those are the
12 questions I have for you. Please answer the
13 questions of your counsel and any of the other
14 lawyers.

15 THE COMMISSIONER: Is this a good time take the morning
16 break?

17 THE REGISTRAR: The hearing will now recess for ten
18 minutes.

19
20 (WITNESS STOOD DOWN)

21
22 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
23 (PROCEEDINGS RECONVENED)

24
25 THE REGISTRAR: Order. The hearing is now resumed.

26
27 GREGG GILLIS, a witness,
28 recalled.

29
30 MS. ROBERTS: For the record, Helen Roberts for the
31 Government of Canada.

32
33 CROSS-EXAMINATION BY MS. ROBERTS ON BEHALF OF THE
34 GOVERNMENT OF CANADA:

35
36 Q Corporal Gillis, you've given some evidence about
37 some of the postings you had in the RCMP. Did you
38 have any law enforcement experience before joining
39 the RCMP?

40 A Yes, Mr. Commissioner, I did.

41 Q And what was that?

42 A That was with -- I was with the Corrections Branch
43 in the Province of British Columbia. I worked at
44 Oakalla and Vancouver pre-trial centres, primarily
45 at Vancouver Pre-Trial Centre, and then was
46 employed by the B.C. Sheriff's Services for a
47 period of time prior to joining the Mounted Police

1 in 1990.

2 THE COMMISSIONER: I guess we've never formally

3 qualified --

4 MS. ROBERTS: That's where I'm going, Mr. Commissioner.

5 THE COMMISSIONER: Well, it's just a question of the

6 scope. We have your suggestion as to the scope?

7 MS. ROBERTS: Yes, that Corporal Gillis be qualified as

8 an expert on the use of force by RCMP members, the

9 conducted energy weapon or Taser, and with regard

10 to the training for the use of force and the

11 conducted energy weapon.

12 THE COMMISSIONER: What have you to say about --

13 MR. MCGOWAN: His qualification wasn't required for the

14 evidence we sought to lead from him.

15 THE COMMISSIONER: All right.

16 MR. MCGOWAN: But we certainly have no issue if my

17 friend wishes to qualify him.

18 THE COMMISSIONER: Yes, all right. Then the officer

19 will be qualified in that respect.

20 MS. ROBERTS: Thank you, Mr. Commissioner.

21 Q Roughly how many years has it been, sir, that

22 you've been involved in training with respect to

23 the -- we've been calling it the Taser -- the

24 conducted energy weapon, as you would refer to it?

25 A Personally, since 1999, but as far as training

26 other officers, it really primarily started in

27 late 2000.

28 Q And you train officers, I presume, with regard to

29 the RCMP Incident Management/Intervention Model,

30 the IMIM?

31 A That's correct, Mr. Commissioner.

32 Q We've had another witness come and talk about the

33 National Use of Force Model. Is that something

34 you're familiar with?

35 A Yes. The National Use of Force Framework is a

36 similar model. It's approved by the Association

37 of Chiefs of Police in Canada and is the primary

38 model used by police departments.

39 THE COMMISSIONER: Thank you. Keep your voice up.

40 A Sorry, yes. Thank you, Mr. Commissioner.

41 MS. ROBERTS:

42 Q And as regards the issues we're looking at, use of

43 force and the Taser, what if any differences are

44 there between the National Use of Force Model and

45 the IMIM used by the RCMP?

46 A Both models are matrix or graphical models to try

47 and assist with the understanding of the

1 complexities of use of force. So both models
2 mirror one another. They just simply use
3 different language and a slightly different
4 formula in the building of the pieces of the
5 model, if you will, to help facilitate learning or
6 understanding. But both models place the CEW in
7 exactly the same position, and the behaviours that
8 they -- while the words may be different, describe
9 the same behaviour. So for example, the RCMP IMIM
10 uses the word "combative" to describe the specific
11 type of behaviour. The National Use of Force
12 Framework uses the word "assaultive." But as far
13 as the defining language between both, it's the
14 same.

15 When we talk about intermediate weapons, the
16 National Use of Force Framework for what we're
17 focused with, Tasers, places it in the exact same
18 location of intermediate weapons as the RCMP does.
19 The primary difference between the RCMP model, as
20 it's seen here, and the National Use of Force
21 Framework is that the RCMP takes the impact
22 weapons, batons primarily, and places them as a
23 separate component of the model where the National
24 Use of Force Framework includes that as an
25 intermediate device or intermediate weapon.

26 Q A lot of this has been covered already. I'll try
27 not to be repetitive. In your evidence earlier
28 you talked about the Taser and when it has a
29 completed electrical circuit --

30 A Yes.

31 Q -- and the effect that has and the noise or no
32 noise that that makes.

33 A Yes. If I deploy the CEW in a cartridge
34 deployment mode and it's working appropriately, it
35 doesn't make any noise, or very limited noise,
36 generally not heard.

37 Q And you were also asked about incomplete circuits
38 and you mentioned a two-inch gap, I think.

39 A Yes. The two contact points or the two probes,
40 cumulatively if there's two inches, so one inch at
41 each probe or three-quarters of an inch, inch and
42 a quarter, any way that it comes up to two inches,
43 will negate -- because the electrical pulse energy
44 doesn't have enough push, if you will, to make
45 that air gap, to close the circuit and be
46 effective for neuromuscular disruption. Or if one
47 of the probe points has made good contact but the

- 1 second probe point creates two inches or greater
2 gap, again the same issue. It will not close or
3 complete the circuit.
- 4 Q And just to be clear about this, if, for instance,
5 we have a probe: one makes contact with the skin;
6 there's no issue with regard to any distance. And
7 the second probe is attached to some clothing, and
8 if it's more than two inches, then the electrical
9 circuit isn't completed and there's no effect on
10 the subject; is that correct?
- 11 A That's correct.
- 12 Q If the probe is at -- and I think you said one and
13 three-quarter inches --
- 14 A Yes?
- 15 Q -- does the same amount of electrical current flow
16 as if it was in direct contact with the person?
- 17 A No, it's somewhat diminished because the initial
18 pulse of energy has to make that air gap across
19 that inch and three-quarters -- in this case, I
20 think the example we're using -- before it can
21 have effect. So I still receive a degree of
22 neuromuscular disruption but not to the same
23 degree if I had two good solid contact points. So
24 an example would be as I stand here with my suit
25 coat today, if I lean forward and it was hanging
26 in my suit coat and the other one was actually
27 attached to my shirt, there would be a very good
28 connection point on the top probe point but right
29 now there's approximately two to three inches with
30 my jacket. So reasonably the electricity may not
31 arc through. As I stand up or straighten up,
32 though, it changes the position of the clothing,
33 brings it in closer. If it's now an inch and
34 three-quarters, I would then begin to experience
35 some effect, but not the same effect as if the top
36 probe and the bottom probe were directly attached
37 to my person.
- 38 THE COMMISSIONER: And you teach that?
- 39 A Yes, I do, Mr. Commissioner.
- 40 MS. ROBERTS:
- 41 Q So there's two issues. One issue if you have one
42 probe attached to clothing is that sometimes it's
43 more than two inches so that the contact is
44 intermittent --
- 45 A Correct.
- 46 Q -- as the clothing goes back and forth?
- 47 A That's correct.

1 Q And the other issue is that if it's getting close
2 to the two inches, it's not getting the same
3 amount of electricity?

4 A That's correct, Mr. Commissioner.

5 Q Now, we've heard the words "multiple deployment"
6 used and the words "continuous cycling."

7 A Yes.

8 Q Could you please explain what those two mean.

9 A A continuous cycle would be the period of time
10 where the electrical energy starts, the deployment
11 of the device, until it stops, with no break. The
12 example I think I used earlier was I take out the
13 device, I press the trigger and hold it for ten
14 seconds and the electrical energy is transferring
15 to a person during that timeframe. That ten
16 seconds would be what we would consider in
17 training to be a continuous deployment. Equally
18 it could go to a longer period of time. It's
19 exponential based on the example.

20 A multiple deployment would be -- I think
21 again, back to the example I used -- the officer,
22 based on the situation, uses the device, fires it.
23 The person is affected for five seconds, falls to
24 the ground. The officer is reassessing, the
25 person goes to stand up, they press the trigger a
26 second time, the person goes to the ground, they
27 release the trigger. Officers move in to
28 handcuff, they're having difficulty handcuffing,
29 and the officer makes the decision to press the
30 trigger a third time to facilitate handcuffing.
31 That would be three consecutive deployments.

32 Q When you train officers with regard to the use of
33 the Taser, which, if either, of these two are felt
34 to carry more risk of injury, or do you train or
35 carry more risk of injury, the multiple deployment
36 or the continuous cycling?

37 A Both carry risk. Continuous deployment carries
38 greater risk. Because of course our -- when we're
39 talking about the example, for example, that a
40 person is exposed, if we're concerned about just
41 the area of a pulled or strained muscle, the
42 difference between stimulating that muscle or
43 motor group for five seconds versus 20 seconds,
44 it's going to increase the potential for risk of
45 injury, for example. So a continuous being a
46 greater risk than the multiple.

47 Q When you train police officers in the use of the

1 Taser or indeed in the use of force, do you teach
2 them anything about perception reaction time?

3 A Yes. It's referred to in the RCMP as action
4 versus reaction in the training. And what that
5 basically speaks to is the concepts of, in simple
6 terms, that if I act, your reaction to that is
7 always going to be slower than my action. So I
8 have the leading edge on that curve, if you will.
9 So the person that acts first has a degree of
10 tactical advantage. And the simple reason for
11 that is that if I do something, you need to
12 observe and orient that, so you have to somehow
13 through your senses pick up on whatever the
14 stimulus is. You have to put context to it, so
15 orient it. Then you have to decide what you're
16 going to do in relation to a plan and then
17 implement the plan, all based on that information
18 that you're assessing. But of course the event is
19 continuing, so as a result if I begin to start to
20 throw a fist, for example, you might see the
21 clenching of the fist, the loading of my arm, but
22 by the time you're reacting to it, I might already
23 be in contact with you with that fist. So it's
24 that period of time and it carries on, so as
25 actions change you're always having to assess that
26 information and respond to it.

27 Q Have you heard of Boyd's loop?

28 A Yes.

29 Q What is that?

30 A It's research that was done by Colonel Boyd with,
31 I believe, the United States Air Force, to try and
32 assess why pilots crash perfectly good aircraft
33 and there doesn't appear to be an explanation.
34 And it goes to that issue of the person becoming
35 oriented to some sort of stimulus, so whether it's
36 a gauge or something that occurs during the flight
37 process, that they have to orient that in the
38 context of what they're doing, flying an aircraft,
39 and that they have to then try and respond to that
40 by developing a plan, implementing the plan,
41 assessing how the plan's working, then observe and
42 take in the new stimulus. So the loop comes back
43 to the beginning because there's continuous
44 stimulus. If they're not assessing and doing that
45 process fast enough, for example when the aircraft
46 is flying towards the edge of a mountain, they
47 don't respond fast enough, they might be taking

1 the corrective action to try and resolve or manage
2 the risk, but if they take it too late, the plane
3 may still crash. And it applies to the concepts
4 of human performance in relation to --
5 particularly when you add a high degree of stress
6 to the environment, it makes the reaction time a
7 little bit slower because of the increased risk
8 for the person. But it -- it's a basic human
9 performance issue about how we perform as human
10 beings in relation to response to stimulus, I
11 guess is --

12 THE COMMISSIONER: Do you say, then, the reaction is
13 slower when there's a threat afoot?

14 A The addition of stress can be an impacting factor
15 that, depending on my previous experience, may
16 increase my reaction time slightly. It may.
17 Especially if I don't have an experiential base
18 from which to draw on, I haven't been through a
19 similar circumstance. That's the concept of why a
20 pilot flies in a simulator before they take those
21 same sort of high risk activities in actual
22 aircraft.

23 THE COMMISSIONER: And why there's a co-pilot.

24 A If there is one, yes.

25 MS. ROBERTS:

26 Q Do these concepts about perception reaction time
27 and Boyd's loop, do they come up in the training
28 about use of force or the CEW?

29 A We don't specifically get into the nuances of
30 Boyd's loop, but what we do get into is the
31 concepts of action versus reaction and give the
32 officers -- not so much in the CEW training, but
33 the CEW is merely a building on existing training.
34 That's something that's presented in their initial
35 training at Depot and then at additional points
36 throughout their career on different courses, and
37 it's touched on in the CEW course, the concept of
38 action versus reaction. If a person acts before
39 they're ready for it, that they're a little bit
40 behind in relation to response and managing that
41 risk. So that's, for example, why we teach
42 officers to create distance from people and we
43 talk about manageable distance -- (noise
44 interference) -- I'll maybe wait for just a moment
45 here.

46 That's why we talk about manageable distance
47 for when you're dealing with t person. So normal

1 conversation when I'm meeting with a person is to
2 stand approximately a handshake distance apart.
3 As a police officer when I'm dealing with a
4 person, I generally want to stay an arm's length
5 away from the person strictly because if the
6 person suddenly goes to strike me, if I'm in that
7 conversational, socially appropriate distance, I'm
8 going to get punched. If I just stand slightly
9 outside their arm's reach, it gives me a little
10 bit more time to react. Action versus reaction.

11 Q So are police officers effectively trained to be
12 on guard every time they encounter a subject?

13 A Police officers are taught to operate differently
14 from other members of the public in relation to
15 risk, in the sense that they're taught to be aware
16 of their circumstances and understand particularly
17 in an operational context where they're recognized
18 as the police and they're dealing with people in
19 that role, that there is the potential for
20 situations to escalate quickly, and so as a result
21 to minimize risk to all the parties involved, that
22 using tactics like where they stand, distance they
23 are away from a person is all implemented to try
24 and manage that risk and to give them better time
25 to react to things if they change suddenly.

26 Q When you have a number of police officers present
27 and one of them deploys the Taser, is it possible
28 or likely that the other police officers present
29 would not be aware of the deployment?

30 A It's possible. It would be dependent on the
31 circumstance or the situation. So an example, I
32 guess, where officers may not be aware is if
33 they're not standing in a position where they can
34 see the deployment if they're not aware the
35 officer has drawn the tool. So an example might
36 be that I'm standing in one location, the other
37 officer is standing in another location, but I'm
38 not able to see them as they draw the device,
39 point it, and especially if they fire it. I may
40 not be aware that's occurring if there's no time
41 for us to communicate that that's the plan because
42 the event's unfolding rapidly.

43 The other option could be that if something
44 happens that draws my point of focus and I'm very
45 focused on whatever that issue is, I may stop
46 picking up some of the additional information of
47 what's going on around me, particularly if I don't

1 perceive people that are standing beside me, other
2 police officers, as a potential risk or threat to
3 my safety. I have a tendency naturally as a human
4 being to spend less -- put less focus on their
5 actions and be more focused on what I'm perceiving
6 as the potential risk.

7 Q When you have a number of police officers present
8 and the Taser has been deployed once, is it
9 possible or likely that the other officers
10 wouldn't be aware of a second or subsequent
11 cycling of the Taser?

12 A Yes. Particularly if they're not picking up on
13 any audible stimulus. So if the device is working
14 properly, cycles for five seconds, and the
15 officers are aware that it's been deployed, and
16 the operator chooses to press the trigger a second
17 time for five seconds, and there's no significant
18 air gap so the device is not making any sound,
19 it's quite reasonable that the other officers may
20 not know that a second deployment has occurred at
21 that point.

22 Q And similarly, if you have a number of police
23 officers struggling with a subject on the ground,
24 is it possible or likely that they wouldn't be
25 aware that one of the officers had used the Taser
26 in push stun or drive stun mode?

27 A It's possible. It would depend on a number of
28 factors, so for example, where it was used on the
29 person. It would also depend on how focused that
30 officer was. So if I'm very focused on struggling
31 with trying to get control of an arm in relation
32 to getting an arm bar to try and bring somebody
33 under control or I'm reaching for my handcuffs to
34 try and handcuff, my focal area would be in this
35 area (gesturing). I'm getting a lot of stimulus
36 in relation to the physical actions that are
37 occurring, and I may not literally be aware of
38 another officer who's standing right beside me
39 who's attempting a different technique, or in this
40 case using the CEW as a tool for compliance.

41 Q And similarly, if the push stun mode was used more
42 than once, is it possible or likely that other
43 officers would be unaware of that?

44 A It's possible.

45 MS. ROBERTS: Thank you. Those are all my questions.

46 MR. KOSTECKYJ: Walter Kosteckyj, counsel for Zofia
47 Cisowski.

1 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
2 CISOWSKI:
3

4 Q Sir, just following up on what my learned friend
5 just asked you about not being aware of someone
6 using the weapon in a push stun mode when you're
7 involved. Wouldn't it be important for the
8 officer that's doing that to advise the other
9 members that he's using the weapon if he's got any
10 doubt that they don't know?

11 A Absolutely it would be advisable or a good
12 practice. A lot of that's going to be driven by
13 how dynamically or quickly the event is unfolding,
14 Mr. Commissioner.

15 Q Well, you did tell us, sir, did you not, that if
16 you used it in a particular localized area that it
17 can, for example, perhaps make your fist go tight
18 or lose motor control in a certain area, correct?

19 A Well, actually it would do the -- it would to
20 the -- I think the example I used was that I have
21 a clenched or I'm using a clenched fist, that when
22 the stimulus occurs that it takes -- so right now
23 when I clench my fist, I'm using a series of motor
24 groups and ligaments and my skeletal system to do
25 this, that when the area is stimulated it actually
26 causes me to potentially release that because of
27 the muscle being stimulated and tensing and
28 relaxing as a result of electrical stimulus. So
29 it would potentially cause me to relax my hand.

30 Q It's going to affect the motor skill area?

31 A Yes, it would.

32 Q So isn't that an important consideration for other
33 members to know when they're involved with a
34 suspect?

35 A If you've got the time to advise the other
36 officers of it, it's certainly advisable to
37 communicate. It's all -- again, any use of force
38 is driven by the circumstances and the situational
39 factors. And one of the keys to that is going to
40 be how fast the event's unfolding or occurring.

41 Q Now, do you remember -- incidentally, have you
42 ever instructed at Depot?

43 A No, sir, I have not.

44 Q So you've never instructed in self-defence at
45 Depot?

46 A I have not instructed in self-defence at Depot. I
47 have instructed people who have been certified to

- 1 train at Depot, so I'm an instructor trainer. But
2 I have not actually been posted to Depot and
3 trained recruits at Depot, the RCMP Academy.
- 4 Q All right. Now, do you recollect coming before
5 the first commission, the inquiry that was looking
6 into Taser use?
- 7 A Yes, I do.
- 8 Q And do you remember presenting a set of videos
9 with the use of the Taser at that particular
10 event?
- 11 A Yes.
- 12 Q Do you remember an event that I think took place
13 in northern Manitoba. I believe it may have been
14 Thompson, Manitoba. Do you recollect that?
- 15 A I do. And it wouldn't have been Thompson, Mr.
16 Commissioner. It would have been in the Gimli
17 Detachment area.
- 18 Q Okay. And the event I'm describing is where there
19 was quite a large male who was being belligerent
20 with two RCMP officers. Do you recollect that?
- 21 A Yes. There was a large male who was being
22 arrested by two RCMP officers; that's correct.
- 23 Q And these two police officers on a country road
24 threatened to use the Taser on him, correct?
- 25 A They issued the Taser challenge to try and gain
26 his compliance; that's correct.
- 27 Q And that's always been cited as a very good
28 example of the use of a Taser.
- 29 A Yes, it's an example of where the device didn't
30 have to be actually physically used.
- 31 Q And is it a fact that that event took
32 approximately two hours to unfold?
- 33 A I don't know how long the actual event took to
34 unfold to that point but it wasn't a very
35 dynamic -- I would agree with you. It was not a
36 dynamic event that was quickly unfolding. It was
37 relatively static with a degree of ongoing
38 communication or conversation between the officers
39 and the subject.
- 40 Q Yeah. And it took an extended period of time
41 before they got to the point where they threatened
42 to use the Taser on the man.
- 43 A I'm afraid I don't have the information on that,
44 Mr. Commissioner. I don't know.
- 45 Q All right. My recollection was at the time that
46 you told us that that -- or somebody from your
47 group told us that that event took two hours to

- 1 unfold, in answer to a question from the
2 Commissioner.
- 3 A It's possible that somebody else may have answered
4 that question, Mr. Commissioner. I don't recall.
5 But I don't recall saying that.
- 6 Q All right.
- 7 A And the reason I don't recall that is because I
8 know that I do not have the information as to the
9 timeframe that led up to the point on the video.
- 10 Q All right. Now, you do teach your members that
11 people do react differently to a Taser jolt?
- 12 A Yes. There is -- I think I've said earlier,
13 there's a range of reactions to the effects of a
14 CEW; that's correct.
- 15 Q And some people in fact, we've been told by other
16 experts over here, spasm or may feel spasm and may
17 lock up after a Taser jolt. Do you agree with
18 that?
- 19 A During the effects of the Taser, the motor groups
20 are -- as a result of the electrical stimulus are
21 contracting and relaxing so spasming would be a
22 good -- another word to describe that.
- 23 Q All right. Now, you were talking about the fact
24 that you trained this -- this course is given to
25 RCMP officers who are already regarded as being
26 experienced on the street. Is that accurate?
- 27 A They are no longer recruit officers so they're not
28 trained -- it's not training that's provided at
29 the RCMP Academy and it's not provided to the
30 officers during their first six months of field
31 training. So it's at a year service or more, so
32 they have a degree of operational experience, yes.
- 33 Q Yeah. Now, when an officer is judged on his use
34 of force, he's judged by an objective standard,
35 correct?
- 36 A Correct.
- 37 Q He's judged by a standard of what would a
38 reasonable police officer do in the circumstances?
- 39 A Yeah. A person making similar assessments with
40 similar training; that's correct.
- 41 Q Now, when you bring people onto this course, do
42 you judge and make a determination as to how much
43 experience they've actually had in arresting
44 individuals and dealing with people before you
45 give them the Taser training?
- 46 A No, I do not, sir. That decision is made by their
47 supervisor, who is in a better position to make

- 1 that assessment, consistent with RCMP policy that
2 the member has to be a trained and fully -- fully
3 completed their recruit and then their field
4 training portion as a new member.
- 5 Q But it doesn't say, for example, at least at this
6 time, that you had to be on the street or working
7 and developing those other skills that you learned
8 at Depot for a period of two or three years before
9 you could be Taser trained?
- 10 A No, it does not. I guess largely because we
11 accept that timeframe is not going to be the only
12 issue that's going to impact an officer's
13 operational experience. But no, we don't put any
14 specific timeframe that an officer has to have
15 completed X number of years of service.
- 16 Q You do now, do you not?
- 17 A No, we do not.
- 18 Q Well, I understood that the Police Complaints
19 Commissioner had made recommendations to the RCMP
20 that members with less than five years' service
21 not be Taser trained.
- 22 A I believe that might be more a policy issue than
23 it is a training issue, and I think there's
24 somebody else coming before you, Mr. Commissioner,
25 that may be able to speak better to that.
- 26 Q Okay. But in any event, that's not the policy as
27 far as you understand it?
- 28 A That is not the policy as to how I understand it.
- 29 Q All right. Now, behaviour that occurs before
30 police arrive at a scene is no predictor of how a
31 person is going to act after police arrive, is it?
- 32 A I would agree, and I would equally say: but it
33 can be a predictor. So if I'm advised, Mr.
34 Commissioner, as to what a person's potential
35 behaviour is right now before I observe them, that
36 forms part of my risk assessment, and it can be an
37 indicator of the level of agitation the person is
38 engaged in and potential for behaviour if I don't
39 specifically observe that on my arrival. So it's
40 part of my -- it's information that's critical for
41 my risk assessment.
- 42 Q But for example, someone who damages property,
43 there's no correlation between whether someone
44 will damage property as to whether they'll act
45 violently, is there?
- 46 A As far as a direct equation, no. But based on my
47 operational experience, when I'm advised of people

1 that are fighting or that are damaging property,
2 often those people are in a potentially aggressive
3 state when I deal with them. So as a result it's
4 critical information for me in relation to
5 assessing risk prior to my getting there and it
6 can be an indicator of their behaviour once I
7 arrive or where their behaviour may escalate to.

8 Q Well, would it be an important factor for a police
9 officer to know, for example, that someone had
10 been confronted and goaded in a way that might
11 excite them into a physical confrontation but they
12 don't bite the bait of that physical
13 confrontation. Would that be important?

14 A Any information that I can get prior to arriving
15 at a scene is valuable for me in relation to my
16 risk assessment. So information like that would
17 be valuable, yes.

18 Q Now, how does the CAPRA, which is at the centre of
19 the Incident Management/Intervention Model, how
20 does that come into play in the assessment of
21 dealing with an individual?

22 A CAPRA is the model the RCMP uses, Your Honour, for
23 problem solving as a foundation concept or skill
24 when we're teaching officers how to resolve
25 difficulties or problems, particularly ones that
26 are ongoing in the community. And so as a result
27 it's on the model because it's just a reminder,
28 particularly when we're training new officers.
29 They're introduced to the concept of problem
30 solving in the form of CAPRA as part of their
31 basic training. As they carry on in that basic
32 training, they will be introduced to use of force
33 training, which will include an introduction to
34 the concepts behind the IMIM, if you will, taking
35 the Wal-Mart greeter and turning them into a
36 police officer and understanding the complexities
37 of use of force.

38 So as part of that, to reinforce the
39 importance of the foundation, mission, vision,
40 values of the RCMP, it's indicated on the model
41 with the silhouette of the police officer to draw
42 back to the point that when we're assessing risk
43 in relation to use of force, it's based on the
44 officer's perceptions so it's centred off of the
45 officer and moves forward, and that CAPRA and our
46 problem solving model and all the things that we
47 sort of have at our ethos is important as part of

- 1 that process, a foundation skill, if you will.
- 2 Q Now, those notions of CAPRA, though, where someone
- 3 is your client, that remains when you're analyzing
- 4 a situation under the IMIM?
- 5 A Yes. When you arrive, you have to identify who
- 6 the clients are and the potential clients. So an
- 7 example would be you're dealing with somebody on a
- 8 highway. There's you and the other person, but
- 9 there's the potential for other people to use the
- 10 highway or be on the highway. So the person
- 11 you're dealing with is a client but then there's
- 12 also the other people that can reasonably be
- 13 expected to come to the area, are also additional
- 14 clients. So you have to keep them in mind when
- 15 you're managing risk, yes.
- 16 Q But my question was that with respect to the IMIM,
- 17 the principles of CAPRA still apply.
- 18 A Yes.
- 19 Q You still assess --
- 20 A (Indiscernible - overlapping speakers).
- 21 Q -- right?
- 22 A Yes.
- 23 Q You still treat people like a client, you re-
- 24 evaluate, and at the end of it you reassess,
- 25 correct?
- 26 A That's correct. It's all part of the process,
- 27 yes.
- 28 Q Okay. Now, are you aware of whether any
- 29 reassessment was done with respect to the
- 30 Dziekanski case and with respect to the use of the
- 31 Taser?
- 32 MS. ROBERTS: Corporal Gillis has no knowledge of the
- 33 Dziekanski case. He is simply here as the trainer
- 34 of those three officers. He's not been given the
- 35 file. He's not privy to any of the information
- 36 about the Dziekanski matter.
- 37 MR. KOSTECKYJ: I'll leave that aside.
- 38 MR. HIRA: Mr. Commissioner, this dovetails with your
- 39 ruling yesterday. He hasn't seen the video, and I
- 40 understand he's coming back to deal with the
- 41 assumed statements of fact and the video. And in
- 42 those circumstances, I would assume that Mr.
- 43 Kosteckyj in fairness should at that point be
- 44 permitted to cross-examine on those matters.
- 45 THE COMMISSIONER: Oh, yes. I've already said he could
- 46 the last time.
- 47 MR. HIRA: Yes. Just as long as we understand he's

1 coming back. But today we're just dealing with
2 training.

3 THE COMMISSIONER: Well, I haven't --

4 MS. ROBERTS: That's not my understanding at all.

5 THE COMMISSIONER: I haven't reached that point.

6 MS. ROBERTS: That's news to me.

7 MR. MCGOWAN: It's also news to me. I don't think
8 there's been any arrangement or agreement whereby
9 Corporal Gillis has been asked to come back or
10 agreed to come back. If we reach the stage today
11 where my learned friend feels that's necessary, I
12 certainly encourage him to address the matter with
13 the Commissioner, but I don't think we're there
14 yet.

15 THE COMMISSIONER: Can you finish this part of your
16 cross?

17 MR. KOSTECKYJ: Yes.

18 THE COMMISSIONER: Let's continue with this.

19 MR. KOSTECKYJ:

20 Q Now, when I look at the IMIM model that we have
21 here -- and I think it may be Exhibit 45 in our
22 list. I may be wrong on that. But in any event,
23 there's a very large grey area there between non-
24 cooperative, resistant, and combative, correct?

25 A I would agree that there's a grey area that runs
26 the entire circumference of the behaviour and
27 there's a large portion of what you've described
28 would be approximately 50 percent of that area
29 that describes behaviours.

30 Q Yeah. And it's very lightly shaded up until you
31 get to about the nine o'clock area on that
32 diagram.

33 A To be clear -- when you look at the diagram there
34 is clearly two points when it moves from
35 cooperative to non-cooperative on that model and
36 then right on -- almost on the line where the word
37 "combative" is where the shading appears to
38 change. To be clear, that's not because there's a
39 definitive line at either one of those points.
40 It's as a result of the technology that was
41 available at the time for the graphic, that we had
42 difficulty shading it to blend it, in the same
43 fashion that the area, for example, between
44 resistive and combative flows. So as an
45 example -- thank you for the pointer -- what I'm
46 talking about is there's a definitive line there
47 and there seems to be almost the equal line there.

- 1 It's more the issue of the graphical computer
2 program that was available at the time as opposed
3 to this is a definitive line. So this is intended
4 to be a series of grey to dark, darker, if you
5 will, black, because we accept that's the
6 operational context police officers operate in.
7 It's not black and white. It's a series of greys.
- 8 Q And that's the reason for the colour selection,
9 because this isn't a grey area. All of that --
10 all of those are subjective assessments in that
11 area, correct?
- 12 A They're based on the officer's assessment
13 initially, specifically based on specific
14 situational factors. The area we're talking
15 about, the behaviour, that it is based on the
16 officer's perception and observations of the
17 person's behaviour and how they assess that
18 behaviour.
- 19 Q But you do tell the officer that his behaviour is
20 going to be judged against a standard of a
21 reasonable police officer in the circumstances?
- 22 A Yes, police officers are taught that, Mr.
23 Commissioner.
- 24 MR. KOSTECKYJ: All right. Those are my questions.
- 25 THE COMMISSIONER: I guess we reach this stage now.
- 26 MS. ROBERTS: At Mr. Hira's request, I gave Corporal
27 Gillis the statements of assumed facts that Mr.
28 Hira and the counsel for the other RCMP members
29 had prepared. Mr. Hira had requested that
30 Corporal Gillis review other material. Time did
31 not permit that. So that's the situation we have.
32 He has reviewed the assumed statements of facts.
33 I was rather hoping that he could be shown any
34 other necessary information that could be put to
35 him today and we could deal with it today subject
36 to, of course, perhaps coming back for Mr.
37 Butcher, who is unable to be present. But it is
38 in your hands, Mr. Commissioner.
- 39 THE COMMISSIONER: Do you have any suggestion before I
40 hear Mr. Hira?
- 41 MR. MCGOWAN: Mr. Commissioner, my friend's
42 suggestions --
- 43 THE COMMISSIONER: Just before you say anything, what I
44 want to balance is fairness to the witness and the
45 efficient use of time.
- 46 MR. MCGOWAN: Yes. My friend's suggestion certainly
47 seems reasonable, that we attempt to get through

Gregg Gillis

Cross-exam by Mr. Kosteckyj (for Zofia Cisowski)

1 this today, and if there are additional materials
2 that my friends want the witness to review, they
3 can put them to him. If there is a feeling that
4 breaking early for lunch and allowing this witness
5 some time over the lunch hour to watch the video
6 or review some documents would be of assistance, I
7 certainly don't have a problem with that.

8 We do have the rest of the day and the
9 witness is here, and I understand he has some
10 scheduling difficulties further into the month.
11 In that context, I'd suggest we make every effort
12 to conclude his evidence today if we can.

13 THE COMMISSIONER: Mr. Hira.

14 MR. HIRA: Let me outline what I'm proposing to do and
15 suggest some efficiencies, if I may. I have no
16 difficulty addressing training and a number of
17 other issues without getting into the assumed
18 facts and the video. It seems to me that to play
19 the video for the first time for the witness and
20 to have him review Baltzer's report and Fawcett's
21 report for the first time, using up the
22 Commission's time and counsel's time, is a very
23 inefficient method of doing things. It's just
24 going to be dead time while he looks at things and
25 then reverts back.

26 So why don't I start with the training. Why
27 don't I go as far as I can. And if necessary, why
28 don't we come back, say, at nine o'clock one
29 morning next week and finish him off. Because --

30 THE COMMISSIONER: All right. I think there's some
31 merit in what you say. So if you can start on
32 your cross on the training and related matters, go
33 ahead, and leave the other till later.

34 MR. HIRA: And if I may make one other suggestion that
35 may make this even more efficient in terms of the
36 Commission's time -- it's obviously up to the
37 witness and the witness's counsel -- but if we can
38 meet with the witness so that we can say to the
39 witness when he testifies, "You have reviewed the
40 video with us," it will --

41 THE COMMISSIONER: Well, that's up to counsel for the
42 witness. There's no property in the witness --

43 MR. HIRA: I understand that. But he'll be under
44 cross-examination. I just don't want to be in a
45 situation where we're using up your time playing
46 the video over and over again.

47 THE COMMISSIONER: Yes. All right. So go ahead.

1 MR. HIRA: Thank you.

2

3 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE

4 KWESI MILLINGTON:

5

6 Q Officer, what I'm going to do is first of all deal
7 with probe and filament testing. Then I'm going
8 to go through your training materials.

9 A Yes.

10 Q I'm going to in the course of that or in addition
11 to that make reference --

12 THE COMMISSIONER: Mr. Hira, why don't you just ask
13 your questions?

14 MR. HIRA: Very well. I'm just trying to give you an
15 outline, Mr. Commissioner. But that's fine. I'm
16 happy to do that.

17 Q Firstly, officer, it is possible to test the probe
18 or probes and the filaments to determine whether
19 the Taser was able to continuously subject the
20 person to the electricity?

21 A Yes, Mr. Commissioner, it's possible to test the
22 specific components that counsel has laid out to
23 determine whether or not electrical energy
24 transferred from the circuitry of the device
25 through the filament to the probe and then, by
26 extension, reasonably whether or not there was any
27 electrical stimulus at the end of the probes that
28 the person would or would not have felt.

29 Q And that testing is microscopic testing?

30 A Yes.

31 Q And with respect to the filaments, you would look
32 at whether there are breaks in the filament that
33 are caused either by it being bent or whether
34 there are breaks in the filament where the
35 electricity is trying to arc through the
36 electrical wire break and is unable to do so?

37 A Yes, that's a correct summation of the
38 complexities of the testing. Yes.

39 Q In addition, you can look at the probe where the
40 filament joins on to the probe and examine whether
41 there's a carbon build-up or scoring on the probe?

42 A Yes, Mr. Commissioner. You can develop that
43 information forensically as well.

44 Q And where there is significant carbon build-up or
45 scoring, it indicates proper deployment, or I
46 should say not proper deployment but the discharge
47 of electricity for the completion of the circuit?

1 A Yes, I would agree with -- it indicates a
2 discharge of electricity.

3 Q And the converse is also true, that where you do
4 not see a lot of scoring, it would indicate that
5 the electricity is not being discharged?

6 A Yes, I would agree with that.

7 Q Now, there is some training given to your officers
8 regarding what to do with the cartridge and
9 filament after deployment, that is after the
10 subject has been subdued and you're trying to deal
11 with the device and the debris from the device;
12 isn't that correct?

13 A That's correct. The device, Mr. Commissioner,
14 there's a cartridge, of course, that's still
15 attached to the device, there's the filament
16 that's exited the device and the probes that are
17 attached to it. Those items, particularly the
18 probes, because they're sharp and they potentially
19 have come into contact with the person, are a
20 potential bio-hazard so those have to be collected
21 for public safety. The filament, just because it
22 can lead to a potential hazard if it's left on the
23 ground, is collected along with the cartridge.

24 And those items are put together and then
25 exhibited by the officer. The policy in Richmond
26 Detachment at the time, I believe, was 30 days --

27 Q So there's --

28 A -- post-event, if there's no other investigational
29 reason for the items to be seized as an exhibit.
30 As far as the blast doors, the AFIDs, the other
31 things that come out of the device as part of the
32 process, generally the officers don't pick that
33 up.

34 Q Thank you. So for an officer to be wrapping up
35 the filament after a deployment, that is something
36 that he or she is trained to do?

37 A Yes. If they view the deployment as a normal
38 deployment that occurred consistent with their
39 training, that that would be an appropriate
40 process, and it's certainly something that's
41 reinforced in the training, that after -- like for
42 example, in the scenario-based training sessions,
43 when they fire the cartridge if they do deploy
44 one, they go through the process of removing the
45 probes and collecting the filament, and that
46 process you described is what they're trained to
47 do.

1 Q Now, moving on to actual training --

2 MR. HIRA: And I wonder whether, Mr. Giles, we can put
3 Exhibit 61, which are the training materials given
4 to Officer Millington, before the witness. And
5 I'm going to start with what I believe is Exhibit
6 61C, Mr. Commissioner. It should have a circled 3
7 on it at the top right-hand corner, entitled "CEW
8 Course Version 13, Electrical."

9 Q Do you have that, officer?

10 A I believe so, yes. It's the RCMP slides related
11 to the electrical portion of the training.

12 Q Thank you. If you could go to the second page,
13 and with reference to the first slide and also
14 looking at 61D, the third slide, what training do
15 you give the officers regarding the electrical
16 effects of these devices in relation to other
17 commonly used or available electrical devices?

18 A 61C, which is part of the handout material.
19 There's three slides per page. It's page number 2
20 indicated by the RCMP. I believe slide 1 is the
21 one we're referring to, which is entitled
22 "Electrical 101." It talks very specifically
23 there on a number of points about the fact that it
24 is not voltage that is dangerous with electricity.

25 So a good example is that we would use on the
26 course and that was used, Mr. Commissioner, was
27 that if in this case Mr. Hira came across the room
28 towards me today and touched me, I might receive
29 an electrical shock by way of static electricity,
30 which is 30,000 volts. So the 30,000 volts is not
31 dangerous by way of the electrical shock. But
32 conversely, the plug on the wall that would be
33 pointed to in the classroom with 110 volts can be
34 a life-threatening event subjected to that
35 electricity. So that's where we drive through
36 training in support of the slides, that it is the
37 amperage that we need to be concerned with.

38 It then goes on from there to talk about
39 while the CEW's peak arcing voltage is technically
40 50,000 volts, that the -- and to stay specific, I
41 think, to the device that we're speaking of today,
42 the X26, the peak voltage that the body would
43 receive is actually only 1,200 volts. But again,
44 the key being the volts is not dangerous. And we
45 actually take the officers to what the critical
46 issue, which is the joule rate and we talk to
47 them, again keeping specific to the X26, that the

1 amount of joules that are delivered to the body
2 is -- .36 is what is technically there at the
3 device, but what I actually am experiencing on
4 each of the opening and closing of the circuits --
5 because of course the electrical information --
6 energy isn't continuous. It opens and closes --
7 is .07 of a joule.

8 And then we tie that to an automated
9 defibrillator that are often found in courthouses
10 and public venues for the average person with no
11 training to be able to stimulate the heart if
12 there's a cardiac care issue. Those devices are
13 putting out approximately 150 to 400 joules. And
14 then we talk to the officers about the fact that
15 the need for that high degree of electrical energy
16 on the defibrillator is so that it can penetrate
17 the core of the body and stimulate the heart
18 muscle appropriately, but that that's not what
19 we're trying to do with the CEW, and that's why
20 there's a safety margin built into the safety of
21 the CEW by way of it putting out a much lower
22 joule rate.

23 So tying that all together, why, based on the
24 medical information that we've got, we don't
25 perceive this for officers when they're assessing
26 the risk of its use, of being potential for
27 causing cardiac care problems, so in other words,
28 causing a heart attack. That's how most people
29 would put that together.

30 Q And the message -- is this a fair statement by me
31 that the message that you are trying to impart to
32 the officers is that the CEW is a safe device,
33 one; two, that it is --

34 THE COMMISSIONER: I think you should let the officer
35 answer questions. You're just leading him on
36 every piece.

37 MR. HIRA: All right. Let's deal with it another way.

38 Q What is the message that you're trying to impart
39 to your trainees?

40 A Well, we're looking at the section that
41 encompasses medical information. But
42 specifically, I think, to the issues at hand, what
43 we're delivering to the officers is that the
44 electrical energy that they're transferring from
45 the device to a person they're dealing with does
46 not present a risk of causing the person to have a
47 heart attack, to cause a cardiac care issue for

- 1 that person, based on the medical information that
2 we have, that it should not cause any issues for
3 the person in relation to their ability to
4 breathe, so respiration, but that the -- as I've
5 talked about before with the other counsel, that
6 there is risk medically for secondary injuries
7 from falls, strain injuries, pulled and torn
8 muscles, ligaments, those sort of issues. So
9 there is a medical risk but it has to be kept in
10 context. And then that builds as we carry on
11 through the training in these other areas; it's
12 linked back to this portion.
- 13 Q All right. So the medical risk is confined to
14 physical injuries rather than internal, cardiac,
15 breathing injuries; is --
- 16 A Yes.
- 17 Q -- that a fair statement?
- 18 A That the medical risk is low.
- 19 Q Thank you. Now, I note in the second slide in
20 Exhibit 61D that you say that Taser devices are
21 the most extensively studied non-lethal weapons.
22 Now, the Commissioner asked you a question about
23 this during your examination in chief. What do
24 you teach your trainees about the lethality or
25 lack thereof of the Taser?
- 26 A Specifically to the issue at hand, what we tell
27 the officers is, is that as part of what we're
28 covering with them as far as what's the basis or
29 foundation for which the RCMP is telling that the
30 device is medically safe, consistent with the
31 information we just talked about, for example,
32 that this is the most extensively tested device as
33 far as the risk that it presents to people, out of
34 anything that we carry. So there's been more
35 testing done on conducted energy weapon systems in
36 relation to the health risks that they present
37 than there has been on baton strikes, traditional
38 control tactics, oleoresin capsicum spray, baton
39 or impact rounds, or firearms specifically. So
40 it's extensively -- it's an extensively tested
41 device medically and that the RCMP is --
42 endeavours to stay on top of the latest research
43 so that we ensure that when we're giving them the
44 tool and training them on it, that we give them
45 accurate information.
- 46 Q All right. Now, I'd like to move to another piece
47 of training and that is repeated applications.

1 And for that purpose I'm going to refer you
2 further into 64D. I'm going to refer you to
3 page 4.

4 A Sorry, 64 or 61, sir?

5 Q Sorry, I beg your pardon, 61D, page 4.

6 A 61D? Thank you.

7 Q Now, there are two slides that deal with repeated
8 applications on that page; is that correct?

9 A That's correct. That would be slide number 1 and
10 slide number 2 specifically on that page.

11 Q And you've given us some evidence that they're
12 given some warnings about repeated applications.
13 I'd like you to tell us what training, if any,
14 they receive as to when repeated applications are
15 permissible.

16 A When repeated applications are permissible --

17 Q Yes.

18 A -- is based on their assessment of the risk in the
19 specific circumstance they find themselves in. So
20 the call that they're at, Mr. Commissioner, they
21 assess the information that they have and assess
22 the risk before them. They make the determination
23 that it's appropriate to use the CEW, that if they
24 use it more than once, that it is to accomplish
25 their goal of getting the person in control and
26 restoring a degree of calm or order to the event
27 that they find themselves in, that if they're
28 needing to exercise force to facilitate control,
29 that it's somewhat out of control.

30 And so as a result, if they need to do
31 more -- as I stated earlier, if they need to do
32 more than one application to accomplish that, that
33 just as they have to be able to articulate the
34 reasonableness of their first use, they have to be
35 able to articulate and explain why additional use
36 was present or was appropriate.

37 And so again we go into examples with the
38 officers, such as that concept of you fire the
39 device at me, I go down, officers move in to
40 handcuff me, I begin to fight or resist, it would
41 be appropriate for a second deployment. You're a
42 lone officer, you deploy the device, I'm
43 immobilized or incapacitated or stop whatever
44 action that made it appropriate for use. At the
45 end of the five-second cycle I choose to stand
46 back up and re-engage or re-escalate my behaviour,
47 that it could be appropriate for an additional

1 deployment yet again.

2 Q All right. I'm going to put to you some evidence
3 that you gave at a trial, the matter of *Regina v.*
4 *Russ Hannibal* -- the evidence that you gave was on
5 November the 18th, 2004 -- and ask you whether
6 this continues to be your view of the matter. I'm
7 going to put two questions and answers to you [as
8 read]:
9

10 Q The training obviously contemplates
11 multiple uses of the Taser.

12 A Potentially yes.

13 Q There is nothing inherently wrong in
14 that?

15 A No, it's entirely situational based on
16 the officers' ability to justify their
17 actions.
18

19 Firstly, were you asked those questions and did
20 you give those answers?

21 A Yes, I did, Mr. Commissioner, and I would agree
22 with that opinion to this day and think it's
23 consistent with what I've been saying.

24 Q Thank you.

25 A Multiple applications can be permissible if the
26 situation dictates the need for them.

27 Q Now, you, on your first deployment of the Taser,
28 used it multiple times in the field; isn't that
29 correct?

30 A I used it twice, once successfully, once
31 unsuccessfully. So two deployments, so it would
32 be a multiple deployment, yes.

33 Q Thank you. And in that case -- and we're going to
34 get to that in a moment -- was the person armed
35 with any weapons or tools?

36 A No. The person was not armed, Mr. Commissioner,
37 with any weapons or tools.

38 Q What behaviours, what physical behaviours did the
39 person engage in that caused you to deploy your
40 Taser?

41 MR. KOSTECKYJ: With respect, I'm not sure that this
42 officer's decision to deploy the Taser is relevant
43 to the determination as to whether it was
44 reasonable for the officers we've got under
45 consideration to deploy in the circumstances.

46 THE COMMISSIONER: Well, it's a long connection. Is
47 there other times when he didn't use the Taser

1 twice and is there some other officer who used it
2 three times or not at all? I mean, where does
3 this go?

4 MR. HIRA: I think you will find the fact pattern here
5 of some significance. I appreciate that it all
6 depends on the officer's perception. But the
7 behaviours exhibited on this first deployment may
8 be of some assistance to you.

9 THE COMMISSIONER: Well, I'm going to rule against you
10 on this, Mr. Hira.

11 MR. HIRA: Well, can I state for the record what I
12 anticipate the evidence to be?

13 THE COMMISSIONER: Yes, go ahead.

14 MR. HIRA: I anticipate this officer's evidence to be
15 that the person was unarmed, raised his hands up
16 to the hip/chest level and made a move towards
17 him, at which point he deployed the Taser.

18 THE COMMISSIONER: I have the greatest of confidence
19 that that will be part of your questions when you
20 get to your statement of assumed facts.

21 MR. HIRA: Thank you.

22 Q Now, you were examined regarding noise and the use
23 of a Taser.

24 A Yes, that's correct, Mr. Commissioner.

25 Q Is there a particular slide that instructs the
26 officers about the noise or the lack thereof with
27 respect to the effective and proper deployment of
28 a Taser?

29 A There is a PowerPoint slide that relates to that,
30 Mr. Commissioner, and there's a video clip that
31 relates to that as well that's played. And I'm
32 sorry, I can't just off the top of my head find
33 them, but if I'm allowed some time to look through
34 the material, I would be able to find it.

35 Q Well, the difficulty is that in Exhibit 100, that
36 is the materials that you brought, some of the
37 slides are vetted. So let me try it another way.
38 Is there a specific slide that reads, "Silence is
39 golden"?

40 A Yes, there is.

41 Q And what do you tell the officers regarding that?

42 A We go into some depth, as I did earlier. But to
43 try to put it into a sentence, that if you can
44 hear the device -- like so a cartridge deployment,
45 you press the trigger, it deploys, and you can
46 hear the noise particularly at the device, so that
47 cackling sound, I think was the word I used

1 earlier, that that indicates that you're not
2 getting electrical transmission or closing the
3 circuit at the person, that if you don't hear any
4 noise, that reasonably -- assuming the device is
5 working, that there hasn't been a complete failure
6 of the device -- that the person is experiencing
7 the effects of the electricity and that that
8 audible sound should be matched with what you're
9 seeing visually. So some visual stimulus to match
10 up with that.

11 So if you can hear the device cackling, that
12 it likely means it is either at best intermittent,
13 or if -- more likely, completely failing.

14 Q And in terms of the visual stimulus in a stressful
15 situation, how much reliance do you teach the
16 officers to put on visual stimulus rather than the
17 noise?

18 A In fairness to the officers, I don't know that we
19 break it down as to a greater degree of value of
20 one than the other, but in totality in relation to
21 use of force is your observations are always
22 critical for your assessment, so what you're
23 seeing versus maybe other senses.

24 Q And you say that you play a video in regards to
25 the slide, "Silence is golden." What does that
26 video generally depict, without going into any
27 excruciating detail at this stage?

28 A Mr. Commissioner, it's not in the same portion of
29 the training. It's later when we look at a series
30 of operational deployments that have been
31 captured. And in one of the deployments, the
32 officers are using the device. So they draw it,
33 they fire it, it makes no effect on the person
34 because the probes don't connect. The device can
35 be audibly heard making that arcing or clackling
36 (sic) noise, and at the same moment you watch the
37 person turn and create distance from the officers
38 because they're not under the effects of the
39 electricity, and it's to again draw that point
40 forward that if you can hear the noise, in this
41 case on the videotape, and you see what the
42 reaction is of the person.

43 And then it generally also comes up again
44 when we do the voluntary exposure portion where
45 the officers are exposed to the device. We'll
46 attach it to body armour. And while body armour
47 does not stop the effects of the CEW, in some

Gregg Gillis

Cross-exam by Mr. Hira (for Cst. Kwesi Millington)

1 cases it does cause some degree of interruption of
2 the electricity. So if we do it to five or six
3 officers, generally we will find one that the
4 electrical energy is not able to transmit through
5 the vest. So the officers are able to see their
6 classmate standing there with limited to no
7 effects. The person describes the effects
8 afterwards, but they're able to hear audibly. And
9 we stop at that point and reinforce that teaching
10 point that's already been covered twice in the
11 training.

12 MR. HIRA: Mr. Commissioner, I'm going to move to
13 another series of slides. I note the time. I'm
14 happy to keep going. It's your choice obviously.

15 THE COMMISSIONER: Yes, it looks as if we're still
16 making some progress along the way. All right,
17 then, two o'clock.

18 MR. HIRA: Thank you.

19 THE REGISTRAR: The hearing is now adjourned until 2:00
20 p.m.

21
22 (WITNESS STOOD DOWN)

23
24 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
25 (PROCEEDINGS RECONVENED)

26
27 THE REGISTRAR: The hearing is now resumed.

28
29 GREGG GILLIS, a witness,
30 recalled.

31
32 THE COMMISSIONER: Yes, Mr. Hira.

33 MR. HIRA: Thank you, Mr. Commissioner.

34
35 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
36 KWESI MILLINGTON, continuing:

37
38 Q Now, before we go to Exhibit 61E, during the
39 course of training officers, do you speak about
40 your operational experience with a Taser?

41 A Yes, Mr. Commissioner. In some cases I do, but
42 it's not part of a set lesson plan. It would be
43 only if questions were to come up from the class,
44 for example. Then I may share a personal
45 experience. But generally -- generally not.

46 Q Let's then move to 61E for a moment, slides 3
47 and 4 on page 1 of 61E, lower lethality force and

1 officer injury. Are those the slides?

2 A Yes. Those on the document I'm looking at are the
3 second and third slide respectively on that page.

4 Q Sorry, second and third slide. I beg your pardon.
5 What training do you give your trainees regarding
6 those two matters? What do you tell them?

7 A Well, the second slide that is basically a
8 statement that --

9

10 A concept of planning and force application,
11 which meets operational objectives, with less
12 potential --

13

14 With there being emphasis on "less potential."

15

16 -- for causing death or physical injury than
17 conventional police tactics.

18

19 -- is a definition that comes from the National
20 Tactical Officers Association in relation to
21 trying to talk about less lethal weapon systems
22 and the deployment of those weapon systems.

23 So what we do is we go over that slide, we
24 read it, as we just did there, and then go into
25 greater depth with the officers in talking about
26 the concept of wherever possible trying to
27 formulate a plan in relation to the use of a force
28 application, so the application of force, and that
29 there's an operational goal where your goal is
30 generally to take the person into custody or
31 restore some degree of control to the event, and
32 to try and choose options or tools that provide
33 for less potential for causing serious injury or
34 the death of the people that you're dealing with.
35 That's always the goal.

36 And that what we try to look to, as directed
37 by the Oppal Commission, is to try and find new
38 methodology, new tools that take us to a level
39 where we can help reduce injury then the
40 conventional police tactics of days of old, if you
41 will -- when I started, sort of the pile on the
42 person and fight with them.

43 Q So when responding to a call of, say, somebody
44 damaging property, perhaps throwing things around,
45 would one of the things that is part of the
46 planning process that an officer should consider
47 is whether or not to take a Taser with him or her?

- 1 A That would certainly be part of the planning
2 process. The minute you're dispatched to a
3 complaint or information such as you've suggested
4 is provided to me, Mr. Commissioner, I begin my
5 risk assessment process and start to think about
6 potential outcomes to the call and what potential
7 options I might have to resolve that, which of
8 course would mean that if I needed to have
9 additional support resources, police service dog,
10 or in this case I needed to bring a specific tool
11 with me, to make sure that I had one.
- 12 Q What about this reference to conventional police
13 tactics? What does that mean?
- 14 A Conventional police tactics is -- for example,
15 when I started in policing we didn't have OC
16 spray, we didn't have CEWs, we didn't carry
17 expandable batons on our belt.
- 18 Q Yes?
- 19 A So the conventional tactics were if you were faced
20 with a person that needed to be controlled
21 physically, that you had to do that by grabbing
22 hold of them and fighting with them, which often
23 resulted in a higher likelihood of injury. Or, if
24 it was something that you could not resolve by
25 going hands-on, if you will, with the person, that
26 your only other option was at that time your
27 service revolver, and the outcome of that was
28 often serious injury or death if a gunshot was
29 involved.
- 30 Q So just dealing with that slide, less potential
31 for causing death or physical injury than
32 conventional police tactics. Are you trying to
33 suggest that this device is to be resorted to
34 prior to, in conjunction with, or after
35 conventional police tactics as you've described
36 them?
- 37 A It's based on your assessment of risk specific
38 to -- so the situational factors that you find
39 yourself in. But we accept that there is less
40 risk to a person if I try to control them or stop
41 their actions by spraying them with OC spray than
42 walking up and physically fighting with them.
43 Conversely, because we're talking now about the
44 CEW training, that there's less potential for
45 injury if I use the CEW on the person than there
46 would be if I drew out my police defensive baton
47 and had to strike the person with that, or resort

1 to the more conventional tactics of grabbing the
2 person, fighting them to the ground, and having
3 some lengthy physical altercation with them trying
4 to get them under control.

5 So the goal being that, as we've received
6 direction from society through things like the
7 Oppal Commission, talking about the gap of how we
8 responded as part of that, is that we try to
9 employ tools that allow us to reduce the risks to
10 persons we're dealing with, the public, and the
11 officers, and in this case specifically the CEW.
12 So yes, the CEW has value over conventional
13 tactics such as fighting with somebody physically.

14 Q And the next slide, can you tell us how it follows
15 the first slide and perhaps expand on it and what
16 you tell your officers with respect to the next
17 slide and the slide that follows on page 2.

18 A Well, the next slide, which talks about reduced
19 officer injuries by stopping -- and injuries to
20 suspects by stopping threats at a distance, is
21 talking again about that concept of resolving
22 potential issues where injury can result -- so
23 fighting with someone -- so rather than stepping
24 in and fighting with them hand to hand, is using
25 distance and deploying tools that allow you to
26 stop the person's behaviour and control it and
27 reducing the injury to yourself and thus directly
28 reducing the injury potential as well to the
29 person you're dealing with, and by adding
30 distance, giving you greater time for assessment.
31 So again, the example of using my OC spray. I
32 can -- if I can make contact with that and it's
33 appropriate to use in the environment, I can use
34 that at distance and it takes, in most cases, away
35 the orientation of the person to fight. But it
36 depends on pain stimulus. It depends on them
37 getting contacted in the face, and I have to have
38 the correct environment.

39 The CEW allows me to contact a person at
40 distance and immobilize them and then move in and
41 control them. My baton gives me a little bit of
42 distance because it extends beyond my body, but I
43 still have to close in to that in close proximity
44 distance.

45 So the distance being critical. Then the
46 second part of that is reducing injuries. There's
47 less chance of injury from using the CEW versus

1 striking a person with a baton, for example. And
2 if we reduce the risk of injuries to suspects,
3 then we equally are able to help reduce the risk
4 of injury to officers.

5 Q And that's the training?

6 A Yes.

7 Q And the slide that follows --

8 A Yes?

9 Q -- emphasizes those points, does it not?

10 A Yes. It talks about how the CEW, when appropriate
11 to use in conjunction with lethal force, is a
12 better option. It's extremely effective. So the
13 CEW is the only tool that gives us the ability to
14 incapacitate or immobilize somebody through a
15 cartridge deployment when it works properly. So
16 when we compare it now as opposed to what we have
17 been talking about, intermediate weapons, control
18 tactics, for those higher level calls where
19 potentially your firearm could be used, is that if
20 it's tactically appropriate and safe to do so, the
21 CEW can be advantageous for reducing the risk,
22 clearly, to suspects, in that case as opposed to
23 using lethal force such as your firearm, and that
24 it can be safe in a number of situations. It
25 builds on the training. We'll talk to them
26 further and stimulate further discussion about the
27 environments where it might be safe and
28 appropriate to use a CEW where your OC spray may
29 not be appropriate.

30 Q Can you tell us about some of the environments
31 that you raise that in in the course of your
32 training.

33 A Well, we talk about refreshing them and getting --
34 drawing out from them because it's participatory
35 -- where are some locations that you wouldn't use
36 OC. So for example, in this room, if Mr. Sheriff
37 was having a problem with me, he would not want to
38 use his OC spray because there's the potential for
39 cross-contaminating other people in the room.
40 There's the potential for leaving the room
41 unusable for a period of time until it dissipates,
42 and then equally with the HVAC system drawing the
43 OC resin out of the room and contacting other
44 people in the building.

45 So the environment may dictate the removal of
46 an option for an officer. So in that case, the
47 use of the CEW in this environment might be

1 appropriate if he's not faced with things
2 like right now one of the impacts to him for using
3 OC -- his CEW or Taser would be that I'm blocked
4 in a number of areas here by the witness booth
5 that I stand in.

6 So we talk about how the environment dictates
7 it but that again, that the CEW, because of the
8 means by which it works in cartridge deployment,
9 for causing the person to be immobilized and fall
10 to the ground and not having to simply be able to
11 get the product in the person's face, that it can
12 be highly effective and thus appropriate for use
13 in those cases where the officers assesses the
14 risk, assesses the situational factors and deem
15 that that's an option for use.

16 We also talk about the fact that because
17 you're able to deal with the person at distance,
18 it makes it safer for that person and for the
19 officers, as I've discussed before. And like our
20 OC spray, like our collapsible baton, the device
21 is relatively easy to maintain.

22 Q Okay. So I gather from that the instruction is
23 that in a closed room, in a room with the
24 potential of people being present, you recommend
25 the CEW rather than the OC spray?

26 A Yes, because -- you just touched on another area
27 that would be critical for an officer's assessment
28 and the CEW brings specifically to the call, is
29 that I can target and isolate the person I'm
30 dealing with with the CEW in a cartridge
31 deployment, where with OC spray, because it is an
32 olfactory type of tool, the risk of cross-
33 contamination is high, especially if I don't
34 contact that person, where the CEW can be limited
35 to the person you're specifically trying to apply
36 it to. So it brings some advantages over other
37 tools.

38 Q Now, you also give them some training -- and I'm
39 more interested in the training with respect to
40 the push stun mode -- with respect to areas for
41 deployment; is that correct?

42 A Yes. We talk about areas that the RCMP does not
43 support or suggest that the CEW should be used on.

44 Q Let's talk about areas that it suggests that it
45 should be used.

46 A All right. We talk about areas that are designed
47 to focus in and around primarily the core of the

1 body and the legs and the arms, so the
2 extremities, staying away from the head area, and
3 talking about nerve massing points.

4 So if I had a choice in relation to where I
5 was going to apply it on a person's arm, I'd want
6 to go to the radial nerve point which is closer to
7 the elbow, the goal being to try and stimulate the
8 nerve tissue there to get maximum effect for some
9 degree of motor dysfunction but also to allow me
10 some forgiving in relation to the use of the
11 technique. So if the person pulls their hand
12 away, there's a degree of lower risk, in other
13 words it still contacts their arm. But if I
14 contact their hand, limited effect because of the
15 nerve massing area and if they pull away, lost
16 effect. Equally, by going higher, if I was to go
17 to the shoulder or the upper bicep, the person
18 potentially turning away and having it contact
19 their face. So that would be one of the reasons
20 that we'd want to look at the arm in totality as
21 an acceptable target, try and target in around the
22 elbow.

23 Q Do you give them any training in circumstances
24 where the arms are not accessible and the only
25 part that's accessible is the back area?

26 A Then in that case, the area that would be
27 suggested, Mr. Commissioner, would be up around
28 the scapula area of the upper body, because again
29 generally what you're trying to do if that area is
30 being exposed to you is to try and get the person
31 under control by handcuffing, and that can be an
32 effective area again for a degree of motor
33 dysfunction, for getting the arm behind the back,
34 reducing the risk of contacting the face area, and
35 staying away from the kidneys.

36 Q By the scapula, are you referring to the
37 shoulder --

38 A Upper shoulder.

39 Q Upper shoulder?

40 A Yes.

41 Q The deltoid area?

42 A Yes.

43 Q Now, do they receive any training with respect to
44 accountability? And in that regard I would direct
45 you to Exhibit 61G, pages 8 and 9, with respect to
46 the X26 download capacities.

47 A Yes. I'll just give a moment for people to get to

1 the same pages that you and I are on, sir.

2 As part of the training specific to the
3 X26 -- but the same information is covered off on
4 the M26 training as well, which is part of the
5 course --

6 Q Yes?

7 A -- is we review that this device, unlike any other
8 device that we have, actually has a memory chip on
9 board that will record certain data in relation to
10 the use of the device. So specifically to the
11 X26, I think you've already heard the information
12 in more detail, but that it records the usage, the
13 duration, indicates the time and date that that
14 occurred, gives an ambient temperature for the
15 device, that sort of thing. And then
16 additionally, things like the AFIDs that come off
17 the cartridge can assist with identifying the
18 specific cartridge that was fired, Mr.
19 Commissioner, where it was fired if you're in the
20 area we're recovering those. So there's a number
21 of tool-specific issues in relation to
22 accountability that we talk to the officers about
23 just so they're aware that the device has those
24 systems on board, and it just leads into a further
25 discussion about accountability in relation to
26 reporting and our own duty in relation to any use
27 of force, to document and report that and ensure
28 supervisors are aware of those sort of issues.

29 Q Thank you. Now, I'd like to deal with something
30 that you said in the course of your examination in
31 chief with Commission counsel. You made a comment
32 that multiple uses are considered to be a marked
33 departure from the norm or something to that
34 effect.

35 A Yes. Multiple uses -- to be clear, I think what
36 we were talking about was greater than two --

37 Q Yes?

38 A -- was not the norm, and if you were to take the
39 aggregate number of deployments, most deployments
40 are, when you look at the RCMP reporting data, by
41 and far a large number of them don't even actually
42 see the trigger pressed. So there's a large
43 number that see compliance with the tool being
44 presented, a warning being issued, some sort of
45 communication, much like the Interlake, Manitoba,
46 video that I think was also referenced earlier.
47 That then, when we actually look at the

1 deployments, whether it's a cartridge deployment
2 -- and I'll stick to that one initially here --
3 that the majority of cartridge deployments are one
4 to two deployments with a lesser number being more
5 than that. So it's lesser. So it's not uncommon
6 but it's lesser in the aggregate.

7 In relation to use in push stun mode is that
8 generally more than one deployment is required but
9 not -- it generally is around one or two, and it's
10 a bit of a change from the norm if there was more
11 than that. So it's not surprising that you will
12 get more than two, but it's not the norm for -- if
13 you were to say just in a general sense, how is it
14 used? Generally it is used in a cartridge
15 deployment one to two times --

16 Q Per -- ?

17 A -- incident.

18 Q So generally it's used one to two times in a
19 cartridge deployment per incident?

20 A In a general sense, yes.

21 Q And if subsequent to that it needs to be used in a
22 push or drive stun mode, you've seen it generally
23 used one to two times --

24 A Yes, that would be --

25 Q -- in that mode?

26 A That would be accurate if you were combining the
27 two in a dynamic event.

28 Q Is there any slide that you can point us to in
29 your materials that talks about the marked
30 departure from the norm?

31 A No. Because that's just a degree of information,
32 I guess, that's become available to me since 2007
33 as a result of my role of reviewing all the
34 reports that come in within B.C.

35 Q So that's not a training thing; it's a review
36 matter?

37 A Well, yes and no. When we talk to the officers
38 about multiple deployment, we talk to them about
39 the optimum or best case scenario would be
40 obviously no deployment, but if it went to the
41 point of deployment: deployment, have it work to
42 put the person to the ground, and potentially take
43 the person into custody during that five-second
44 cycle. But that we accept that they may need to
45 use it more than once, but they simply need to be
46 able to make sure that they can explain what was
47 happening specific to that situation as to why

1 that was occurring. So in other words, to clearly
2 document that in their reporting and to explain
3 that to their supervisor.

4 Q All right. Now, you gave some evidence about the
5 training that you give to your officers -- again
6 I'm dealing with the push stun mode -- which is to
7 pull the trigger and apply the device.

8 A Yes.

9 Q Is there any practical training or practical
10 matters that you've observed in the course of the
11 training as to whether the officer keeps his or
12 her hand on the trigger in those circumstances?

13 A In the training, because the environment is not as
14 stress-inducing as an operational deployment,
15 generally speaking the officer will apply -- so
16 activate the device by pressing the trigger, apply
17 the device in training, and then pull it back and
18 safe the device, so it occurs within that five-
19 second cycle. What's going to be different in
20 relation to an operational deployment is going to
21 be the dynamics of the event that they find
22 themselves in.

23 So for example, if they push the device in
24 and get almost immediate results that they're
25 seeking, then it would be reasonable that it would
26 come off and be shut off before the five seconds
27 was up. But if they're pushing it into the person
28 and it's not having the desired effect, it would
29 be reasonable to expect their finger to stay on
30 the trigger and the deployment to maybe last
31 longer than the five-second deployment.

32 Q And the physical act of driving the Taser into a
33 person, does that have any -- or driving it down
34 into a person, a person on the ground, does that
35 have any effect, based on your experience, as to
36 whether or not officers take their fingers off the
37 trigger?

38 A Oh, yes. The dynamics of the event, Mr.
39 Commissioner, would -- they could affect that, or
40 things, again, at the human performance level that
41 cannot be trained out of us as people. So if as
42 the officer was activating the trigger and pushing
43 in, they lost their balance for a moment and
44 instinctively put their other hand down and closed
45 it, you're going to get what's called postural
46 imbalance. As I close this hand involuntarily to
47 try and brace myself, that it's going to cause the

1 equal reaction on the other side of the body for
2 postural imbalance. And I can't -- that's not a
3 training issue. It's a physiological issue as
4 people. If I deliberately am reaching and
5 grabbing something with this hand and my finger
6 isn't indexed up on the frame but it's down in
7 around the trigger guard area, that it will cause
8 my hand, as this hand closes, this hand to
9 compress and press the trigger. Again, that's a
10 sympathetic nervous response. So as one portion
11 of my nervous system is giving direction to motor
12 control on one side of the body, an equal to a
13 lesser degree but still present degree of action
14 occurs with the hand on the other side, especially
15 if it's in a similar position, to close.

16 So those can be issues that would, for
17 example, an officer not consciously pressing and
18 releasing the trigger, but if they've pressed the
19 trigger and at the same moment they grab with the
20 other hand, it would cause their hand to close and
21 remain on the trigger, for example. So those are
22 two examples from a physiological standpoint.

23 Equally, the officer is pushing it forward
24 and tensing their arm so the concept of pushing
25 in, or I think the term you used was driving it,
26 again, if the finger is already on the trigger, it
27 would cause that involuntary closing of the hand.
28 That's one of the reasons with firearms and in
29 this case the CEW, because it's of a similar
30 nomenclature, because officers are trained to keep
31 their finger indexed up on the side of the frame
32 of the device away from the trigger guard and
33 trigger area, so that when those issues happen, if
34 they haven't made a conscious decision to move
35 their finger to the trigger, to manage the risk of
36 an inadvertent pressing of the trigger, be it a
37 firearm or in this case a CEW. Once the officer
38 has made the decision, though, to move the finger
39 to the trigger, if it's already there, then it
40 would reasonably cause that hand to remain closed
41 until the officer consciously released it.

42 Q Now, the synaptic nervous system. We've heard
43 some evidence regarding that from Sergeant
44 Fawcett. Do you give any training as to the
45 effects of stress on the ability to remember and
46 the effect that the stress has on, for example,
47 keeping your hand on the trigger, so to speak?

- 1 A Do we have a specific section on that in the CEW
2 training? No, we do not.
- 3 Q Yes?
- 4 A That is covered with the officers, though, in
5 their basic training and it's covered during the
6 firearms training and it's covered when they go
7 for what's called block training, when they go to
8 the Academy for their -- in this province when
9 they go to Chilliwack, B.C., to our training
10 academy there, for their use of force update to
11 training, it's covered off in those areas. So
12 it's introduced to them at the academy, so they
13 have a knowledge base of it, and then it's
14 reminded or refreshed for them at a number of
15 points throughout their training or their career.
- 16 Q And what specifically is introduced to them?
- 17 A Well, the concepts of -- because you've kind of
18 touched on a very broad area, so I'll try and --
- 19 Q Please.
- 20 A -- summarize it. Talk on the area about memory
21 distortion, so the concept of what the forebrain,
22 or our memory centre, remembers in relation to an
23 event as we're going through it and our ability to
24 recall it just after the event versus information
25 that's midbrain. So as the stress levels increase
26 and I start to react, I'm assessing information
27 that's coming at me about certain skill sets. So
28 for example, the skill that I've already developed
29 in relation to finding my service pistol to
30 establishing my grip, removing the safety
31 mechanisms on the holster, drawing and pointing
32 the firearm -- all that has been instilled at a
33 deeper level than conscious, so I don't
34 consciously think about I have to grab the pistol,
35 I have to do the following physical steps to
36 release it. In this case I have to draw the CEW
37 or I have to move my finger to the trigger to
38 press it. Those are more automatic because the
39 forebrain is doing the assessment about whether or
40 not it's appropriate and how I'm going to manage
41 the risk. So there'll be difficult --
- 42 Q If I may interrupt.
- 43 A Yes.
- 44 Q Does the term "muscle memory" come into play
45 there?
- 46 A That's -- yes, that's what we're talking about is
47 through a degree of drilling or practising, you've

1 created a degree of muscle memory through prior
2 practice or learning. So the body responds when
3 it's appropriate based on your judgment. For you
4 to do that skill set, it automatically responds
5 with that muscle memory.

6 So two issues would happen. The first is
7 that if you're being hit with a number of sensory
8 effects in relation to managing a very quickly
9 unfolding event, that your movement to the trigger
10 when it was appropriate and pressing the trigger
11 and maybe staying on the trigger longer as you're
12 pushing the device in -- because I think that's
13 the example you're using --

14 Q Yes.

15 A -- is reasonable that it would stay on there for
16 longer than three seconds or five seconds. It
17 would come off once your assessment was that there
18 was no longer a need for that to occur. Then that
19 same muscle memory would kick in as that you
20 withdrew the device, your finger would come up
21 consistent with your training and stop the press
22 on the trigger.

23 So that's the muscle memory and the actual
24 event portion. And then the secondary part of
25 that is that your ability to recall that event
26 immediately after with accuracy is going to be
27 somewhat impacted by whether you were operating
28 completely with your forebrain or fore and
29 midbrain. And that's based on the research of
30 Dr. Bruce Siddle, Dr. Alexis Artwohl and others.

31 Q Now --

32 A It's a sports psychology issue. I guess it's the
33 reason that Olympic rowers not only continuously
34 will practice the event of rowing but will also
35 visualize rowing. It's because the mind doesn't
36 know the difference between a training event and
37 the actual event. So anything that you developed
38 as a set core base of skills for performance will
39 be called upon whether it's the real thing or a
40 training event.

41 Q Yeah, I sometimes have that --

42 THE COMMISSIONER: Except my golf swing.

43 MR. HIRA: I was thinking of my cross-exam skills, or
44 examination skills.

45 Q Now, you refer to Boyd's loop, and I'd like -- I
46 didn't quite understand what you were getting at,
47 but perhaps you could explain to me what you meant

1 by that in the context of somebody with greater
2 experience.

3 A Something happens as a stimulus that I perceive,
4 so there's the -- I guess lack of a better term,
5 the observation of the stimulus. And then there's
6 the categorizing or the establishing what it is.
7 So something draws my attention, a sound,
8 something I see, something I feel. I then
9 categorize that in relation to compartmentalizing
10 it. Something's hot. I've touched the stove, I'm
11 getting stimulus, and I tie that to being
12 something hot. And then I create a reaction or
13 formulate a plan to try and alter or deal with
14 that stimulus. And then from there, as I
15 implement the plan I assess it to see whether or
16 not it's working appropriately, and then if it
17 isn't, then adjust it, and then I'm back up to the
18 point where I'm still receiving stimulus and the
19 whole situation starts over again as I'm managing
20 the issue. So touching the hot stove, realizing
21 it's hot, pulling my hand back from it,
22 potentially at that point I've managed that risk.
23 If it's something that I need to deal with the
24 stove, turning that off and then managing the new
25 information, the fact that I've got a burn.

26 So if I have no basis of experiential
27 learning from that previously, my reaction time to
28 correcting or avoiding the problem in the first
29 instance is going to be impacted. If I have a
30 greater degree of experience, so I've experienced
31 that same or similar situation a number of times,
32 my ability to assess and make the correct decision
33 or more appropriate decision will be improved
34 slightly by that prior experiential learning.

35 So if I have a whole battery of options to
36 choose from in relation to flying an aircraft for
37 changing the direction of the aircraft, using the
38 flaps, adjusting the engine speed, whatever the
39 issue may be, that if I've been through it a
40 number of times before and know that I'm going to
41 likely be more successful by altering flaps than
42 throttle, then I will immediately likely go to
43 that and make that split-second decision slightly
44 quicker, just because I have that degree of
45 experiential learning. And I might make what some
46 would argue at a later time is a -- well, it's a
47 different decision. Some might say it might have

1 been the better decision for the circumstance.
2 Q So essentially what you're saying is the more
3 experience you have with a particular matter, the
4 more likely you are to make --
5 A Different decisions.
6 Q -- different decisions, or perhaps, based on your
7 experience, better decisions?
8 A Or perhaps the same decision.
9 Q All right. Now, you gave some evidence that
10 applying the Taser in a push or drive stun mode
11 into the arm area, that is the crook of the arm,
12 should cause the fist to relax or the arm to
13 relax. Do you recall that?
14 A Yeah. And to clarify, it's the outer area, so the
15 radial nerve massing point.
16 Q Yes.
17 A And if I stimulate that it will cause some degree
18 of relaxation in my ability to consciously control
19 motor movements in unison. But to be clear, it
20 wouldn't just cause my hand to open.
21 Q Fair enough. And similarly, applying the Taser in
22 a drive or push stun mode to the deltoid area
23 should have some effect on the arm; is that
24 correct?
25 A Yes.
26 Q Causing --
27 A It would cause some degree of impact on the motor
28 nerves -- sorry, the motor groups in relation to
29 the muscle in that area, taking away my ability to
30 consciously resist in a coordinated fashion your
31 ability to manipulate or move my arm.
32 Q In that context, you were also asked by my friend,
33 Mr. Kosteckyj, about spasm or lock-up.
34 A Yes.
35 Q And you said that there is some instruction given
36 that Tasers cause -- and I may have this wrong --
37 a person to spasm or lock up. What exactly did
38 you mean by that? And after I hear that, I'll
39 proceed to the next question regarding that in
40 push stun mode.
41 A Well, when we're talking about a cartridge
42 deployment mode, Mr. Commissioner --
43 Q Yes.
44 A -- the electricity causes neuromuscular disruption
45 so of course the electrical circuit opens and
46 closes. It pulses. And so what that does is when
47 it's affecting the motor groups it causes them to

1 contract and relax. So that might be perceived
2 as -- I think the word that was used was spasming.
3 Okay? Or it equally can be perceived as causing a
4 person to lock up. So that's why you have to look
5 at the observations. So some people when they are
6 affected by the CEW -- to be clear, in a cartridge
7 deployment mode; we're getting neuromuscular
8 disruption -- may bring their upper body in
9 together and tense and may appear to be relatively
10 stagnant with a minor degree of shaking of their
11 arm, almost like a person straining to lift
12 something heavy.

13 Or in other cases their body may shudder a
14 bit depending on their reaction to the electricity
15 and how much of that electricity is having a full
16 effect for neuromuscular disruption.

17 Q All right. What about in push stun mode? Is that
18 spasming or locking up as you've described to be
19 expected or --

20 A To a much lesser degree because you're localizing
21 the contact point of the electricity only about an
22 inch and a quarter apart because it's travelling
23 between the two ends at the very end of the CEW or
24 at the end of the cartridge, depending on whether
25 there's a cartridge attached. So you're
26 localizing the electrical stimulus to the body
27 only in that very immediate localized area. So if
28 it was a very stagnant sort of event and we were
29 looking, we might see some spasming or twitching
30 of the muscles in and around that location. So on
31 the arm, for example, if you contact the radial
32 nerve, you might see that to a certain extent on
33 the bicep, maybe the tricep, but you certainly
34 wouldn't see it as an overall body effect and it
35 would be very difficult to distinguish if the area
36 being stimulated was covered by a jacket, for
37 example, or by a pair of pants.

38 Q All right. So the spasming or locking up is in
39 the area or the length covered by the contacts:
40 in push stun mode, an inch and three-quarters; in
41 probe mode, by the difference between the probe
42 locations?

43 A In probe mode, because you have a wider degree of
44 spread, you're getting an overall body effect with
45 neuromuscular disruption. So that's why you would
46 see a more observable effect in totality on the
47 person's body. When you're using it in push stun,

- 1 the electricity is very limited just to that
2 immediate area that you're contacting, so the
3 observable effects to motor groups or muscles
4 would be very close to the area you're contacting.
5 You'd have to be very focused to see it.
- 6 Q Thank you. Would you agree with this proposition,
7 and is this proposition a part of your training,
8 that the CEW may be used to subdue individual
9 suspects who resist arrest or are combative?
- 10 THE COMMISSIONER: We're just talking about the -- we
11 already have that on the board, don't we?
- 12 MR. HIRA: I suppose. I was just trying to be careful
13 and thorough. But if it's on the board, it's
14 there. I'm not going to go any further with it.
- 15 Q Now, after a deployment in probe mode, what should
16 an officer do with respect to the safety, if
17 anything?
- 18 A So the safety to arm or disarm the device?
- 19 Q That is, I've used the CEW in probe mode.
20 Presumably the safety has got to be moved to off.
21 That is --
- 22 A Yes, when I decide to reholster the device. Yes.
23 I just wanted to be sure that when we talk about
24 safety, we're talking about on the device, the
25 manipulation of a mechanical device as opposed to
26 the concept of safety.
- 27 Q We're talking about the manipulation of the
28 device, the mechanical device on the instrument,
29 the safety switch.
- 30 A The officer has deployed the CEW in cartridge
31 deployment mode --
- 32 Q Yes?
- 33 A -- determines that the person is controlled and
34 there isn't further -- or is going to transition
35 so there isn't a further need for the CEW at that
36 point, then prior to returning it to the holster,
37 part of that function would be to safe the device
38 prior to holstering.
- 39 Q Thank you. And that's part of the training?
- 40 A Yes.
- 41 Q Now, you were asked by my friend, Mr. Kosteckyj,
42 with respect to CAPRA, which is at the centre of
43 the IMIM.
- 44 A Yes.
- 45 Q And with respect to clients --
- 46 A Yes?
- 47 Q -- the term "clients," in an airport setting, for

1 example, responding to a call of property damage,
2 a disturbance at an airport, could you tell us who
3 the client or clients would be in those
4 circumstances?

5 A There's a number of them. I don't know that I'll
6 capture every one on the exhaustive list, but just
7 doing a quick risk assessment --

8 Q Yes.

9 A -- would be -- the clients would be the general
10 public, so persons that find themselves in this
11 case at the airport to pick up family, friends;
12 people who are actually using the airport, so
13 those people flying in or out of the airport, so
14 direct clients; other persons who may find
15 themselves in the airport area during the course
16 of their employment, a person dropping off a
17 rental car, a person sent by an employer to pick
18 somebody up; the staff that work at the airport,
19 whether that's direct staff in the form of YVR
20 employees in this case or whether it's somebody
21 who works for a taxi company, somebody who works
22 for a tour agency, any of those people that
23 conduct business at the airport; additional
24 partners or people who are not specifically,
25 again, employees nor clients or people that are
26 using the airport, but people like CBSA, the
27 Immigration staff, the cleaner, anyone that finds
28 themselves in that area through the course of
29 their employment; and of course, the people that
30 I'm specifically dealing with. So when I get
31 there, if it's one individual, that individual is
32 a client. If that individual is specifically
33 engaged with another person -- so two people
34 arguing over the hockey game prior to leaving,
35 those two people are the primary people I'm
36 dealing with that resulted in the call. But
37 there's all those surrounding groups that I've
38 talked about. The two people are clients. If
39 one's more aggressive towards the other, they're
40 still both clients. But all that greater user
41 group are all clients. Those are all people I
42 have to be concerned with along with anybody that
43 could reasonably -- who isn't there but could
44 reasonably find themselves arriving there or
45 coming or going from there.

46 Q In other words, it isn't focused on just one
47 person --

1 A No.

2 Q -- the person that you're dealing with?

3 A It's totality. Everyone except for yourself and
4 other police officers.

5 Q Now, let's talk about the purposes of probe mode
6 and the purposes of push stun mode. The
7 Commissioner has asked questions of Officer
8 Baltzer and again you with respect to what is the
9 purpose of probe mode. In particular, is it
10 confined to taking down -- putting the subject
11 down on the ground? Is it?

12 A Well, that's part of it. The goal is to
13 immobilize the person and get them to the ground
14 to carry on to the next phase, which is the arrest
15 and control portion. But while the person's on
16 the ground, it could still be appropriate to
17 deploy the device in probe mode, so in other words
18 if it was still connected, to press the trigger a
19 second time, or to reload and refire a cartridge
20 potentially because it's going to be driven by the
21 situational factors.

22 So I'm presenting a behaviour that makes it
23 appropriate for a person to use the CEW on me or
24 the Taser in cartridge deployment. It works
25 effectively, I fall to the ground. I pull my arms
26 underneath my body and refuse to release them.
27 Two officers come forward and try to pull my arms
28 out, or a lone officer, can't do that because I'm
29 in a stronger position skeletally and from a
30 muscle standpoint. So you the operator choose to
31 press the trigger a second time to cause
32 neuromuscular disruption, to disrupt my ability to
33 lock my arms and all my muscle groups to do that,
34 so that that other officer can facilitate bringing
35 my hand out, applying a handcuff, and securing the
36 handcuffs.

37 So in one case, the first example in our
38 unfolding situation, completely appropriate to
39 fire it in probe mode to immobilize me and get me
40 to the ground. Second, now I'm on the ground,
41 arms underneath me, officer can't complete the
42 arrest process of handcuffing, it could be
43 appropriate for you to press the trigger a second
44 time to facilitate that final portion of arrest
45 and control.

46 Q All right. What about in push or drive stun mode?
47 Is the purpose there different than probe mode, in

1 particular taking somebody to the ground?

2 A In push stun mode --

3 Q Yes?

4 A -- on initial contact if I'm standing, we would
5 not train nor would I expect the reaction to be
6 that if a person was contacted by a CEW in push
7 stun mode while standing, that it would cause them
8 to fall to the ground. If it did, it would be a
9 psychological reaction versus a physiological
10 reaction. So touching me with the device while
11 I'm standing is not going to cause neuromuscular
12 disruption and is not going to cause me to
13 involuntarily fall to the ground.

14 So the goal with probe mode is to goal
15 reorient through pain stimulus, and the benefit
16 over other tools or other techniques is that it
17 gives me a degree of localized control over those
18 motor groups, as we've discussed.

19 Q That's the goal in probe mode?

20 A No. In push stun --

21 Q Yes.

22 A -- when I'm pushing.

23 Q So it's designed to be used when a person's on the
24 ground?

25 A Primarily, yes.

26 Q And that's the training?

27 A Yes.

28 Q Okay. To help get the handcuffs on?

29 A That's one of the reasons that you could use it,
30 yes.

31 Q Now, you also gave evidence in answer to Ms.
32 Roberts' questions that the police are taught to
33 operate differently than the general public when
34 the police are in an operational setting. What
35 did you mean by that? You gave one example and
36 that is keeping an arm's length away. Are there
37 any other visual or physical things that the
38 police are taught to do differently than a member
39 of the public?

40 THE COMMISSIONER: Well, I don't know how you can
41 answer a question like that.

42 A Maybe I can help because I'm not -- to be
43 specific, I'm not talking about tactics when I say
44 that. I think in answer to Ms. Roberts' question
45 -- maybe if I use a different example.

46 Today at lunch if any of us went to the bank
47 machine, anybody in the bank, i.e. somebody

1 robbing the bank, would have perceived us as
2 another customer coming to use a bank machine.
3 When a police officer in a uniform walks towards
4 that bank to withdraw money same as any other bank
5 client, to go for lunch, that person, because of
6 that officer's uniform, perceives them
7 differently. And so as a result, that's what we
8 teach officers in relation to a situational
9 awareness, that when they're on duty, they have to
10 be aware of what they're doing. And equally, as
11 part of that, it means that normal social
12 interaction, how close I would stand to a person
13 to engage in conversation, whether it's a person I
14 deem to be directly involved in an investigation
15 with or otherwise, that I take into consideration
16 the role that I'm in in society, and so as a
17 result I alter my behaviour slightly but not in an
18 aggressive fashion.

19 Q What about visual cues? Is there some difference
20 in training?

21 A We teach officers to be a little bit more aware of
22 their environment, to assess risk visually and
23 give them through their training a concept of
24 taking them from, if you will, citizen at Wal-Mart
25 to police officer, to observe certain factors and
26 to understand what that might be an indicator of
27 in relation to what the person that they're
28 dealing with may be experiencing or how they may
29 act.

30 Q I'd like to deal with CEW failure for a moment and
31 some evidence that you gave at the study phase of
32 the inquiry. At that time you said the following,
33 and I'm at page 74, Mr. Commissioner, lines 4 to
34 18:

35
36 The other issue that we spend some time
37 talking to them about --

38
39 And this, I gather are your trainees.

40
41 -- is what makes this device different from
42 most of the other techniques or tools that we
43 have, is that when I deploy this device in
44 cartridge deployment mode, and it works -
45 because it doesn't work 100 percent of the
46 time; it fails 20 percent of the time to
47 work, which is one of the things we do talk

1 to them about - but when it works, it takes
2 away the person's ability to control
3 themselves as they fall to the ground.

4
5 Sorry, I've only read up to line 13. Does that
6 continue to be your evidence and position?

7 A Yes. When the CEW is deployed in cartridge
8 deployment mode and it works, it generally brings
9 the person to the ground. If the person doesn't
10 fall to the ground, that would be into that 20
11 percent range of not desirable or what we deem as
12 fully effective.

13 Q Thank you. And that's part of the training?

14 A That's correct. Officers are taught that and
15 there's significant discussion about that, Mr.
16 Commissioner. The goal being that they have
17 confidence in what they're using but they
18 understand that it, like all tools that we have,
19 is not perfect.

20 Q Now, at page 42 of the study phase of the inquiry,
21 you gave the following evidence between lines 25
22 and 28:

23
24 ...we can't look at just one point in
25 isolation. We have to look at the total
26 response of the officers and the situation
27 that they had to deal with specifically
28 around that specific event.

29
30 Firstly, does that continue to be your position?

31 A Yes.

32 Q And is that something that you train your officers
33 with respect to?

34 A Yes. They'll be judged on the totality of the
35 event and all the situational factors, not just
36 one isolated moment in time.

37 Q In dealing with the use of force, is it a linear
38 analysis, a frame-by-frame analysis?

39 THE COMMISSIONER: I thought he just said it was the
40 totality.

41 A Yeah.

42 MR. HIRA: That's fine. I'm happy with that. Mr.
43 Commissioner, those are my questions on training.
44 I would appreciate if the officer could come back
45 one morning at everybody's convenience just to
46 deal with --

47 THE COMMISSIONER: All right. Thank you. Now, any

1 other questions on the training?

2 MR. BEAUBIER: Thank you, Mr. Commissioner. My name is
3 Beaubier. I am counsel for Constable Rundel.

4 A Yes, sir.

5

6 CROSS-EXAMINATION BY MR. BEAUBIER ON BEHALF OF
7 CONSTABLE GERRY RUNDEL:

8

9 Q I have a couple of questions, and I'd like you to,
10 if you can, help me with the, I guess, definitions
11 of the term "cover officer." That's contact and
12 cover officer. If you could address those two
13 concepts in terms of the training of these
14 officers.

15 A Your Honour, the RCMP trains at the academy and
16 then we build that into the additional tactics
17 training throughout the officers' careers, a
18 concept of what's called contact and cover, and
19 it's the theory that when we arrive at a
20 complaint, that much like today, one person
21 speaking to me at a time is much better than
22 everyone speaking to me at once. So if one or
23 more officers arrives at a call, that one officer
24 will deal with the person, take on the contact
25 role, will be the primary party to engage, and
26 that the other officer will take up a position as
27 a cover officer and will not generally intervene
28 in the call or the interaction while the contact
29 is dealing with it until there's a natural sort of
30 turnover phase.

31 So an example might be that the contact
32 officer deals with me, talks to me, asks me for
33 identification and that sort of thing, a grounds
34 for arrest is established and tells me that I'm
35 under arrest and then says, "And at this time the
36 other officer is going to handcuff you and search
37 you. Could you turn around for us, please." And
38 I comply with that. Once the other officer, the
39 cover officer, steps forward and applies the
40 handcuffs, that officer then takes over the role
41 of cover and would talk to me, asking me if I had
42 anything sharp in my pockets, for example, and
43 would engage me, and the roles would change at
44 that point. It's a concept to try and allow for
45 one person, when there's multiple officers at a
46 call, to engage the person. Generally if we can
47 try to do it that way, it's either the first

1 person on scene or the lead investigator,
2 whoever's going to take the file, tries to take on
3 that role.

4 But it's -- we accept that we work in a grey
5 area and so as a result it's fluid, and that can
6 change during the event. So if, for example, I
7 was dealing -- somebody was -- a contact officer
8 came and was dealing with me and there was a
9 breakdown in the communication. The officer was
10 asking me for my identification and I was refusing
11 to produce it because I wanted to know why it was
12 being asked for, and the cover officer was to say,
13 "Well, because you're in an area here and this is
14 the rationale for why we as the police are seeking
15 your identification," and I naturally move to that
16 officer and said, "Well, okay, I'll talk to you
17 because you're reasonable. I don't like this
18 other" -- and made some indication I didn't want
19 to deal with the other officer. To keep the
20 natural flow of the investigation and to manage
21 the risk, the other -- the contact officer may
22 revert and allow the cover officer now to take on
23 that lead role. So it can move back and forth
24 dynamically depending and being driven by the
25 event.

26 In a general scope, though, one officer will
27 be the lead on the investigation and the other
28 officers arriving will provide support or cover to
29 that officer. And one of my primary roles as a
30 cover officer is also to watch for any signs of
31 risk of assault or attack by the officer if that's
32 what's appropriate to the circumstance that we
33 find ourselves in.

34 Q Okay. And we've heard the term "triangulation" or
35 "triangulated." Do you know what that refers to?
36 An example might be if the subject in the case
37 moved or quickly moved to another location.

38 A That's, again, where you would have one or more
39 officers at the scene, one officer standing, if
40 you will, off to my left and the other one
41 standing to my right so that there's a degree of
42 space between them, that tactical positioning we
43 talked about earlier in relation to situational
44 awareness. But then, again, in the event that I'm
45 a drunk outside of the bar and I am going to
46 engage to fight with one officer, it gives the
47 other officer the ability to potentially intervene

Gregg Gillis

Cross-exam by Mr. Beaubier (for Cst. Gerry Rundel)

Cross-exam by Mr. Harris (for Cpl. Monty Robinson)

1 and stop the assault from occurring.

2 Q And would it also be used to isolate the subject
3 perhaps?

4 A It can be. You can do that to manage where the
5 person stands. Equally you can manage other
6 people in the area, that reasonably come into the
7 area, by spacing two officers at distance to cause
8 people to naturally move around that officer so
9 that they don't come between the officer and the
10 person that they're dealing with.

11 Q So the cover officer would generally be in a
12 position to be more able to look for cues or cues
13 coming from the subject themselves?

14 A Generally. It'll be somewhat driven by the
15 circumstance and the environment the officers find
16 themselves in. If I was to turn and completely
17 engage another officer and we're on a roadway
18 where it's not -- the second officer, cover
19 officer is somewhat limited in where they can
20 stand, they may move to a position where they're
21 not in as good a position to pick up on facial
22 cues, body language, but are still in a good
23 position to intervene.

24 Q And these are things that would be taught during
25 the course of the Taser training?

26 A Yes. And then when the officers go through their
27 scenario-based session, they respond to those
28 scenarios as two officers. One of them would --
29 the way the call would unfold, would become the
30 contact officer and the other one would be more
31 the cover, and then we'd reinforce that in the
32 debrief afterwards.

33 MR. BEAUBIER: Thank you, sir.

34 THE COMMISSIONER: Anybody else? Mr. Harris.

35 MR. HARRIS: Corporal Gillis, my name is Reg Harris and
36 I'm counsel for Corporal Robinson, one of the
37 officers present at the airport on that night.

38 A Good afternoon, sir.

39

40 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
41 BENJAMIN ROBINSON:

42

43 Q I've listened to your testimony. I think it would
44 be important to highlight some of your experience
45 and knowledge with respect to conducted energy
46 weapon systems et cetera, just go through a couple
47 of your experience and education in that regard.

- 1 You've had the advanced Taser instructor
2 course, M26?
- 3 A That's correct, Mr. Commissioner.
- 4 Q Air Taser instructor course?
- 5 A That's correct, Mr. Commissioner.
- 6 Q Taser technology course?
- 7 A That is correct, Mr. Commissioner.
- 8 Q You've assisted in the development of the RCMP
9 Taser user and instructor program?
- 10 A That is correct.
- 11 Q And just, can you delineate the distinction -- I
12 think it's fairly obvious in the words but just to
13 make sure we're clear -- between the Taser user
14 program and the Taser instructor program.
- 15 A The Taser user program is to train frontline
16 officers to be authorized to carry and use the
17 device. The instructor program is designed to
18 train officers who already have an instructor
19 designation to teach control tactics and other
20 weapon systems. And as part of that they're
21 trained to be an instructor on conducted energy
22 weapons and to provide that training to frontline
23 officers throughout the country.
- 24 Q All right. And you've been a lead instructor in
25 the Taser tactical operations program?
- 26 A That's correct. There's a specific training
27 program that was developed in B.C. for officers
28 involved in emergency response teams and crowd
29 control units, and there was some additional
30 training provided to those officers and I was the
31 lead instructor on that program.
- 32 Q Is that in essence incorporating principles
33 involving the use of Taser to crowd control
34 situations and emergency response team
35 deployments?
- 36 A That's correct. So officers would initially be
37 trained as users, same as any other regular member
38 of the RCMP, and then get additional training
39 specific to those tactical duties.
- 40 Q All right. You've had personal exposure yourself
41 to the Taser?
- 42 A Yes, I have.
- 43 Q All right. You've had six operational deployments
44 as an intervention strategy?
- 45 A Yes, that's correct.
- 46 Q You've witnessed over 500 deployments in a
47 training context as an operator?

- 1 A Actually a few more than that since the writing of
2 that CV, but yes, that would be accurate.
3 Actually approximately a hundred more than that,
4 so I'm up around 600 now, I believe.
- 5 Q You've reviewed numerous conducted energy weapons
6 that have been seized by police during
7 investigations?
- 8 A Yes. So to be clear, beyond TASER International's
9 products, but the concept of conducted energy
10 weapon systems, yes. That's correct, Your
11 Honour -- Mr. Commissioner.
- 12 Q You've provided numerous opinions with respect to
13 the use of the Taser within the law enforcement
14 community?
- 15 A That's correct, Mr. Commissioner.
- 16 Q When I say within the law enforcement community,
17 perhaps I should say first of all by law
18 enforcement officers.
- 19 A That is correct.
- 20 Q You've also provided expert opinion and conducted
21 research on the use of the Taser?
- 22 A That is correct, Mr. Commissioner.
- 23 Q You've completed ten expert reports for various
24 levels of courts on the use of conducted energy
25 weapons?
- 26 A That is correct.
- 27 Q You're in an ongoing consultative process with
28 CPRC national working group on conducted energy
29 weapons?
- 30 A I was when the group was actively looking at the
31 research. That paper has been completed. The
32 work's been completed and the paper is going for
33 publishing.
- 34 Q And what is that group, please?
- 35 A It was a group of people brought together, Mr.
36 Commissioner, by the Canadian Police Research
37 Centre to look at the existing bodies of research
38 surrounding the use of CEWs, and as part of that
39 they consulted persons like myself in the field at
40 various points for opinions or information.
- 41 Q And you've as well made presentations to the
42 office of the Chief Coroner with respect to the
43 use of the Taser?
- 44 A That is correct.
- 45 Q Or CEW, pardon me. As well, sir, you have
46 testified as an expert on the use of force by
47 police officers and the training that police

- 1 officers receive in various levels of courts in
2 this province?
- 3 A That is correct, Mr. Commissioner.
- 4 Q And your testimony has been elicited by Crown
5 counsel during the prosecution of police officers?
- 6 A That is correct.
- 7 Q And you've also testified in defence of police
8 officers as well?
- 9 A Yes, I have.
- 10 Q You still have the Exhibit 61 package in front of
11 you?
- 12 A Yes, sir, I do.
- 13 Q I have reviewed the package, training packages,
14 and I'm going to make a general statement, and
15 please don't agree with me if you feel otherwise.
16 But I notice a tremendous -- I don't want to over-
17 emphasize, but there seems to be a lot of
18 discussion about the safety in terms of the Taser
19 as a safe device.
- 20 A From a medically safe standpoint, yes, there is.
- 21 Q And that is what is communicated to the
22 officer -- is that communicated to the officers in
23 training?
- 24 A Yes, it is. We want them to have a good
25 understanding of how the device works but also
26 some of the -- correcting some of the myths but
27 also make sure they have accurate information
28 based on medical studies.
- 29 Q From a training perspective, is it important that
30 the officers that are about to use these devices
31 know that they're safe or believe they're safe?
- 32 A Yes. As it is with any of the force options that
33 we provide them.
- 34 Q And why is that?
- 35 A Well, that's part of their risk assessment. So --
36 and if an officer's going to use OC spray, for
37 example, they need to know what the medical
38 effects of that are so they can assess the
39 potential risk. Equally for what we're talking
40 about today, they need to have an understanding
41 around the safety parameters of the conducted
42 energy weapon system.
- 43 Q And when you're talking risk assessment, who are
44 you specifically referring to as maybe being the
45 recipient of risk or in a risky situation?
- 46 A All the parties involved. So it would be -- going
47 back to the previous question from counsel, it

- 1 would be all the persons that are reasonably in
2 the area from a general public standpoint, the
3 specific persons that the officers are dealing
4 with, and the officers themselves.
- 5 Q All right. I'd like you to go to 61D, if you
6 would, please, sir, slide number 2 or the slide in
7 the middle there. Am I correct, in your training
8 you don't say -- or let me put this. Do you ever
9 instruct the officers, at no time should you
10 employ the Taser or deploy the Taser more than
11 four times or five times or give a specific
12 number?
- 13 A No.
- 14 Q Do you ever do that?
- 15 A We're not prescriptive in relation to its use. If
16 the officer uses it, just to be clear, they use it
17 once or more times, they are held accountable for
18 their actions both internally and externally. So
19 as a result it's not possible for us through
20 either training or policy to completely allow for
21 every possible outcome and thus be prescriptive
22 with X number of uses is okay and when you go over
23 that that it's somehow not.
- 24 Q I see in there the words "reasonably necessary."
- 25 A Yes.
- 26 Q Do you see those words?
- 27 A Yes.
- 28 Q Can you assist us in understanding in that context
29 what those words, "reasonably necessary," mean?
- 30 A It's in the context that they understand any force
31 application as peace officers and members of the
32 Mounted Police is that they are held accountable
33 to the standards set by Canadian society, that
34 their actions should be reasonable based on the
35 totality of circumstances as to what we would
36 expect a reasonably trained police officer to do
37 in a similar set of circumstances.
- 38 Q Would "reasonably necessary" capture what is
39 required to achieve their lawful objective?
- 40 A Yes.
- 41 Q Can you give us an example, sir? As close as you
42 can to some of the facts of this matter that
43 you're aware of.
- 44 A There's a person acting in a fashion that the
45 officers deem that there's an arrest authority for
46 that person, that the situation requires them to
47 take that person into custody, that they deem that

1 there is a need for them to intervene physically
2 to control that person, taking into consideration
3 situational factors, the risk, the environment,
4 choose an option, so in this case the CEW, deploy
5 the CEW consistent with their training.

6 So an example would be -- as the officers are
7 taught not, for example, to fire it at a person's
8 face. So an example there would be that they
9 don't aim it at the person's face, that they
10 deploy the device and then take the person into
11 custody. And so as a result, now that we have
12 that very limited but basic set of core facts,
13 that if we were to say would another reasonably
14 trained police officer somewhere else in Canada,
15 if they were trained in the use of the CEW and
16 faced with a similar set of circumstances, would
17 they reasonably have responded in that fashion and
18 would that tool have been reasonable, the CEW?
19 That would be, I guess, a very quick summation of
20 how the reasonableness test would be applied.

21 And so it's the concept of using the IMIM but
22 equally the model can be used in the reverse
23 fashion, that if my actions are not reasonable,
24 they're disproportional, that the model would hold
25 me accountable for that action as well.

26 Q I want to make sure I understand you. Is a
27 component of that is the application of whatever
28 force option it might be necessary for the officer
29 to achieve their lawful objective?

30 A Yes.

31 Q Over the page, page 5, common effects of NMI. And
32 NMI is neuromuscular interruption?

33 A Yes. So cartridge deployment mode, successful
34 deployment of electrical energy, the person's
35 motor groups are interfered with so that they have
36 hopefully one of the following effects.

37 Q And you say, "Subject can fall immediately to the
38 ground."

39 A Yes.

40 Q Is that the most common response you see on a
41 probe deployment?

42 A If the device is working correctly, probe spread
43 is adequate, there's good conduction of energy,
44 that is the -- generally the expected response.
45 But that's why it says "can" and not "will." It's
46 not a definitive.

47 Q I appreciate that, sir. But I'm asking, is

- 1 that -- assuming all factors are working bang on,
2 is that the most common response?
- 3 A Yes.
- 4 Q Now, I want to ensure that we're talking about the
5 same thing. I'm talking about two components, not
6 only the falling to the ground but immediately
7 falling to the ground. Are those the two most
8 common responses?
- 9 A Yes.
- 10 Q Sir, I'd like you to turn to now what is 61E,
11 please, in the package, page 1. And I'd like to
12 draw your attention to the slide in the middle.
13 This concept of planning, how quickly can that
14 planning occur, sir?
- 15 A In a matter of seconds. It depends. It's going
16 to be driven by the circumstance the officers find
17 themselves in.
- 18 Q Can it occur in a second, depending on the
19 circumstance?
- 20 A It could.
- 21 Q I'd like you to go over the page now to page 2,
22 the first slide there, and the word "extremely
23 effective, even compared to lethal weapons."
24 What is that word "extremely" supposed to mean,
25 "extremely effective" together? What's that
26 supposed to mean?
- 27 A The point that's being driven home, I guess, if
28 you will, from that is that unlike other tools
29 that we possess, this one has a higher degree of
30 success in relation to incapacitation, cartridge
31 deployment mode, because of the fact that it
32 actually has an impact on motor control. All the
33 other tools we have, that we use, have no direct
34 control over motor function. So that's what makes
35 this one markedly different from the other options
36 we have.
- 37 Q Does the speed within which the CEW achieves that,
38 is that part of what contributes to "extremely
39 effective"?
- 40 A Yes. So an example would be the spraying of OC
41 spray, Mr. Commissioner, takes a period of time
42 for the product to take effect on me. The
43 deployment, when contact is made and that circuit
44 closes, the transfer of energy is instant. So it
45 makes it, again, markedly different, and thus your
46 question, the speed is significantly different.
- 47 Q I see at the next slide there's the Manitoba

- 1 Interlake incident, and that's an incident that
2 you use for some of your training, correct?
- 3 A For all the training, yes.
- 4 Q And in that incident, was there a language
5 barrier?
- 6 A No, there was not.
- 7 Q In that incident, was there a weapon --
- 8 THE COMMISSIONER: Well, we don't know what the
9 incident is.
- 10 MR. HARRIS: Well, the Manitoba Interlake incident that
11 was referred to by Mr. Kosteckyj where Mr.
12 Kosteckyj has questioned about the officers
13 standing for two hours --
- 14 THE COMMISSIONER: But the answer was, "I didn't know
15 he was standing for two hours."
- 16 MR. HARRIS: Oh, okay. I appreciate that but I'm
17 just -- he does have some knowledge about the
18 incident.
- 19 A If it's of assistance, Mr. Commissioner, it was
20 one of the video clips that was played in the
21 first phase.
- 22 MR. HARRIS: I'll leave that at this stage.
- 23 Q You discussed in your evidence about informing and
24 instructing officers about the data download.
- 25 A Yes.
- 26 Q That's a deliberate training module or training
27 portion that you see necessary to deliver to the
28 officers, correct?
- 29 A Yes. It's important for them to understand the
30 functioning so that, for example, if they were
31 asked in provincial court, "Does the device have
32 the ability to track or record usage," that the
33 officer knows about the tool that they're in
34 possession of and what it can and can't do.
- 35 Q Is part of that, telling them about the data
36 download information, a way of conveying to them
37 that if necessary their usage of that device would
38 be monitored?
- 39 A I guess -- yes, that would be indirectly
40 information they would acquire.
- 41 Q And they're tested on that as well? That's part
42 of their testing? For example, in the exam
43 component?
- 44 A I'd want to review the exam. I don't know if we
45 ask a specific question on the user course.
- 46 Q I hope you change the exam between classes.
- 47 A We do. And I'm trying -- but there's certain core

1 questions but they're formulated differently so
2 that -- and at different points in the exam. I
3 know that information is on our instructor program
4 but I don't know that we actually ask the user any
5 formal questions in relation to data download.
6 Q Okay.
7 A Because it's information that's for them to know
8 but they're not capable of doing the download or
9 in any way, shape or form acquiring that
10 information themselves.
11 Q I'd like to deal now with a few other issues that
12 have arisen during your examination by other
13 counsel. At one point you were asked whether or
14 not you have been an instructor at Depot. Do you
15 recall being asked that?
16 A Yes, that's correct.
17 Q Have you ever applied to go to Depot and instruct
18 there?
19 A No, sir, I have not.
20 Q And based on your qualifications, can you tell us
21 from your --
22 THE COMMISSIONER: I understand the officer teaches
23 those that instruct at the Depot.
24 MR. HARRIS: Fair enough. As long as that point's
25 realized, I don't need to go any further with
26 that.
27 Q There was questioning about the Taser warning or
28 Taser challenge, if you will.
29 A Yes.
30 Q And one of the things that you said is "if
31 tactically feasible."
32 A Yes, that's correct.
33 Q Can you explain to us how time -- or first of all,
34 does time factor into whether or not something's
35 tactically feasible?
36 A Yes, very much so.
37 Q And can you please explain to us how time might
38 factor into whether or not it's tactically
39 feasible to give a Taser challenge.
40 A Two officers standing at the side of the road
41 trying to arrest an individual. The individual is
42 merely argumentative that they're not going to be
43 arrested for whatever the offence is but does not
44 take any overt action physically, is not
45 immediately displaying that they're imminently
46 about to assault the officers, would allow the
47 officers as part of their attempt to resolve that

1 situation to draw, present and warn the person
2 that the CEW would be used if they didn't de-
3 escalate their behaviour and allow for control to
4 be established. So the timeframe there, the way
5 the event's unfolding, allows those officers to
6 consider and engage in the specific Taser
7 challenge or other appropriate verbiage.

8 A quickly and rapidly unfolding event in
9 front of an officer could preclude the ability for
10 the officer to issue the Taser challenge, so the
11 event's happening so quickly that they literally
12 draw the device, point it and have time to fire
13 it. Or it could be that it's not tactically
14 feasible. So there is a timeframe that would
15 allow for the issuing of the Taser challenge, but
16 the officers tactically determine that it's not
17 advantageous.

18 So an example of that might be, I'm facing
19 the police officers. The Taser operator is
20 standing off to my side or in a location where I
21 can't see them, and in an effort to control me and
22 immobilize me quickly chooses not to issue out the
23 verbal challenge and deploys the device. My
24 behaviour is such that it's reasonable to take
25 that level of force to establish control, but it's
26 not tactically feasible to issue out the verbal
27 challenge.

28 Q Would a language barrier be something that you
29 would expect an officer to consider?

30 A Yes, I would expect that if the person doesn't
31 understand the language you're speaking, giving
32 them a warning of a device may not serve much
33 purpose.

34 Q Sir, you've testified at length about the
35 differences between probe deployment and the drive
36 stun deployment with the CEW. And if I understand
37 you correctly -- and please feel free to correct
38 me at any time because I do get things wrong, as
39 I'm frequently told -- the drive stun works on in
40 essence a pain compliance model.

41 A Yes.

42 Q Do you agree with that?

43 A Yes.

44 Q And the effectiveness of that pain compliance tool
45 is quite -- is it the same for every subject that
46 a police officer is dealing with?

47 A No. There'd be two critical issues. One would be

1 orientation. So am I -- although my body is
2 receiving and the nerves are accepting the
3 information, if you will, that there is stimulus
4 going on, if I am not in a mindset that I perceive
5 the pain, then the pain stimulus won't have the
6 desired effect for changing or altering behaviour.

7 Equally, the other -- so not an issue of
8 cognitive awareness, but just I'm a person with a
9 high degree of pain threshold versus a person who
10 has a very low pain threshold. Two different
11 people, same tool applied, same location, all
12 factors being the same -- one person might
13 describe it as being extremely painful and one
14 person may not.

15 Q Mental state or extreme agitation?

16 A Pain stimulus will be directly -- their ability to
17 respond to pain stimulus will be directly affected
18 by that.

19 Q Will it be heightened or reduced?

20 A Reduced.

21 Q And with that, it being reduced, will that reduce
22 the effectiveness or the desired effect of the
23 pain compliance tool or enhance it?

24 A It would reduce it.

25 Q And if the pain compliance, or the desired effect
26 of pain compliance, if it's reduced, is that a
27 situation which may require more than one
28 application in the drive stun mode?

29 A Yes. It's a situational factor the officers would
30 have to take into consideration and may result in,
31 as we discussed earlier, more -- a longer period
32 of contact or more than one exposure.

33 Q Corporal, you answered questions in relation to
34 the contact and cover officer. Do you recall
35 that?

36 A Yes, I do.

37 Q And you gave an example of where there may be a
38 changing of the roles. Do you recall that?

39 A Yes, Mr. Commissioner, I do.

40 Q Would it be acceptable for an observing officer to
41 intervene if he saw behaviour by the subject that
42 the intervening officer perceived to be dangerous?

43 A So the cover officer, for example, perceives
44 something that requires him to act to protect the
45 public or protect the contact officer?

46 Q Correct.

47 A Yes, it would be.

Gregg Gillis

Cross-exam by Mr. Harris (for Cpl. Monty Robinson)

1 Q In fact, is that not the cover officer's very
2 role?

3 A That is the essence of it, yes.

4 MR. HARRIS: Thank you, corporal, for answering my
5 questions.

6 THE COMMISSIONER: Is that everyone on this aspect?

7 MS. SRIVASTAVA: Corporal Gillis, Anila Srivastava for
8 Constable Bentley.

9 Mr. Commissioner, I have no questions about
10 RCMP training for Corporal Gillis. I did,
11 however, before we move on, want to get a
12 confirmation -- perhaps Commission counsel, my
13 friend Mr. McGowan, can help here -- that Mr.
14 Butcher will be allowed to examine Corporal Gillis
15 at another time. It appears to me there are two
16 issues. One is the practical matter of
17 scheduling. But from the response to Mr. Hira
18 raising this this morning, there may be an issue
19 as to the scope of the examination as well.

20 THE COMMISSIONER: I can remember once as counsel when
21 I requested that, they said, "You're a lawyer.
22 You're here. Go ahead."

23 MS. SRIVASTAVA: I'm in your hands on that, Mr.
24 Commissioner.

25 THE COMMISSIONER: Anyway, we have to adjourn so that's
26 what we'll do. And such an opportunity will be
27 granted.

28 MS. SRIVASTAVA: Thank you.

29 THE COMMISSIONER: Now, the scheduling and so on I'll
30 leave to counsel. I can't get involved in that.
31 So ten o'clock on Monday.

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33 (WITNESS EXCUSED)

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35 THE REGISTRAR: The hearing is now adjourned.

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37 (PROCEEDINGS ADJOURNED TO APRIL 27, 2009, AT
38 10:00 A.M.)

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