

In the Matter of the *British Columbia Public Inquiry Act*

The Thomas R. Braidwood, QC, Study Commission

On the use of conducted energy weapons by
constables of police forces of British Columbia,
other than the RCMP.

Submissions on behalf of the

British Columbia Association of Municipal Chiefs of Police

May 2008

Submitted by:

Bob Rich
Deputy Chief Constable,
Vancouver Police Department

President,
British Columbia Association of
Municipal Chiefs of Police

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Executive Summary

For almost a decade, peace officers in British Columbia have increasingly used conducted energy weapons (CEWs) as an effective “intermediate weapon” capable of bringing actively resistant and assaultive subjects under control. In many situations, the CEW possesses advantages over other intermediate weapons currently available to police officers. For example, intermediate weapons such as batons, other impact weapons, and OC (“pepper”) spray are primarily “pain compliance” weapons. Police officers often face subjects who are goal-oriented, under the influence of drugs, or in a psychotic mental state making them impervious to pain. In contrast, CEWs deployed in “probe” mode cause electromuscular dysfunction, preventing voluntary muscle control, and physically incapacitate a subject without relying on pain compliance. Furthermore, the physical effects of CEWs are not long lasting in comparison to the blunt trauma of impact weapons or the extended extreme burning sensations and contamination effects associated with OC spray.

CEWs have a high rate of success in gaining compliance. Often, police officers are able to gain compliance simply by drawing the CEW from its holster, displaying a spark demonstration, or activating and aiming the laser light at the subject. In circumstances where communication skills and physical control tactics have been ineffective, and there is an immediate need to gain control of a subject who is actively resisting detention or arrest, the CEW can also be used in “contact stun” mode as a pain compliance tool. Studies have shown that when police agencies incorporate the use of CEWs, suspect injuries decline, other force options are used

less frequently, police officer injuries are reduced, and complaints against the police decline.

There are numerous incidents where police officers may have been required to resort to deadly force if the CEW had not been available to control a violent subject who was threatening a police officer or another person with grievous bodily harm or death. While it is fortunate that lives have been saved through the use of CEWs, they should not be considered as an alternative to deadly force weapons. CEWs should only be used in these situations when another officer is present to provide a lethal “over watch,” the suspect is contained, and the suspect is not actively proceeding to cause grievous bodily harm or death.

CEWs provide the ability to ensure a high level of accountability. When a CEW is discharged in “probe” mode, the cartridge expels confetti-like identification tags. These tags indicate the serial number of the device and its relative location when fired. As well, each time the trigger of a CEW is pulled, the date and time of the event are captured and can later be downloaded.

Unfortunately, several tragic deaths have occurred in temporal proximity to the application of a CEW. There is a misperception among some individuals that police in-custody deaths have increased since the introduction of CEWs. However, this is not supported by evidence. Even though CEW use has increased dramatically over the past few years, the number of in-custody deaths has remained stable. Furthermore, extensive research has not shown any causal links between the application of a CEW and a subsequent death; however, in many of the instances, the subject was exhibiting symptoms associated to “excited delirium.” This extreme mental and physiological state, typified by hyperthermia, extreme agitation, endangering oneself or others and delusional behaviour is a medical emergency. These individuals require immediate control and medical care as soon as practicable, and they may be put at risk if they are physically restrained for extended periods or if kept in a prone position.

In April 2007, the BCAMCP expressed concerns that CEWs were occasionally being deployed in situations for which their use was not originally intended. As a result, the BCAMCP called upon the Provincial Use of Force Coordinator to establish the BC Provincial Use of Force Working Group to conduct a comprehensive review of CEW use, training and policies. The Working Group developed 20 recommendations with the objective of ensuring that municipal police officers receive and maintain the highest level of training and to provide standardized protocols for continuity, documentation, and reporting of CEW use. The key recommendations are to:

- Develop a provincial CEW Instructor and Operator course training standard;
- Re-emphasize that CEW be described as an “Intermediate Weapon” and should only be considered for use when there is an imminent need to control a subject who is actively resisting lawful arrest or detention, or is “assaultive” where lesser forms of intervention have been ineffective;
- Implement training specific to the identifying and handling of subjects displaying symptoms of excited delirium;
- Implement a Subject Behaviour - Officer Response PRIME reporting template;
- Ensure standardized documentation and reporting protocols; and
- Develop a provincial standard for subject-matter expert designation.

The BCAMCP has endorsed these recommendations.

The BCAMCP acknowledges that subsequent to these recommendations several high profile CEW deployment incidents have occurred that have heightened public concern. While research and experience shows that CEWs provide a valuable force option that can save lives and reduce injuries to subjects, police officers and the public, these events accentuate the need for a thorough review of CEW training and use. The BCAMCP are open to recommendations relating to enhancing CEW policy, training and accountability; however, we advocate that any policies that place new

limits on the use of the CEW, not supported by credible evidence, would increase the risk of harm to the public, subjects and police officers.

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1.0 History of Conducted Energy Weapons

Every day police officers in B.C. are called upon to take control of violent and aggressive individuals that pose a threat to public safety. While officers are trained to always seek to de-escalate confrontations and gain compliance through communication tactics, these efforts occasionally fail and police must resort to applying force to take a subject into custody. There is no fail-safe method to effect the arrest of a non-compliant individual. Whether police officers use hands-on physical control, or have to resort to a variety of weapons, these types of incidents do not occur without a high probability of injury to either the suspect or police. As a result, the policing community is driven by a desire to identify and incorporate more effective methods of gaining control over, or compliance from, violent individuals in a manner that reduces the risk of injuries to the public, subjects and police officers. One of the latest devices available to police is the Conducted Energy Weapon (CEW).

The CEW is a device that is designed to cause temporary electromuscular disruption and physical incapacitation by overriding the brain's communication with the body, thereby preventing voluntary muscle control. CEWs use high-voltage, low amperage pulses of electricity to induce involuntary muscle contractions causing temporary incapacitation. CEWs commercially available for law enforcement are devices primarily marketed by TASER International. TASER is an acronym for Thomas A. Swift's Electric Rifle; Swift being a fictional character in 1930s science fiction books. The device was developed in the 1970s, but did not gain wide acceptance in the policing community until the mid 1990s. Today, more than 5,000 law enforcement agencies use CEWs. The most common models are the TASER M26 and X26 (IACP, 2005: 4).

The CEW has two modes of deployment: "probe" and "contact." In the probe mode, the CEW uses compressed nitrogen to deploy two small probes up to a range of 10 meters. The probes can penetrate up to 5 cm of clothing, or attach to the skin, and remain connected to the CEW through a set of wires. When the barbs strike the

subject, the device delivers an average current of 0.0036 amperes, with a peak of 5000 volts (M26) or 1200 volts (X26). (TASER, 2008: 8).

In contact mode, the electrical contacts on the CEW are applied directly onto a subject and there is a similar, but reduced, neuromuscular effect (Donnelly et al, 2002).

The Victoria Police Department first piloted the use of CEWs in Canada in 1999, when the department received an exemption from the Attorney General of British Columbia to do so. Within a year, many of the province's other municipal police agencies also began conducting pilot projects using the CEW. For example, in 2000, the Vancouver Police Department (VPD) established the VPD Less Lethal Weapon Program, beginning with a three month pilot involving 40 patrol members trained with the CEWs and the Remington 870 shotgun, another intermediate weapon capable of firing bean bag rounds. The pilot concluded successfully and thereafter CEW training became available to all patrol members.

2.0 CEWs and Use of Force

In 2000, the Canadian Association of Chiefs of Police (CACCP) endorsed the National Use of Force Framework (NUFF) (CPRC, 2007: 26). This use of force model dictates that when police officers are confronted with situations where the use of physical force may be necessary to gain control of a subject, officers are required to continually assess the level of resistance, plan a tactical response, act, and then re-assess (PUFWG, 2007).

All municipal police officers in British Columbia have been trained using this force continuum model. The NUFF identifies the following subject behaviours:

- Co-operative - the subject responds appropriately to the officer's presence, direction and control.

- Resistant (Passive) - the subject refused, with little or no physical action, to cooperate with the officer's lawful direction. This can assume the form of a verbal refusal or consciously contrived physical inactivity.
- Resistant (Active) - the subject uses non-assaultive physical action to resist, or while resisting an officer's lawful direction. Examples include, but are not limited to, pulling away to prevent or escape control, or actively attempting to escape from custody.
- Assaultive - the subject attempts to apply, or applies force to any person; or attempts or threatens by an act or gesture, to apply force to another person, if he/she has, or causes that other person to believe upon reasonable grounds that he/she has, the present ability to effect his/her purpose. Examples include kicking and punching, but may also include aggressive body language that signals the intent to assault.
- Grievous Bodily Harm or Death - the subject exhibits actions that the officer reasonably believes are intended to, or likely to, cause grievous bodily harm or death to any person. Examples include assaults with a knife, stick, or firearm, or actions that would result in serious injury to an officer or member of the public (CPRC, 2006: 26)

According to the use of force framework, when a suspect displays "passive resistant" behaviour, an officer may be required to gain control by using "soft" physical control techniques. Examples would include arm and wrist locks and applying hands-on force to subject pressure points. If the subject is actively resistant, or displaying "assaultive" behaviour, the officer may be required to increase the level of physical control by employing "hard" physical techniques. These options include open and empty hand strikes, punches, and kicks to subject target areas.

In instances of active resistance and assaultive behaviour, police officers may also be required to use "intermediate weapons" in order to gain control of a suspect. Although an officer may resort to the use of an intermediate weapon when attempting to control or arrest an individual who is actively resistant or exhibiting

assaultive behaviour, this does not imply that this level of force is always the most appropriate alternative. Prior to the use of any force option, an officer must first assess the totality of the circumstances. The appropriate response is only justified when lower levels of force are ineffective or would not be appropriate, and higher levels of force would not be justified or appropriate (Vancouver Police, 2007:9). The CEW is one of several intermediate weapons available to police. Other force options included within this category are: Oleoresin Capsicum (OC) spray, batons, and projective weapons such as the ARWEN flexible baton and "bean bag" shotgun munitions.

When officers are confronted by suspects threatening imminent grievous bodily harm or death, it is appropriate for officers to respond with lethal force. Firearms are usually required to stop deadly threats; however, baton strikes, physical force, and even objects not normally considered weapons can all be "lethal" options in deadly force circumstances where the opportunity to use a firearm is not available.

The CEW is not an appropriate force option when an officer is attempting to stop a violent subject who is actively causing, or anticipated to cause, grievous bodily harm or death. Although the weapon has often been described as "less lethal", this does not mean that it is a substitute for a lethal force option when a police officer is confronted with these situations. Even though there have been many incidents where this device has been used in order to gain control of violent individuals posing deadly threats, this is properly done only with a second officer present providing "lethal over watch" during the incident. This is required in the event that the suspect suddenly escalates the violence or if attempts to gain control of the suspect by deploying the CEW are ineffective. CEWs may be appropriate for use in high-risk scenarios but only where time, distance, cover and an absence of imminent jeopardy exists (PUFWG, 2007).

It is a common misconception that the CEW only provides a "less lethal" alternative for officers when they are confronted by threats of grievous bodily harm or death. In

fact, the device may also be used in a variety of ways to gain control over an actively resistant or potentially violent subject. The CEW has the ability to provide a continuum of several levels of force, and may be used to gain compliance by: (1) the mere presence of the CEW in the holster; (2) drawing and displaying the CEW at the "low ready"; (3) pointing the CEW at a subject with laser sight activated; (4) pointing at a subject with a "spark display"; (5) "contact" stun on the subject to gain compliance through pain stimulus; and (6) deploying the electrical "probes" and causing electromuscular dysfunction.

3.0 Tactical Communications

In 1829, when Britian's Home Secretary Sir Robert Peel established the London Metropolitan Police, he set out nine principles of policing. These fundamental principles became the core values of modern policing. One of the principles states that police should use, "physical force to the extent necessary to secure observance to the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient" (Lentz & Chaires, 2007). Today, police training incorporates an array of advanced technical and scientific law enforcement skills, yet continues to emphasize the primary objective of resolving conflict and gaining compliance through dialogue and tactical communications. The NUFF use of force continuum indicates that police officers should attempt to resolve all levels of subject behaviour through communication, even when other force options are also required. For example, drawing and presenting the CEW, coupled with tactical communications, is often a sufficient level of force to gain compliance. A recent Toronto Police Service study indicated that the presentation of the CEW without actual discharge was sufficient to resolve 65% of all CEW incidents (CPRC, 2005: 22). Similarly, an Orange County Sherriff's Office study revealed that CEWs had the highest deterrent effect of intermediate weapons in that people were less likely to resist or fight once they were aware that the device might be used (CPRC, 2005: 20).

4.0 Intermediate Weapons

CEWs are often described as “less lethal”, “less-than-lethal”, “lower lethality” and “non-deadly” force options. However, almost all devices that are considered “weapons” have the potential of being applied in a lethal manner. According to the NUFF force continuum, these intermediate weapons are placed along an escalating scale and fall between soft levels of physical force and deadly force options. To avoid misinterpretation and confusion surrounding the terminology and application of CEWs, this report recommends that these and other similar devices should only be identified and categorized as “intermediate weapons”.

Some individuals have expressed the view that police already have at their disposal an array of intermediate weapons and that CEWs are an unnecessary addition to the police officer “toolbox.” Conversely, there is a second school of thought that the CEW is a better force option than other intermediate weapons. The following describes the use and limitations of other intermediate weapons.

4.1 Oleoresin Capsicum (OC) Spray

In the early 1990s, OC spray was introduced as a new intermediate weapon available to police officers. It incapacitates most suspects by causing an intense burning sensation in and around mucus membranes (eyes, mouth, and nose) and areas of sensitive skin. It causes the eyes to tear and swell, mucus to drain profusely from the nasal passages, bronchial passages to constrict, and can cause laboured breathing (Morabito & Doerner, 1997: 681). The strength of pepper spray is related to the heat rating and quality of the source. The Scoville Heat Rating (SHU) assigns a value to each pepper. Pure capsaicin has a rating of 15 million SHU, while typical police pepper spray has a rating of 2-3 million SHU. Recovery time after exposure is based on the strength of the spray. For example, a 15% solution may require one and a half to two hours to recover, while 2% may require only 15 to 30 minutes - most police issue OC spray is at least 10% or 2 million SHU (Mesloh, et al., 2008: 138).

While OC spray can be an effective intermediate weapon, there are a number of limitations in its use. First, OC spray has a significant failure rate on individuals who are emotionally disturbed, under the influence of stimulant drugs, or goal oriented. Second, there is often the concern of cross-contamination to officers and innocent bystanders when deployed. While OC spray may not be very effective in windy and rainy conditions, its use indoors in confined areas is also inappropriate as the effects of the OC spray may linger for extended periods of time, creating a lengthy decontamination process (OPCC, 2005, 37). Third, most OC canisters have an effective range of less than three meters, which is within an effective reactionary gap that an officer may need to subdue an attacking suspect. This is concerning as the full effects of the spray are rarely immediate.

4.2 Intermediate Projectile Weapons

Projectile weapons rely on blunt trauma and pain compliance for effect. There are various projectile munitions, and benefits and risks associated with each. Range, accuracy, and type of force delivered vary depending on the munition employed. The “beanbag” type projectile, launched via shotgun, is one of the most common ammunitions. Other options include chemical agents, rubber buckshot, and solid, rubber-finned projectiles. Many police agencies use the ARWEN 37mm or 40mm grenade launcher, providing an even greater assortment of ammunition options.

A key factor with these projectile weapons is that, at close range, they have the ability to inflict severe injury or death; however, as the distance increases, the rate of injury drops off sharply (Hubbs & Klinger, 2004). In a study conducted by DuBay and Bir (2000), the mass and hardness of the projectile material were significant injury predictors. Not surprisingly, both harder projectiles and those with more mass resulted in higher injury rates. There have been a number of fatalities and serious injuries associated with the use of these weapons (OPCC, 2005: 38). Another study found that ammunition, such as the bean bag round, resulted in injuries in 80% of the instances where they were deployed. Injuries incurred usually consisted of abrasions

and bruising. Nevertheless, these munitions provide a function that other intermediate weapons cannot duplicate. For example, they are very effective at distances greater than 7 meters. Alternatively, some of the limitations are: (1) they may be difficult to deploy in indoor environments; and (2) because they rely on pain compliance, these weapons also may not be effective against goal-oriented persons and individuals displaying symptoms of excited delirium.

4.3 Batons and other Impact Weapons

Batons and similar impact weapons rely on trauma and pain compliance in order to gain control of a suspect. The primary target areas for baton strikes are large muscle masses, such as the quadriceps and arms. The ability of an officer to hit these targets with sufficient force is directly related to the success of the weapon's use during any encounter (Gervais et al., 1997). If an officer does not possess the physical strength or skills necessary to ensure that baton strikes are immediately effective, there is a greater potential that the suspect's level of resistance will increase dramatically (CPRC, 2005: 20). Therefore, these types of weapons may be inappropriate and ineffective in stopping dynamic acts of violence, especially in situations where the subject has superior physical size and strength over the police officer. Furthermore, batons and other impact weapons will typically cause injury in the form of substantial bruising at the impact site and may take from days to weeks to heal completely.

4.4 Weaponless Physical Force

Officers attempting to subdue violent subjects by relying only on empty hand physical control tactics place themselves and the subject at a high risk of personal injury. Even unarmed individuals should not be considered harmless. On numerous occasions, unarmed individuals have seriously injured or killed other persons. There have also been numerous incidents in which the subject or the police officers have been injured during the arrest of an unarmed person. Furthermore, one study found that officers using hand-to-hand techniques to subdue subjects were ineffective 29% of the time. This force options category resulted in the largest number of subject and officer

injuries (CPRC 2005:20). Even the use of multiple officers in an attempt to gain control of a violent individual can create a prolonged and dangerous struggle. Not only do these incidents often result in cuts, bruises, and muscle strain injuries to officers and subjects, the result of several officers subduing a suspect on the ground may compromise breathing, creating a potentially life-threatening situation (OPCC, 2005: 37).

5.0 Subject and Public Safety

Since the introduction of CEWs in the policing community nearly a decade ago, both independent and vendor-sponsored studies clearly indicate that the number of injuries to arrested suspects has been significantly reduced:

- Cincinnati PD reported in July 2004, that during the first six months of that year, suspect injuries dropped 40% and the use of force by other traditional means also dropped 50% (CPRC, 2005: 20).
- Another study found that of all intermediate weapons, CEWs had the highest success rate of de-escalating situations where subjects were likely to fight against being arrested (OCSO, 2004).
- A 2003 review of the Madison PD CEW pilot program indicated a significant reduction in injuries to suspects from use of force encounters (CPRC, 2005: 21).
- A reduction in injuries to arrested suspects has also been reported by the following police agencies: Austin PD (-82%); Cape Coral PD (-68%); Columbus PD (-24%); Phoenix PD (-67%); Topeka PD (-41%) (TASER, 2008: 6).
- In a 2004 study, the Toronto Police Service (TPS) was able to gain compliance in 65% of all incidents involving active resistant and assaultive subjects by only requiring a demonstrated presence of the CEW (CPRC, 2005: 22).
- The TPS 2006 Annual Report into CEW use indicates the weapon was used 174 times during the year. Once again, in 69 incidents (44%) officers were able to gain control or compliance of subjects through “demonstrated force presence” - indicating that the CEW had been drawn and aimed, or a spark demonstrated,

or the laser sighting system had been activated. Furthermore, the report also indicates that beyond the contact signature marks or minor skin lacerations from the electrical probes, there were no reported injuries to suspects related to CEW use (TPS, 2006).

Appendix A presents examples of incidents involving CEW force applications by BCAMCP member departments, where potential injuries to subsequently arrested suspects were prevented.

6.0 Officer Safety

Significantly, the introduction of CEWs has also reduced the number and frequency of injuries that police officers sustain while attempting to arrest violent individuals.

- In Cincinnati, arrest related injuries have been reduced by 70% (CPRC, 2005: 20).
- The Orange County study indicates that during the three-year study period, Workers' Compensation claims related to arrest injuries dropped by 50% (OCSO, 2004).
- Vendor-Sponsored data indicate that police officer injuries occurring during arrest have been reduced from between 23% (Columbus PD) to 93% (Cape Coral PD) (TASER, 2008:3).

Appendix A also presents examples of incidents involving CEW force applications by BCAMCP member departments, where potential injuries to police officers were prevented.

7.0 CEW Effectiveness

All force options available to police are subject to failure, and there is no risk-free or failsafe method of taking violent or resistant subjects into custody. For example, police officers can sometimes be physically overpowered; OC spray can blow back in an officer's face; during the stress of deadly force encounters, police officers can miss their intended target with their firearms; and batons and projectile munitions can be ineffective against persons who are goal-oriented, under the influence of drugs, or suffering from a mental illness. CEWs may also fail. Reasons for this include technical malfunction, an inability of the barbs to penetrate clothing, or the probes missing the intended target. Notwithstanding these types of incidents, research into CEW use indicates a high overall success rate as an effective tool in gaining control of actively resistant or assaultive subjects:

- One three-year review found the CEW to be effective in 77-95% of the cases studied (OSCO, 2004).
- The Toronto pilot study found that the CEW was effective in controlling or influencing the control process in 88% of the incidents in which it was actually used (CPRC, 2005: 22).
- The Madison PD CEW pilot concluded that in 92 CEW deployments the device was successful in producing incapacitation 77% of the time (CPRC, 2005: 22).
- The TPS 2006 Annual Report indicates the CEW successfully de-escalated 147 or 94% of the total incidents; while 9 or 6% of the total incidents required another force option to de-escalate the incident or gain control of the subject. Incidents where the CEW was ineffective were attributed to shot placement or poor conduction (TPS, 2006).

8.0 Lethal Force Alternative

Several studies have documented incidents where the life of a suspect was potentially saved because the CEW was available and appropriately deployed as an alternative to using deadly force. Again, in incidents where grievous bodily harm or death is threatened, CEW use is only appropriate when there is a second officer present who is in a position to deliver deadly force, if required.

- The Orange County study identified 18 instances during a one-year period where subjects were subdued with a CEW in circumstances when deadly force was warranted (CPRC, 2005: 20).
- The Madison PD study documented six cases where the CEW was used to subdue suspects whose actions would have justified the use of deadly force (CPRC, 2005: 21).
- Vendor-sponsored data indicate that during a six month period in Columbus Oh, 14 potentially deadly force encounters were averted; and the Phoenix PD estimates that 54% of deadly force incidents were eliminated as a result of the introduction of CEWs as a force option (TASER, 2008: 5).
- The TPS 2004 pilot study indicated there were eleven incidents where a suspect was armed with a weapon (7 knives, 2 hammers, 1 axe, and 1 ice pick), and that all had the potential to be deadly force situations (CPRC, 2005: 22).

Appendix A presents examples of incidents involving CEW force applications by BCAMCP member departments that negated the need to apply lethal force.

9.0 Officer Accountability

One of the advantages that CEWs possess over other intermediate weapons is a high level of accountability protocols. Each CEW cartridge contains 20-30 Anti-Felon Identification (AFID) tags, which are confetti-sized pieces of paper that contain bar coded serial numbers associated to each cartridge. The AFIDs can be used to indicate

the approximate location of a discharge and the CEW it was fired from. CEWs now also possess dataport time and date firing records. This built-in tracking system records the date and time of each trigger pull, and the information can subsequently be downloaded and stored for audit and court purposes. The latest generation of CEWs is equipped with the ability to capture MPEG audio and video data of incidents (TASER, 2008: 11).

Individual BCAMCP member departments have implemented, or are in the process of implementing, policies governing securing and tagging discharged CEWs, downloading the data, and increasing documentation regarding CEW deployment.

10.0 The Basis for Increased CEW Use

Public concern has been expressed that police officers are over-reliant on the use of CEWs as a compliance tool for low levels of subject resistance, or alternatively, that police reported incidents of CEW use as a substitute to a deadly force options are exaggerated. This perception may stem from the fact that CEW use by police officers has increased, while the number of police-involved deadly force incidents has remained relatively stable over the years. While some improper use incidents have occurred, police officers have generally displayed professional behaviour and used the CEW when it is the appropriate level of force. The reasons for increased use of CEWs, and a stable number of police involved deadly force incidents, may be related to a combination of four factors: more CEWs are being issued to patrol officers than before making it more likely they are available at crucial times; CEW use has increased while other intermediate weapon use has decreased; stimulant drug use has risen dramatically over the past decade; and there has been a corresponding increase in the number of “dual diagnosed” mentally ill individuals living in the community.

First, more officers are carrying CEWs while on patrol duties than before. This means that CEWs are more frequently available as a force option at scenes involving persons demonstrating resistant and violent behaviour.

Second, police officers are more likely to choose the CEW over other intermediate weapons because of the following advantages it possesses: it is not affected by the natural environment (rain, wind) to the same degree as OC spray; officers and subjects are far less likely to sustain injury using a CEW as opposed to physical force; pain and neuromuscular dysfunction are short-lived, whereas impact weapons often leave deep bruising that lasts from days to weeks; and statistics indicate fewer complaints are filed against police officers when CEWs are used as opposed to other force options. This is not to suggest that the CEW is a force option panacea, for other intermediate weapons may be more applicable under certain conditions.

Third, the increased use of the CEW, especially in potential deadly force situations, is a reflection of the increase in the number of individuals posing a danger due to being under the influence of street drugs. Over the past decade the street drug of choice has changed dramatically. Previously, most chronic drug users were addicted to the opiate heroin, which produces a sedative effect. Today, the most common hard street-level drug is crack cocaine, which is an immensely powerful stimulant (CCENDU, 2007). Furthermore, use of crystal methamphetamine, also a stimulant, has rapidly grown in popularity and now accounts for more than 10% of illicit drug use (CCENDU, 2007). Individuals under the influence of these drugs demonstrate much more violent behavior than drug users did in the past, and the stimulant nature of these drugs allows them greater resistance to use of force applications.

Fourth, the increase in the number of individuals who are suffering from a mental illness and are on the streets without adequate care, may also partially account for increased use of CEWs. For example, Wilson-Bates (2008) indicates that in some areas of Vancouver, nearly half of all police contacts involve an individual who is suffering from a mental illness. Frequently these persons are “dual diagnosed” in that they have a mental illness and are also addicted to illicit drugs, and are often involved in criminal activity to support their habits. Anecdotal information from B.C. municipal police agencies and data from the TPS appear to support these conclusions. For

example, in Toronto in 2006 there were 153 CEW events. Of those, 97 involved a subject who was perceived to be in “crisis” and 50 events involved a subject who was perceived to have a “mental disorder” (TPS, 2006).

11.0 Excited Delirium

In many of the incidents that police respond to, subjects may be displaying behaviours typified by a combination of extreme physical exertion and a delirious state that is consistent with “excited delirium” (ED). Morrison and Sadler (2001) define ED as, “a state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, euphoria, hostility, exceptional strength and endurance without apparent fatigue.” Other medical practitioners identify ED as, “an altered level of consciousness combined with extreme physical exertion” (CPRC 2005: 36). To date, the medical community has yet to clearly define this condition or psychological state, or identify its underlying cause. Regardless of whether ED is drug induced, a result of psychiatric illness, or metabolic instability, individuals with ED may exhibit the following behaviour:

- bizarre, purposeless and violent behavior
- attraction to glass and other inanimate objects
- hyperactivity
- incoherent shouting/screaming/animal-like noises
- failure to recognize police presence
- extreme aggression
- paranoia
- unbelievable strength that may be far beyond the normal range of strength for a person
- apparent imperviousness to pain, including injuries sustained during a violent outburst
- no response to pain mediated methods of restraint
- able to offer effective resistance against multiple officers

- very hot skin
- profuse sweating or skin extremely dry for level of exertion (CPRC, 2005: 38).

Due to an array of potential underlying symptoms and causes, an individual who is in an extremely agitated state and delirious is having a medical emergency and requires immediate treatment. Dr. Christine Hall, a physician and recognized ED subject-matter expert, advises that the cause of this condition is “initially irrelevant since it can neither be investigated nor treated until the subject is contained. No therapeutic relationship can be entered with an individual who is incoherent, violent and resistive” (CPRC, 2005: 37). In these situations, the CEW is an appropriate tool required to gain immediate control of a person suffering from ED, so that emergency medical treatment can be administered at the earliest opportunity. CEW use avoids more injurious methods of intervention that would likely be required if a confrontation were to continue or escalate.

12.0 Deaths proximal to CEW use

Several high-profile incidents have occurred where an individual has died within close temporal proximity to the application of a CEW. These incidents have heightened concerns that a causal relationship exists between CEW use and the death of the subject. There has been extensive independent, governmental and vendor-sponsored research on this issue, all of which has concluded that, “definitive research or evidence does not exist that implicates a causal relationship between the use of CEDs [CEWs] and death” (CPRC, 2005: v).

Appendix A contains an example where a male appeared to be exhibiting the symptoms of excited delirium. The CEW was presented, **but not deployed**, and the BC Ambulance Service (BCAS) was called. The male was handcuffed when a second officer arrived and the handcuffs were removed when BCAS and Delta Fire personnel attended the scene. The male then went into full cardiac arrest but was revived by

the BCAS crew. (Appendix A, Compliance through presentation of CEW, Example one: Delta Police).

Regardless of whether or not a causal relationship in fact exists, the primary concern for police is to develop a response that will minimize the risk of death or injury to the subject, while attempting to gain control of a violent or actively resistant individual.

Tragically, individuals who are in the care or custody of police occasionally die.

These incidents are not confined only to policing, but also occur in prisons, hospitals, psychiatric centres, and other institutions responsible for providing care and control of individuals at risk. In relation to policing, during the past two decades the number of police in-custody deaths has remained stable. These statistics include incidents involving all types of force options including batons, neck holds, and OC spray (PUFWG, 2007). For example, one study examined 63 deaths that occurred in the United States in proximity of the subject being exposed to OC spray. This study concluded that in the overwhelming majority of cases, the deaths were due to drug use, physical disease, positional asphyxiation, or a combination of these factors (Bowling, Gaines, & Petty, 2003). During this same period, the availability of CEWs and their use has increased dramatically. For example, in Vancouver, CEWs were deployed on 20 occasions in 2004; by 2006 the number of incidents had risen to 93.

In the 1980s, positional asphyxia, caused by the inadvertent suffocation of a subject, was believed to be the common cause of subjects suddenly dying while in police custody. Subjects were often restrained in a prone position and were believed to have died from oxygen deprivation. However, after years of inconsistent studies, there is no consensus on this issue. More recent research suggests that rather than asphyxiation, the prone subject is breathing but incapable of breathing at a rate required to compensate for "metabolic excitation, leading the subject to have relative hypoventilation" (CPRC, 2005: 41).

Other research supports the position that stimulant agents such as cocaine and methamphetamine may make subjects more likely to have unusual heart rhythms. When increased adrenaline is released into the body, as a result of a nervous system response to perceived threats or struggles, the combination of adrenaline and stimulants increases the likelihood of cardiac dysrhythmia, respiratory arrest and cardiac arrest (CPRC, 2005: 41).

Excessive cocaine use is also reported to result in delirium and potential increases in body temperature (hyperthermia). Increased ambient temperature and high levels of muscle activity may combine with a person's inability to regulate body temperature, and result in extreme and potentially fatal elevations of core body temperature (Farnham & Kennedy, 1997).

Other studies suggest that individuals with histories of long term drug abuse, persons with untreated schizophrenia, and severe muscle exertion may all lead to a condition known as rhabdomyolysis - an overwhelming breakdown of muscle tissue. However, once again, medical research concludes that, "whether rhabdomyolysis has any role in sudden cardiac death proximal to restraint remains unclear" (CPRC, 2005: 42).

Finally, research has also found that in some cases where a subject has suffered a cardiac arrest proximal to police restraint, the subject had very low pH levels which would cause physiologic function to become deranged. This may be due to the presence of high levels of cocaine and other stimulants that exacerbate the effects of exercise induced lactic acidosis. As the pH levels decline the subject is at profound risk of cardiovascular collapse (CPRC, 2005: 42).

A comprehensive body of research has not established a causal relationship where CEW application has occurred proximal to subject deaths. Nevertheless, there have been a number of documented incidents where a subject has exhibited symptoms of excited delirium and has died proximal to physical restraint.

In recent reports prepared by the Canadian Police Research Centre and the British Columbia Provincial Use of Force Working Group, it is recommended that the following be considered to reduce the risk that may be associated with physical restraint:

1. Subjects exhibiting symptoms of excited delirium are having a medical emergency and need to be immediately restrained;
2. Upon successful restraint and control, these subjects require medical attention at the earliest opportunity; and
3. Subjects should not remain in a prone position and should be placed lying on their side or seated upright as soon as practicable.

13.0 Restricting CEW Use

The CPRC report *Review of Conducted Energy Devices* concludes that, "it would be unwise and counter-productive for any police service or government body to develop policies and procedures that explicitly specify in what kinds of circumstances a CED [CEW] may or may not be used" (CPRC, 2005: 27).

In any incident where police officers are faced with making an appropriate level of force assessment, there are a multitude of situational and personal factors that an officer must assess, including:

1. Suspect: size, strength, level of aggression, access to weapons, symptoms of excited delirium, indications of drug and alcohol abuse, mental illness, or suicidal tendencies, and any audible or visual cues being exhibited.
2. Officer: confidence, back up officer and other resources, mental and physical abilities.
3. Tactical Considerations: force options available and proficiency in each. Would lower levels of force be ineffective and or inappropriate? Would higher levels of force be justified and or appropriate?
4. Context of Situation - persons in proximity, dangers/hazards, etc.

The appropriate level of force is unique to each situation and individual. Some police agencies in Canada and the United States have recently implemented policies and procedures prohibiting the use of CEWs against pregnant women, the elderly, children, and handcuffed individuals. While the thought of using a CEW against these individuals may be repugnant, nonetheless, unique and exceptional circumstances may make it the most appropriate course of action. For example, a number of years ago the Victoria PD deployed a CEW against an 80-year-old man armed with a weapon threatening grievous bodily harm. If the CEW had not been used, there was a high potential that the officers would have had to resort to deadly force (CPRC, 2005: 28). The authors of the *TASER Technology Review Final Report* state, "the variety and complexity of the circumstances that may confront an officer make it impossible for any policy to encompass every possible scenario." (OPCC, 2005: 34). Concerns of causing harm to vulnerable individuals should be addressed through provincial policy and a standardized training program that incorporates cautions in relation to the increased risk of applying force options against persons with specific vulnerabilities. The CEW should only be deployed on a vulnerable person as a last resort in an exceptional set of circumstances.

14.0 Provincial CEW Policy Recommendations

In April, 2007 the BCAMCP requested the Provincial Use of Force Coordinator undertake a review of CEW policy in British Columbia. The review was requested due to concerns held by police executive members that CEWs were, on occasion, being deployed in situations for which their use was not originally intended. The force continuum has always recommended CEWs as a possible force option in cases of active resistance, or higher levels of violence. However, it is also recognized that the CEW is not always an appropriate force option choice at the active resistance, or any, level. The appropriateness of a chosen force option is dependent upon an evaluation of the total situation. Plainly stated, the CEW will be an appropriate force option in some incidents involving active resistance, but not appropriate in others.

As part of the review, surveys were administered to numerous law enforcement agencies, a literature review was conducted, and use of force and subject matter experts were consulted. A Provincial Use of Force Working Group was established and in July 2007, the group produced a list of twenty recommendations pertaining to a province-wide CEW policy. The recommendations have been endorsed by the BCAMCP, and are as follows:

1. That a provincially standardized CEW Instructor and Operator Course Training Standard (CTS) be developed by the Provincial Use of Force Working Group that:
 - a) is non-vendor-based,
 - b) includes a mandatory Reality-based Training (RBT) component (scenario) where judgment issues become central,
 - c) includes several case studies where CEW use has been found to be unjustified by the Courts and/or Police Discipline Authority,
 - d) includes restraint protocols and 'Excited Delirium' awareness, education and recommended procedures
 - e) focuses greater attention on the 'contact stun' mode of deployment than past training has, and
 - f) clearly distinguishes between a deadly force scenario and a "high-risk" scenario and how the CEW fits into these scenarios
2. BC municipal agencies adopt and implement the provincially standardized CEW Instructor and Operator Course Training Standard.
3. All operational police officers should receive CEW awareness training that includes the restraint and "Excited Delirium" component of the CEW Operator's training.
4. CEWs be described as: "Intermediate Weapons" (according to the definitions set out in the National Use of Force Framework) that should be considered for use when there is an imminent need to control a subject who is "actively resisting"

5. Eliminate counterproductive terminology including: "push" stun; "touch" stun; "drive" stun. Use the term "contact" stun only.
6. Eliminate counterproductive pre-deployment warnings like: "POLICE - Stop... or you will be hit with 50,000 volts of electricity!"
7. Ensure media liaison personnel attend CEW training.
8. Ensure operations managers attend CEW training.
9. Extend invitation to BC Ambulance Service representatives to audit CEW training.
10. Implement mandatory "Subject Behaviour-Officer Response" (Use of Force) reporting within the PRIME system (currently at the final approval stages).
11. Provide personal issue CEWs for all certified CEW operators where feasible.
12. Where it is not feasible to provide personal issue CEWs, ensure sound accountability measures are implemented to track CEW deployment.
13. Issue the X26 TASER® where feasible (increased safety, increased data reliability, more consistent power source).
14. Implement consistent post-CEW use data downloading protocols.
15. Ensure regularly-scheduled data downloading for all CEWs (suggested quarterly).

16. Ensure consistent supervisory attendance to scene where use of Force Response Option(s) results in injury or medical attention.
17. Ensure consistent provision of medical attention after every CEW deployment (actual use in 'contact stun' or 'probe' mode).
18. Ensure consistent evidence-collection procedures are implemented post-CEW deployment (data download, AFID tags, probes (haz-mat), and cartridges - collection and disposition - as appropriate).
19. Ensure consistent subject-matter expert (SME) review of all force response incidents resulting in injury or medical attention (policy, training, generally accepted use of force principles ONLY - NOT legal or personal opinion of appropriateness).
20. Develop a provincially standardized SME-designation policy in line with the RCMP National SME Policy to ensure that designated SMEs are capable and qualified to analyze force response incidents, and to ensure that they are ready to be presented to Court for 'expert' designation (PUFWG, 2007).

15.0 Conclusion

In many situations, the CEW possesses advantages over other intermediate weapons. CEWs have a high rate of success in defeating a threat, and often officers are able to effect subject control simply by drawing the CEW from its holster, displaying a spark demonstration, or activating and aiming the laser light at the subject. When used in "contact stun" mode, the device is also a pain compliance tool that can be used on actively resistant subjects, in appropriate situations. Studies have shown that when police agencies incorporate the use of CEWs, suspect injuries decline, other force options are used less frequently, police officer injuries are reduced, and complaints against the police decline.

There are numerous incidents where police officers may have been required to resort to deadly force, if the CEW had not been available to control a violent subject who was threatening a police officer or another person with grievous bodily harm or death. While it is fortunate that lives have been saved through the use of CEWs, the device should not be considered as an alternative to deadly force weapons. CEWs should be identified within the category of “intermediate weapons” - between soft physical control tactics and lethal force.

The technology of CEWs provides the ability to ensure a high level of use accountability, and the BCAMCP endorses CEW use documentation and reporting protocols.

It is recognized, and of concern to the BCAMCP and its member officers, that several tragic deaths have occurred in temporal proximity to the application of a CEW; however, extensive research to date has not shown a causal link between the application of a CEW and a subsequent death. The BCAMCP acknowledges the potential subject restraint risks associated with “excited delirium”, and advocates for processes to ensure these individuals receive medical care as soon as practicable upon their restraint.

The BCAMCP endorses the BC Provincial Use of Force Working Group’s recommendations to ensure that municipal police officers receive and maintain the highest level of training in conjunction with standardized protocols for continuity, documentation, and reporting of CEW use.

The BCAMCP considers it necessary, for the safety of both the public and the police, that the CEW be available as a force option for police officers. The CEW reduces injuries to suspects, police officers and the public, and has been shown to save lives. In light of the dynamic nature of police work, the BCAMCP also supports the conclusion of the Canadian Police Research Council (2005:27) that, “it would be

unwise and counter-productive for any police service or government body to develop policies and procedures that explicitly specify in what kinds of circumstances a CED [CEW] may or may not be used.”

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Appendix A

BCAMCP Member Department CEW Use Incidents

Compliance Through Presentation of CEW

Example One: Delta Police

In June of 2007, Delta Police officers responded to a report of a "half naked male throwing things" around in the lobby of a motel. The male was armed with a tennis racquet. Staff fearing for their safety had activated the panic alarm. Upon attendance officers were directed to an office beside the lobby where the male had entered. Officers observed the male on the floor gripping a tennis racket in each hand. The male was shaking, sweating profusely and foaming at the mouth. His eyes were blinking rapidly and he was mumbling. Officers tried to communicate with the male and give him directions to drop the tennis racquets. The male continued his grip on the rackets. Several commands were given and ignored by the male. The officer had the CEW out at the "low ready" position. The officer requested BC Ambulance Service (BCAS) to attend immediately to the motel. The officer continued attempts to communicate with the male and he admitted to using marihuana. The officer continued with directions for the male to comply and he eventually released both tennis racquets. The male was directed to move away from the tennis racquets however he was shaking uncontrollably and had a complete loss of coordination. Once a second officer had arrived on the scene, the police entered the office and handcuffed the male without further incident. Delta Fire personnel arrived on the scene for a medical assessment and treatment. The handcuffs were removed and the male received treatment from both fire and BCAS personnel. The male went into full cardiac arrest but was revived by medical personnel on scene. He was transported to Delta Emergency and then to Surrey Memorial Hospital. The male received further medical treatment in the ICU.

The CEW was not deployed in this instance but was held in the “low ready position” in case the situation escalated. The officers had the benefit of being able to call for BCAS prior to the male going into cardiac arrest and, in this case, BCAS personnel were able to revive the male.

Had this situation escalated to violence, the officers would have been occupied controlling the male and would likely not have been able to call for BCAS until the male collapsed. The delayed arrival of BCAS may have detrimentally affected the outcome of this incident.

Example Two: Vancouver Police

In February 2008, Vancouver police attended a parking lot of a commercial retail outlet during business hours. A female was yelling at passersby waving a metal pipe and threatening to throw a chair at them. Upon police arrival, the subject continued to threaten to assault the police with the metal pipe. The subject initially refused to comply with police demands to drop the weapon. One of the officers drew the CEW and pointed it at the suspect. Upon the presentation of the CEW, the suspect quickly complied and lay on the ground. The female was arrested and taken to jail. She had admitted taking “speed” earlier in the day, and appeared to be suffering from a mental illness.

In this instance, the production of the CEW caused the female to comply with police commands and prevented a physical confrontation. Any physical confrontation would likely have resulted in injuries of some sort due to the weapons possessed by the female.

Contact Stun Use of CEW

Example One: GVTAPS

In August 2008, Greater Vancouver Transportation Authority Police members arrested a male at the 29th Avenue Skytrain Station for Breach of Probation. This male had come to the attention of the GVTAPS police officers as he was in possession of an open can of beer while in public. The male was identified pursuant to the Liquor Act violation and through CPIC queries it was determined that he was in breach of his probation conditions.

This male was upset and became uncooperative. He went towards a metal mesh wall that divides the station's platform from eastbound and westbound directions, and violently struck his own head against this mesh wall, before turning and pushing back against the officer that was approaching him to make the arrest.

When the officer took hold of the male's arm, the male tried to get away by tossing the officer aside. The officer hung onto the arm and the two of them spun in a 360 degree circle 3-4 times. This took place in the 8 foot space between the metal wall and the 3 foot drop into the guideway, onto the train tracks.

The distance between the dividing wall and the guideway is approx 8-10 feet. In addition to the tracks, there are sharp metal brackets that hold the communications cables in place. The power rail that powers the train runs parallel along the wall within the guideway and carries lethal electrical current. The Skytrain was in service and the trains were running through these tracks every 4-5 minutes.

This male was wrestled to the ground and handcuffed with difficulty. Even handcuffed the male was violently struggling and attempting to kick both officers. Again, this encounter was only feet away from the active train tracks.

The male was shouting and swearing at the top of his voice. This behaviour was attracting his friends who approached the officers. The officers feared that these friends would become involved in the physical encounter as well.

One officer had to warn the male's friends several times to stay back. He produced the X26 TASER CEW and kept it at the low ready. Once convinced the friends would not interfere with the arrest, the officer turned his attention back to the male that was fighting. The male continued to fight and scream and was gaining an upper hand since one of the officers had been distracted by the friends.

The officer with the CEW elected to remove the air cartridge from the X26 unit and deliver a contact stun to the male's stomach. This caused enough of a distraction that the male was finally brought under control.

In this dangerous environment, a prolonged violent encounter increased the risk of injury or death. Although the male was handcuffed, his continued struggling and kicking was definitely dangerous to himself and the officers, given the location of the struggle. The CEW was instrumental in controlling the male, thus reducing that risk.

Example Two: GVTAPS

In August 2007, GVTAPS members observed an emotionally distraught male running through traffic along Columbia Street. The male went to the side of the road opposite the members and began yelling at them.

Without provocation, this male then ran into heavy traffic, clearly putting himself in a position to cause injury to himself, or others, due to his erratic behaviour.

Both GVTAPS members went onto the road to engage the male and prevent him from harming himself or causing a traffic accident.

Once confronted, the male began screaming nonsensical statements. He then began reaching into his pocket as he circled around a car that had stopped in the intersection to avoid running into him. By the time the male had circled the car he had removed a red tube from his jacket pocket and gripped it firmly in his right hand.

He ran directly at one of the officers with this red tube in his closed fist. He attempted to tackle the officer by bending at the waist and driving his shoulder into the officer's stomach. This all occurred in the middle of the intersection.

The second officer, who had to circle the vehicle to assist his partner, drew the TASER X26 CEW and quickly approached the male who was now struggling with the first officer. The air cartridge was removed from the CEW, as the officer did not want to risk deploying the weapon in the direction of his partner. With the air cartridge removed, the officer was able to deliver a contact stun to the male's lower back. This caused the male to cease struggling immediately and drop to the ground. He was then handcuffed without further incident, and removed to the safety of the sidewalk.

The male was in possession of two red tubes that had a beige powder leaking out. The male claimed that the tubes were sticks of dynamite that he had found at a construction site and that he wanted to "hurt himself".

The scene was contained and after the RCMP Explosives Disposal Unit attended and the red tubes were determined to be road flares. The male was transported to Royal Columbia Hospital for a psychiatric review.

The CEW was instrumental in subduing this violent male without the risk of a prolonged physical encounter. The possession of the road flares illustrates, once again, the unknown element of police work when dealing with unpredictable individuals and the need to gain control of these situations very quickly and efficiently.

Example Three: Saanich Police

In August 2007, officers were called to a high risk group home as a result of a violent, intoxicated youth assaulting a group home worker. The 17-year-old youth had a history of violence and mental instability. The youth ran from the group home when officers arrived on scene.

The youth was found hiding in the bushes a short distance from the group home. He ignored all orders from the police telling him to come out of the bushes. Officers attempted to physically bring him out of the bushes and he became combative and kicked at the officers. The CEW was deployed in the contact stun mode but did not help bring the youth under control. Other officers attended to assist and the youth continued to kick at officers, refused to follow commands and fought any attempts to get his arms behind his back. A second CEW contact stun was administered to the youth and this time the application was momentarily effective, allowing officers the opportunity to get the youth onto his stomach and his arms behind his back for handcuffing. The youth continued to be belligerent and verbally threatening during transport. There were no injuries to the youth or the officers involved.

This youth was intoxicated, violent, and apparently committed to not being taken into custody for the assault on the group home worker. Although the first contact stun was not effective, the second contact stun with the CEW did allow officers to gain control of the youth and get him handcuffed. Without the CEW, the officers would have had to use additional physical force to control the youth. It is highly likely that the additional length of the confrontation, combined with the additional force applied, would have resulted in injuries of some sort, to either the youth or the officers. There were no injuries incurred with the CEW resolution of the incident.

Example Four: Vancouver Police

In December 2006, Vancouver Police members responded to a domestic dispute involving a knife cut which had occurred in a basement suite. The members heard yelling in the suite when they arrived and pushed door, which had been ajar, open. There were 3 adults in the kitchen and one of the males was bleeding profusely from his hand. There was blood on the floor, sink, counter and door area of the kitchen. The male who was bleeding identified one of the males in the kitchen as his attacker.

The members told the male he was under arrest and to place his hands behind his back. The male turned and rushed towards the sink area. A police member could see two knife handles protruding from a plastic bag on the kitchen counter. The members grabbed the arms of the male and he began to violently resist and pull his arms away. The male ignored verbal commands to comply and continued to resist.

A police member then administered a contact stun (one cycle) with a CEW to the middle lower back of the male. The male yelled out and then complied with police commands and was handcuffed.

The application of the CEW defused a very dangerous situation for the officers. Prior to applying the CEW, they were unable to gain physical control of the male who was in close proximity to weapons and had already displayed a propensity for violence by cutting the victim.

Probe Deployment of CEW

Example One: Abbotsford Police

In December 2006, Abbotsford Police members were dispatched to a complaint of a "Home Invasion" in progress. Initial reports were that two unidentified males were directly associated to this investigation and that they were armed with weapons believed to include a firearm and large martial arts style swords.

A vehicle description and direction of flight was obtained and responding police officers soon located the suspect vehicle containing the two males. When detected by police, the males ran from their vehicle causing police members to pursue them on foot.

When confronted, one male refused to obey police direction. Despite repeated police direction, the male refused to obey commands and indicated that he was seeking an opportunity to flee the scene again.

The arresting officer had reason to believe the male was in possession of a firearm and, at the time of this confrontation, the location of the second suspect was unknown.

One of the responding officers deployed the CEW to quickly control the male and take him into custody. The CEW deployment was found to be completely effective. The male was taken into custody without further incident and a search of the immediate area located a loaded firearm.

The male suffered no ill effects from the deployment of the CEW. He was examined at hospital and found to have only suffered from the effects of the probe penetration. He was released from hospital and later admitted to police cells.

The males in this matter had extensive criminal records and both were deemed armed and dangerous at the onset of this investigation. The severity of the offence, combined with the recovery of a loaded firearm, make it obvious that this was a high-risk arrest. The deployment of the CEW resolved the situation without injuries being sustained by officers or suspects.

Example Two: Abbotsford Police

In April 2007, Abbotsford Police Department members were dispatched to a report of an "Unwanted Male". Prior to police arrival, the responding members were advised by APD Communications Staff that the male had been evicted from a nearby apartment building. He returned and began arguing with persons inside his former residence. A description was provided to police and also that it appeared that he had drugs in his possession.

The first responding officer approached the male who turned abruptly and began to confront the officer. In doing so, the male began walking towards the officer with clenched fists and he appeared to be shaking violently. The male was instructed by the officer to remain where he was. However, he defied police direction and continued walking towards the police.

As he approached the officer, the male stated that the police would have to "shoot him to stop him". He stated that he would not stop until the police killed him.

After relaying this information to other responding police units, the officer began to move back to use his marked police vehicle as a physical barrier between himself and the male. During this brief period, the officer noted that the male continued to move about and that he, at times, lost sight of his hands.

The officer pointed his CEW at the male. The subject advised that he wanted to be shot with a real gun, and not the CEW.

The officer deployed his CEW which was effective. The subject was subsequently taken into custody, searched, and placed into the back of a marked police vehicle.

The officer took custody of the male and made several observations when he transported the male to hospital for observation.

While enroute to hospital, the male related the following:

- a. that he had just been evicted from his apartment;
- b. that he had a strong desire to kill himself;
- c. that he had injected large quantities of cocaine in an effort to kill himself (needle tracks were present on both of his arms); and
- d. that he had jumped off of a balcony earlier in the day to try and kill himself.

The male admitted that he was too afraid to kill himself. Thus, he wanted the police to shoot him.

The male in this matter has an extensive criminal record. He is a known drug user with admitted self destructive tendencies. His actions were indicative of those suffering from some form of drug psychosis.

He was uninjured by the CEW deployment and was admitted to hospital for drug psychosis and mental health issues.

Given the male's state of mind and his intention to attempt to provoke the police into shooting him, this incident could very easily have escalated to a very high level of violence. The deployment of the CEW defused the situation without injury to the male or police member.

Example Three: Delta Police

In September of 2004, Delta Police officers attended a residence to assist BC Ambulance Service (BCAS) in their response to a suicide attempt. A male in the residence had tried to overdose on Valium and had sliced his wrists. The male then locked himself in his bedroom after arming himself with a knife and a pair of scissors. The police members attempted to communicate with the male and provide assurance of his need for medical care. The officers repeatedly tried to convince the male to comply with their directions so that medical assistance could be rendered. The officers breached the door to the bedroom and located the male in his closet holding a knife and a pair of scissors in his hands. The male refused to follow any directions given by the officers and maintained possession of the weapons. The officers noted that the male had already cut one of his wrists and suddenly made an attempt to cut the left side of his neck with the knife.

The CEW was deployed and the male dropped the knife. The male maintained control of the scissors and another officer used a baton strike to his hand causing him to drop it. The male fell to his knees and was controlled and handcuffed without further incident.

He was arrested and delivered to a local facility for medical and psychiatric assessment.

The CEW was a valuable force option in this incident. The fact that the suicidal male was in possession of two edged weapons precluded the officers from engaging the male using empty hand techniques without exposing themselves to an extremely dangerous situation. The deployment of the CEW, which did not injure the male, prevented him from injuring himself or the police members.

Example Four: Nelson Police

On July 19th, 2005 Nelson Police were alerted by a Mental Health Case Worker that a 17-year-old female client was severely depressed and contemplating suicide. The emotionally disturbed female was in possession of a large butcher knife which she used to cut both her forearms and wrists. Police and the Case Worker located the suspect in a local park. Police initiated a dialogue with the 17-year-old female as she walked through the park still brandishing the knife. Every time police came close to the suspect she would wield the knife in a threatening manner to keep officers at bay. After negotiating with the suspect for approximately 10 minutes the suspect turned to one of the officers and indicated that she was going to “end it here and now”. The suspect motioned with the knife in a manner that indicated she was about to stab herself in the throat. Fearing for the safety of the suspect, the second officer at the scene deployed the CEW incapacitating the female and relieving her of the butcher knife. No injuries were sustained.

The CEW was deployed to prevent the female from injuring herself or police members, there was no less violent means of force available, and an immediate and effective form of intervention was necessary to prevent personal injury or grievous bodily harm.

Example Five: Nelson Police

On November 5th, 2006 Nelson Police received a complaint of a domestic disturbance with violence. The accused had threatened his common-law wife with a metal rod and large kitchen knife. The victim managed to leave the home and contacted police. The accused has a history of domestic violence including aggressive behaviour towards police. Members attended the residence to arrest the accused for assault. When approached by police the accused began moving furniture aside in anticipation of the physical confrontation. The accused was under the influence of alcohol and told police “he was not coming with them”. When police advanced to effect an arrest the

accused picked up a steel chair and challenged the officers. Police deployed the CEW and the accused was taken into custody without incident or injury to him or the officers.

The CEW was deployed in this incident in response to the immediate threat to officer safety caused by the accused picking up the steel chair. This necessitated an immediate and effective response by police, due to their being in a small confined space within the residence to make the arrest. The deployment of the CEW also likely prevented property damage as in a similar domestic complaint involving the accused in 1997, extensive damage was caused to the victim's residence when a struggle occurred between the accused and police.

Example Six: New Westminster Police

In 2007, a New Westminster Police Service member of the Municipal Integrated Emergency Response Team (MIERT) responded to a call involving a female that had stabbed her husband and was barricaded in her basement. All attempts at negotiations had failed and a throw phone was deployed into the basement by MIERT members. A NWPS member observed the female and initiated verbal commands which the female ignored. The female stood up and appeared to be reaching for a weapon. At that time, the NWPS member deployed the CEW which impacted the female in the chest area causing her to collapse onto the floor. Other MIERT members were then able to enter the room and take the female into custody without any further use of force. This incident spanned over three hours. There were no injuries reported in the use of the CEW.

Any domestic situation involving a stabbing in a high risk call for all involved. The CEW contributed to the resolution of this incident and there were no injuries incurred.

Example Seven: Oak Bay Police

In 2004, Oak Bay Police officers responded to a call involving an intoxicated 17-year-old male whose foster parents reported that he was out of control and violent in their home. Police arriving on scene noted the male retreating up front stairs of the residence and as they approached base of stairs, they found the male seated on the porch, talking incoherently. The members requested that the male come down from the porch, at which point the male stood up and verbally challenged both members. One officer drew and presented the CEW, covering the male while another instructed him to come down the stairs. The male picked up a wine bottle and threatened both members, challenging them to come and get him. The male was told to drop the bottle. The male refused to comply and continued to challenge the officers while moving toward them. An officer warned the male that he was being covered with the CEW, and that if he refused to drop the bottle the CEW would be deployed. The male continued to refuse to drop the bottle, threatening the officers by moving toward them with the bottle held menacingly in his right hand. A member fired the CEW and the male was struck with the two darts and fell back into the porch, sitting on a bench and dropping the bottle. The two officers approached and took him into custody without further incident.

The officers were at a disadvantage due to the fact that the subject had the high ground and they were operating in a restricted space. Had they tried to charge the male and overpower him physically, at least one of the two would have been assaulted with the glass wine bottle, with potentially serious consequences to all parties. The deployment of the CEW resolved the situation and prevented injury to those involved.

Example Eight: Port Moody Police

In the spring of 2005, Port Moody Police responded to a report of a fight involving a male with a knife in the hallway of an apartment building. Police attended and located the male face down in a hallway. The male would not comply with commands

to show his hands. The male finally pulled out one hand and displayed his middle finger to the police. He then rose to his feet with his back to the police who observed a knife in his back pocket. He continued to be non-compliant with commands and walked away from police swearing at them. The male had a very agitated look on his face. To prevent him from leaving the building to a less controlled environment where he would encounter other persons, police deployed the CEW once, causing the subject to fall to the ground. He was commanded to stay still, but got up again, and pulled the knife out of his pocket. The CEW was deployed again, after which the knife fell to the floor and the subject fell to the ground. He then became compliant and was taken into custody.

Once the male pulled the knife from his pocket, the use of lethal force by the officers became a very real possibility. The deployment of the CEW incapacitated the male, without causing injury, making the use of lethal force unnecessary.

Example Nine: Port Moody Police

In the summer of 2003, Port Moody Police encountered a lone male in an underground parking lot acting in a mentally unstable manner. He was threatening to kill himself, and shouting and screaming at police to leave him alone. The male was well known to police for mental instability, his propensity to violent, unpredictable outbursts, and his tendency to carry concealed knives as weapons. As police approached the male to take him into custody under the Mental Health Act, he shattered a large glass wine bottle against an adjacent wall and brandished the jagged edge of the bottle in a threatening manner towards the officers. One officer applied the CEW, but only one probe struck the subject so it failed to subdue him. The male then held the jagged bottle to his own throat while screaming that he would kill himself. The CEW was deployed a second time and this allowed officers to gain control of the male. He was then transported to hospital for psychiatric assessment.

It would have been extremely hazardous for the officers to approach this male while he was holding the jagged edged bottle in his hand. The deployment of the CEW

prevented the male from injuring himself and allowed the police to take control of him.

Example Ten: Vancouver Police

In September 2007, Vancouver Police members attended an apartment regarding an assault. A 25-year-old woman with previously documented mental health issues had assaulted her father. The father had been hit in the face and feared for his safety. The previous records described the woman as anti-police.

The woman was in her bedroom when police arrived. She refused to come out of the room to talk to officers. Her father did not believe that she had weapons in the room but did state that she had been suffering from depression and had not left the apartment for one year.

A constable opened the bedroom door about a foot and reached in to turn on the light and the woman violently slammed the door shut. Following further negotiation, the members decided to force the door. Two members were attempting to force the door open when the woman slashed at the members with a large knife. The members retreated, contained the scene and called ERT.

During the subsequent negotiations, it was learned that the woman had swung a large meat cleaver at the members. Several hours later, the woman turned the cleaver over to police in exchange for a cigarette. She agreed to come out of the bedroom and follow commands. As she came into the hallway, ERT members ordered her to her knees but she refused to comply despite repeated commands.

The woman became loudly vocal and arched her body and arms towards the members. An ERT member deployed the CEW as he feared that the woman may re-enter the bedroom and again barricade the door. It was also unknown if she had further weapons in the room. The CEW was effective and the woman dropped to the floor and

became compliant. A search of the room disclosed several knives on a shelf in her closet. The woman suffered only minor injuries from the probes.

This is an example of a domestic situation which had escalated when the female attempted to strike the officers with a meat cleaver. Her decision to disobey commands as officers were attempting to take her into custody scuttled the attempt to negotiate an end to this situation. Deployment of the CEW prevented her from re-barricading herself, and accessing the knives in her room.

Example Eleven: Vancouver Police

In February 2008, Vancouver Police members observed a domestic dispute occurring on the corner of Georgia and Seymour. A male was bleeding from his nose and holding a female in a bear hug type of hold. The female was crying and yelling at the male to let her go. The members approached and ordered the male to release the female but he repeatedly refused to do so. A physical attempt to free the woman from the male was unsuccessful.

A member sprayed the male with OC spray but it was not effective. The male moved into a fighting stance and refused to follow commands. The CEW was deployed for a single five second application and the male fell to the ground. Although the male refused to place his hands behind his back, his arms were pried from beneath him and he was handcuffed. The male was very intoxicated and was known to have some mental issues. The OC spray began to affect the male after he was handcuffed and in custody.

BCAS attended to remove the probes and flush the males face.

In a subsequent interview it was determined that, due to his level of intoxication, the male was not aware that a CEW had been used to effect his arrest.

The CEW resolved this incident very quickly when physical force and OC spray had failed to do so. A quick resolution was required due to the proximity of the female. The OC spray failed to affect the male until after the CEW had been deployed and he was controlled and handcuffed.

Example Twelve: West Vancouver Police

In April 2006, West Vancouver Police received a 911 call from a distraught middle-aged female. The woman indicated that she had consumed an amount of liquor, possessed a desire to commit suicide and was tracing a knife along her arm. The call-taker attempted to keep the woman calm and on the line while officers were dispatched to the address. Prior to police attendance, however, the line remained open but went silent.

Failing to detect signs of activity within the suite and fearing for the well-being of the caller, the attending members, with the aid of Fire and Rescue personnel, forced entry through the front door.

Upon entry and a verbal notification, the members were confronted by the woman as she rounded a corner in the hallway, approximately six feet from the officers. The woman advanced towards the officers with a knife in her hand. She failed to heed any warning or commands from the officers. At this time, three officers were in a narrow portion of the entryway, with Fire and Rescue personnel behind them, which prevented immediate retreat.

The lead officer had removed his sidearm while a second officer removed and deployed a CEW. The woman was struck with a single application of the CEW and immediately collapsed, dropping the knife in the process. She was subsequently taken into custody and transported to a local psychiatric facility for diagnosis. She was not physically harmed from the CEW or her fall to the floor.

Due to the surprise confrontation by a woman holding a deadly weapon who refused to follow police direction, the confines of the location, and the advancing Fire personnel, the attending members were forced to immediately react. The most readily available means to stop the threat was to use deadly force; however, the attending officers opted to deploy the CEW, a means which proved very effective in this case while still ensuring the officers were able to maintain some distance from the subject.

Example Thirteen: West Vancouver

In May 2005, West Vancouver Police members were involved in a pursuit with a vehicle containing three males. At the conclusion of the pursuit, the suspect vehicle crashed into a police vehicle in an attempt to avoid apprehension.

An officer attempted to arrest one of the males, who turned on the officer. A struggle ensued and the second, and only other officer at the scene, made a decision to deploy his CEW in an attempt to quickly end the struggle, while still maintaining observations and control of the remaining males in the vehicle. A single application of the CEW resulted in the arrest of the male. Other members finally arrived and the remaining males were taken into custody, without further incident.

This incident is an excellent example of why guidelines regarding CEW use must recognize that there will always be situations that fall into grey areas, and allow officers discretion to react appropriately. In this incident, it is not the actions of the combatant alone, but rather the dynamics of the overall situation that justify the deployment of the CEW. The pursuit and sudden termination had placed two officers in a position in which one of the officers became involved in a physical struggle with a combative subject and the only immediate assistance was the second officer. Unfortunately, the second officer could not risk providing "hands on" assistance which would take his attention away from the other males. The only option for this member,

to ensure the best and immediate protection for the struggling officer, was to deploy the CEW and quickly end the actions of the combative subject. The event was resolved without harm to members or suspects.

Example Fourteen: West Vancouver

In December 2007, West Vancouver Police members responded to a domestic dispute which was reported through two interrupted 911 calls. The first call was interrupted by a male who advised there would be trouble if the police attended.

Upon arrival, the members observed an assault in progress on the front lawn of a residence. A large (300 lb) male was assaulting a much smaller, and older, male and, as described by one of the members, was "shaking the victim around like a rag doll". Due to the urgency, the officers immediately approached.

The suspect male, on seeing the police, dropped the victim and ran into the residence. Within seconds, the suspect swung the door open, screamed and ran with raised fists at the officers. The male's advance was deflected by the first officer, but he turned and advanced towards a second officer. Repeated verbal demands were ignored. Due to the size of the suspect, the observed assault, and the suspect's out-of-control and violent nature, a decision to deploy the CEW was quickly made.

The suspect immediately fell to the ground from the deployment, but quickly returned to a resistive and combative composure. Even though the members were successful in handcuffing the suspect, he continued to fight and multiple members were required to control him. The suspect continued his violent behaviour well after his arrest.

The violent nature of this incident, which is demonstrated by the extremely aggressive nature and size of the male, presented significant risk of harm to the attending members. It was felt the CEW was the most effective and safe method of bringing this situation to an end without harm to the members and the suspect.

Example Fifteen: Victoria Police

In February 2006, Victoria Police officers responded to a report that a male had smashed the front glass door of an office. The male was reported to be in possession of two knives and yelling for the police to kill him.

Officers located the male in a parking lot area and observed that he was yelling, very agitated, and holding a butcher knife in each hand. The male did not respond to the police presence or verbal commands. The officers fired beanbag rounds at the male nine times, and five or six of the projectiles made contact with his legs, upper torso, and arm; however, the rounds were not effective in disarming and controlling the male. The officers then deployed the CEW, but it was also not effective at incapacitating the male, although following its deployment, officers observed that the male's hands were now empty. The officers were then able to move in and take the male into custody. It is believed that the male had psychiatric issues coupled with alcohol consumption.

This example illustrates that a specific intermediate weapon is not always effective in every cases. Often a combination of intermediate weapons is required to be deployed, and such a strategy was eventually successful in disarming the male in this case. Officers could not approach the male while he was in possession of the knives and this could easily have escalated into a lethal force situation.