Part 1

Executive Summary and Recommendations

PART 1: EXECUTIVE SUMMARY AND RECOMMENDATIONS

A. EXECUTIVE SUMMARY

Introduction

Conducted energy weapons, for the past decade, have been used widely by law enforcement agencies in British Columbia, across Canada, and internationally. They are designed to achieve control over a subject through pain compliance (when used in push-stun mode) or through neuromuscular incapacitation (when used in probe mode).

In October 2007, at the Vancouver International Airport, an officer of the Royal Canadian Mounted Police used a conducted energy weapon (CEW) against Mr. Robert Dziekanski, who died within minutes. Public reaction to this incident was immediate and intense and, at a more general level, concern was expressed about the deployment and use of conducted energy weapons by policing bodies in British Columbia. In response to this public concern, the provincial government appointed me to conduct two separate inquiries under the new *Public Inquiry Act*.

The Commission of Inquiry

I was appointed as sole Commissioner on February 15, 2008, under the *Public Inquiry Act* to conduct a study commission to inquire into and report on the use of conducted energy weapons by provincially regulated law enforcement agencies, the Sheriff Services Division and the Corrections Branch.[1] My terms of reference (set out in Appendix A) were to:

- Review the current rules, policies and procedures applicable to constables, sheriffs and correctional officers respecting their use of conducted energy weapons, including their training and re-training;

Throughout this document we have provided website references, though it must be kept in mind that they may change over time or become unavailable. They are up to date as of May 21, 2009. Wherever possible, we have provided references to the original documents.

1 The second aspect of my mandate, to inquire into the circumstances of and relating to the death of Robert Dziekanski, will be the subject of a second report that will be published following evidentiary hearings that commenced in Vancouver, BC, on January 19, 2009.

- Review research, studies, reports and evaluations respecting the safety and effectiveness of conducted energy weapons when used in policing and law enforcement; and
- Make recommendations respecting the appropriate use of conducted energy weapons, including appropriate training and re-training.

The Commission convened for 15 days of informal, non-adversarial public forums in May and June 2008, at which 61 people made presentations. They represented a wide range of commercial, engineering, medical, mental health, law enforcement, civilian oversight, political, non-governmental, and personal interests. Contemporaneously, Commission researchers explored a variety of medical, scientific, legal, and policy issues, and conducted a detailed empirical analysis of every BC law enforcement agency's use of conducted energy weapons.[2]

Conducted energy weapons

The only brand of conducted energy weapon authorized for use by law enforcement agencies in British Columbia is manufactured by TASER International, Inc. According to the manufacturer, 350,000 officers in over 12,750 agencies in 45 countries have deployed the weapon in field uses approximately 547,000 times. In addition, approximately 680,000 human volunteers have been exposed to the weapon, most during police recruit training.

The newest model of the weapon, the TASER X26®, emits 19 electrical pulses per second, each pulse lasting approximately 100 microseconds (100 millionths of a second). It has a peak output current of 3 amperes and, according to the manufacturer, 2.1 milliamps average. When used in push-stun mode, the nose of the weapon is pressed against the subject's skin. When the trigger is pressed, the electrical current jumps between two electrodes in the nose of the weapon, causing intense pain in the subject's muscles in that area. When used in probe mode, the

2 BC law enforcement agencies examined by the Commission included: 11 municipal police departments providing policing services in 12 municipalities, the RCMP (that acts as the provincial police force in the remainder of the province), the South Coast British Columbia Transportation Authority Police Service (Transit Authority Police), the provincial Sheriff Services Division, the provincial Corrections Branch (Adult Custody Division), the Stl'atl'imx Tribal Police Force, and the Kitasoo-Xaixais Public Safety Department.

weapon fires two darts with barbed tips, which are intended to imbed in the subject's skin. The electrical current, conducted from the weapon through wires attached to the darts, spreads out more and goes deeper into the body. In addition to the intense pain, it causes neuromuscular incapacitation. In both modes, each cycle of electrical current lasts five seconds.

The regulatory framework

Under Canada's *Criminal Code*, a conducted energy weapon is classified as a prohibited weapon, with the result that only law enforcement officers may possess the weapon. By contrast, the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives does not classify it as a firearm because it uses compressed nitrogen rather than gunpowder as the propellant, with the result that the weapon is unregulated and is sold on the retail market.

In Canada, conducted energy weapons have been imported and sold to law enforcement agencies without any prior regulatory approval under the federal *Hazardous Products Act*, and without any certification by the Canadian Standards Association (which would denote compliance with national and international standards for electrical safety).

In British Columbia, no provincially regulated law enforcement agency requires periodic testing of all its conducted energy weapons, or testing of a specific weapon when there has been a death or serious injury proximate to weapon use. However, in late 2008 all these agencies announced that they had agreed to withdraw from service all weapons acquired before 2006 for independent testing, following a Canadian Broadcasting Corporation-commissioned analysis of 44 weapons that concluded that four weapons had peak currents 47–58 percent higher than the values specified by the manufacturer.

In British Columbia, neither legislation nor regulation deals specifically with conducted energy weapons, although the *Police Act* empowers the Director of Police Services to make recommendations to the Minister of Public Safety and Solicitor General on the

use of force by police officers (including training), and authorizes the Lieutenant Governor in Council to make regulations on the use of force. Although the *Use of Force Regulation* contains a definition for "intermediate weapon" that includes conducted energy weapons, the Regulation does not specify which weapons (if any) are approved. Rather, the Regulation leaves it up to the director and each chief constable to approve the use of an intermediate weapon, which lacks transparency and leaves open the possibility of inconsistent application across the province.

Further, there is no provincial regulation specifying when a conducted energy weapon may be used. The *Use of Force Regulation* delegates to each police force the responsibility to develop a use-of-force model and written policy, and leaves it up to the director to approve each police force's model, without establishing any criteria to guide the police force or the director.

Policies on conducted energy weapon use

In British Columbia, 11 municipal police departments provide policing in 12 municipalities. The remaining cities and towns, and all rural areas (comprising 70 percent of the province's residents) are policed by the RCMP, which has contracted with the province to act as the provincial police force.

In 1999, use-of-force trainers from across Canada and the United States developed a National Use of Force Framework (NUFF). The framework is not binding on municipal police departments, although the Canadian Association of Chiefs of Police endorsed it as a framework from which law enforcement agencies could build their own use-of-force policies or standards. The RCMP developed a similar framework, called the Incident Management/Intervention Model (IM/IM). Both models divide subject behaviours into five categories—cooperative, passive resistant, active resistant, assaultive, and grievous bodily harm/death (GBH/death). Both models permit the use of intermediate weapons (including conducted energy weapons) in the face of active resistance, which they define as the subject using non-assaultive physical action, such as pulling away, pushing away, or running away, to resist. The RCMP's Incident

Management/Intervention Model must now be read in light of its February 2009 policy amendment, which states: "The CEW must only be used in accordance with CEW training, the principles of the Incident Management/Intervention Model (IM/IM) and in response to a threat to officer or public safety as determined by a member's assessment of the totality of the circumstances being encountered."

The Commission undertook a detailed analysis of each law enforcement agency's policies respecting conducted energy weapon usage, on issues including weapon designation, training, circumstances in which a weapon should not be used, pre-deployment considerations, categories of subject behaviour that justify deployment, types of deployment, multiple discharges, post-deployment considerations, reporting on weapon use, and administration. From this review I reached several conclusions:

- There is a troubling lack of consistency in the law enforcement agencies' policies respecting conducted energy weapon use. This has occurred because of a lack of leadership at the provincial level in developing province-wide standards for all aspects of weapon use, with the result that each police agency has had to develop its own policy.
- Although the policies of all agencies, when viewed collectively, appear to identify all the issues that should be covered in policy, no one agency's policies come close to doing so. In addition, they fail to differentiate between which matters should be addressed in policy and which matters should be assigned to training.

Training on conducted energy weapon use

The Justice Institute's Police Academy provides recruit training for all municipal police departments and other justice-related agencies such as the Corrections Branch and the Sheriff Services Division. Until 2006 it trained all police recruits in the use of conducted energy weapons, which ensured province-wide consistency. However, in that year the Vancouver Police Department decided that it did not want all its recruits trained in conducted energy weapon use and since the VPD's recruits accounted for approximately half of all Academy students, the Police Academy withdrew from training any police recruits in conducted energy weapon use. Responsibility for this

aspect of recruit training devolved to individual municipal police departments, regardless of size or training expertise.

Commission researchers analyzed every law enforcement agency's training materials. Ten of these agencies (seven municipal police departments and three other agencies) rely exclusively on the manufacturer's training materials—some of these rely on earlier versions, going back as far as 2004. The training issues examined include qualifications to take training, duration and content of training, circumstances in which a weapon should not be used, use of a weapon on a person with a known medical condition, pre-deployment considerations, categories of subject behaviour, multiple deployments, post-deployment considerations, "excited delirium," and voluntary exposure during training. From this review, I reached several conclusions:

- There is a troubling lack of consistency in the law enforcement agencies' training materials respecting conducted energy weapon use. Much of this is an inevitable consequence of the Police Academy's 2006 decision to withdraw from conducted energy weapon training. British Columbians would be much better served if one body (*i.e.,* the Police Academy) assumed responsibility for basic training in conducted energy weapon use, as an integral component of use-of-force training generally.
- The law enforcement agencies' training materials reveal confusion about what matters properly fall within the ambit of training and what should be dealt with as policy. Training should focus on *how*, and policy should focus on *when*.
- It is the responsibility of the provincial government to set policy on such matters as qualifications of trainers, content and duration of training and re-certification requirements, what threshold of subject behaviour must be met before deployment is appropriate, circumstances in which a weapon should never be deployed, and when multiple discharges are appropriate. It then becomes the responsibility of trainers to train in the use of these weapons, within that policy framework.
- There is an inappropriately high degree of dependence on the manufacturer's training materials, even among those agencies who profess to have developed "vendor-neutral" training materials. Law enforcement agencies should not rely on the manufacturer's materials when they encroach into policy areas or topics of medical risks that may be under dispute.

Use of conducted energy weapons in British Columbia

In 1999, the Attorney General authorized municipal police departments to use conducted energy weapons, after a six-month field study by the Victoria Police Department. Approval was based on assurances that the weapon was absolutely safe to use, the weapon had been thoroughly researched and would be used sparingly—where the subject was assaultive or combative, a threat to themselves, the police, or some other person.

By 2001, all 11 municipal police departments were using the weapon, and it was subsequently authorized for use by the RCMP (2001), Sheriff Services Division (2001), Corrections Branch (2003), and Transit Authority Police (2007).

Commission researchers examined every reported use of a conducted energy weapon by every provincially regulated law enforcement agency from the time the weapon was first authorized for use, to the end of 2007.

Municipal police departments deployed the weapon at least 1,397 times, although the actual number of deployments may be much higher (up to twice as many). The number of deployments has increased at a rate faster than the increase in the number of weapons. There were surprising variations in the frequency of deployments by individual police departments, ranging from a low of 5.2 deployments per 100,000 population, to a high of 130.7.

The weapon was most frequently used when police responded to calls concerning suicide attempt/self-injurious behaviour (19.8 percent); violence/threat of violence (17); disturbance (15.3); drug/alcohol intoxication (12.4); and emotionally disturbed persons (10.7). Subject behaviours frequently included active resistance, alcohol/drug intoxication, assaultive behaviour, and to a lesser degree, yelling and verbal aggression/threats. When the type of weapon deployment (including use in display mode only) was matched against the highest level of resistance by a subject, it was revealed that officers deployed the weapon more than 160 times when the subject was being cooperative or displaying passive resistance (neither of which justifies

deployment), 485 times for active resistance, 669 times for assaultive behaviour, and 19 times when there was a risk of grievous bodily harm or death to the police officer (when lethal force is authorized).

In two cases, the subjects died during or after an incident involving deployment of a conducted energy weapon. In 336 incidents (24 percent), the subject suffered a weapon-related injury. Although nearly all of these injuries were minor, eight subjects suffered more serious injuries, including lung collapse, loss of consciousness from falling on head while incapacitated, facial wounds, broken ankle, and probe dart imbedded in clavicle bone. In 6 percent of cases, a police officer suffered some type of injury, a quarter of which involved broken fingers, knee injuries, back injuries, or exposure to infectious disease. In one-third of cases, provincial ambulance attendants examined the subject at the scene, although that percentage varied widely (0 to 71 percent) among police departments.

RCMP officers deployed the weapon on at least 1,466 occasions, although this is almost certainly a significant undercount. The distribution of incident types was similar to municipal police departments, although cases involving alcohol or drugs were higher (82 vs. 62 percent), as were cases involving weapons (35 vs. 20 percent). Six subjects died during or after deployment of a conducted energy weapon.

Transit Authority Police deployed the weapon six times in 2007. In all cases, the subject's behaviour met the active resistance level, but in three cases the active resistance consisted of fleeing from police after being stopped for a fare check.

Sheriff Services Division officers, who are responsible for court security and escort and detention of prisoners, used the weapon 127 times between 2001 and 2007. The types of events that occasioned use of the weapon were extraction from or placement into a cell (42 percent), prisoner transfer (17), cell search (9), prisoner search (9), and "other" (24). The most commonly identified subject behaviours were active resistance, verbal aggression, assaultive, violence or threatened violence, agitation, and yelling. In 80 percent of cases, compliance was achieved through display of the weapon, without actually discharging it.

Corrections Branch officers (Adult Custody Division) are responsible for the custody of persons remanded for trial, persons sentenced to imprisonment, and persons detained by immigration authorities. Between 2003 and 2007, the weapon was deployed 149 times. In 77 percent of cases, compliance was achieved either by warning or display, without actual discharge. A weapon was used to assist in cell extraction (48 percent), cell entry (17), lock-up (11), cell extraction and escort (9), escort (7), intake (6), and hostage-taking (1). The most commonly identified subject behaviours were active resistance, smashing/damaging property, verbal aggression, assaultive, and violence or threatened violence. In 20 percent of cases, the subject was armed with a weapon.

Medical risks

Since 2003, 25 people in Canada, including eight in British Columbia, have died after a conducted energy weapon was deployed against them. According to Amnesty International, more than 300 people have died in the United States in similar circumstances.

In an attempt to understand the role, if any, that the weapon might play in such deaths, Commission researchers studied the medical literature, including controlled studies involving deployment of the weapon on animals and human volunteers. I also invited medical experts in emergency medicine, cardiology, electrophysiology, pathology, epidemiology, psychology, and psychiatry to make presentations during our public forums.

If a conducted energy weapon can cause or contribute to death, the most likely ultimate cause of death is ventricular fibrillation, in which the weapon's electrical current triggers a chaotic rhythm of the heart's two ventricles. The heart beats at 200–300 beats per minute, it cannot pump blood, and the subject will, if not defibrillated, lose consciousness within 5–10 seconds and will die within 10 minutes. From my review, I concluded that, even in the case of people with healthy hearts:

- An external electrical current can overtake the human body's internal electrical system, resulting in ventricular capture, which may lead to ventricular tachycardia and, in some cases, ventricular fibrillation.

- There is evidence that the electrical current from a conducted energy weapon is capable of triggering ventricular capture.
- Based on animal studies, I am satisfied that the greatest risk of ventricular fibrillation arises when the probes are vectored across the heart, and that the risk of ventricular fibrillation increases as the tips of the probes get closer to the wall of the heart.
- There is a short "window" during the heart's normal beat cycle (the T-wave), when the heart is most vulnerable to an external electrical shock. However, this narrow window does not apply to rapid ventricular capture causing ventricular tachycardia, which may degenerate into ventricular fibrillation.
- Although there is often a lack of physical evidence on autopsy to determine whether arrhythmia was the cause of death, if a person dies suddenly and from no obvious cause after being subjected to a conducted energy weapon, death is almost certainly due to an arrhythmia.

The risk of ventricular fibrillation increases significantly in several circumstances—if the subject has cardiovascular disease or in thin subjects who have a smaller skin-to-heart distance. The intense pain, coupled with anxiety and stress, can cause an outpouring of adrenaline that can stimulate the heart and lead to dangerous arrhythmias. Skeletal muscle contractions can lead to acidosis, which affects the electrolyte balance, making the heart more susceptible to ventricular fibrillation. Also, an electrical current coinciding with the T-wave peak may induce fibrillation with a threshold 25 or more times lower than at other times in the heartbeat cycle. Finally, there are several risks associated with deployment against a subject who is wearing an implanted pacemaker or defibrillator.

Several researchers have raised concerns that the electrical current from a conducted energy weapon may induce spasm in the muscles of respiration (diaphragm and intercostal muscles), interfering with the subject's ability to breathe. This could, in the case of prolonged deployment, lead to acute respiratory failure or acidosis. The body's natural response to acidosis is to hyperventilate, which can be frustrated if the subject is lying face down, if pressure is applied to the chest or neck area, or if the officers' attempt to restrain the subject results in the subject struggling. The weapon's electrical current might also cause muscle damage (rhabdomyolysis), which can lead to cardiac arrest or acute renal (kidney) failure.

Based on the presentations of psychiatrists, other mental health professionals, and emergency medicine physicians, I concluded that:

- Police officers are called upon, with increasing regularity, to deal with emotionally disturbed people who display extreme behaviours, including violence, imperviousness to pain, superhuman strength and endurance, hyperthermia, sweating, and perceptual disturbances.
- Such emotionally disturbed people are often at an impaired level of consciousness; may not know who they are or where they are; may be delusional, anxious, or frightened; and may be unable to process or comply with an officer's commands.
- This cluster of behaviours is not a medical condition or a diagnosis. They are symptoms of underlying medical conditions that, in extreme cases, may constitute a medical emergency.
- The officer's challenge is not to make a medical diagnosis, but to decide how to deal with the observable behaviours, whatever the underlying cause.
- It is not helpful to blame resulting deaths on "excited delirium," since this conveniently avoids having to examine the underlying medical condition or conditions that actually caused death, let alone examining whether use of the conducted energy weapon and/or subsequent measures to physically restrain the subject contributed to those causes of death.
- The unanimous view of mental health presenters was that the best practice is to de-escalate the agitation, which can best be achieved through the application of recognized crisis intervention techniques. Conversely, the worst possible response is to aggravate or escalate the crisis, such as by deploying a conducted energy weapon and/or using force to physically restrain the subject. It is accepted that there may be some extreme circumstances, however rare, when crisis intervention techniques will not be effective in de-escalating the crisis. But even then, there are steps that officers can take to mitigate the risk of deployment.

There are other risks associated with how the weapon is deployed, such as when the subject is driving or operating machinery, or may fall from a height or fall in water and drown. In addition, I concluded that multiple deployments increase the medical risks discussed above.

Several studies have attempted to determine whether the use of conducted energy weapons reduce injuries and deaths to subjects and officers. I concluded that the

results are, to date, inconclusive—it is notoriously difficult to isolate a particular weapon's impact on injuries and deaths, when so many variables are at play.

Recommendations

In developing my recommendations, I was guided by several principles—that the police are subject to civilian authority, that the police must be given appropriate tools to do their job, that the police should use the least force necessary to manage the risk, and that the use of force must be proportionate to the seriousness of the situation.

I was satisfied that, notwithstanding the inadequacy of the medical research conducted to date, we as a society know enough about conducted energy weapons to make important decisions relating to their use. Conducted energy weapons do have the capacity (even in healthy adult subjects) to cause heart arrhythmia, which can lead to ventricular tachycardia and/or fibrillation, which if not treated immediately, can cause death, and that risk increases in certain circumstances. However, there are ways to ameliorate those risks and there is no doubt that in the great majority of deployments, the weapon is effective. On balance, I concluded that our society is better off with these weapons in use than without them. However, my support for their use is conditional on significant changes being made in when, and the way in which, the weapon is deployed.

In the same way that proportionality dictates that the punishment must fit the crime, a fairly high "subject matter" threshold should be set for deployment of a conducted energy weapon. It should not be used to enforce municipal bylaws, provincial laws, and federal regulatory laws, but only truly criminal offences.

With respect to a "subject behaviour" threshold, I concluded that the behaviours caught in the definition of "active resistance" (the current threshold) are not egregious enough to warrant deployment of a weapon that is designed to inflict intense pain and to totally incapacitate the subject, given the medical risks, proportionality concerns, and my sense of Canadian values—it would embarrass me as a Canadian to watch a police officer deploy a conducted energy weapon against a

subject, even one under investigation for a criminal offence, for merely walking or running away from the officer. Neither was I satisfied with the RCMP's new threshold of a "threat to officer or public safety," nor with the "assaultive behaviour" threshold recommended in several recent reports. Although the definitions for "assaultive behaviour" in both use-of-force continuums can be traced back to the *Criminal Code's* language for common assault, they also justify use of the weapon when there has been only an attempted common assault, and even when no criminal offence has been committed. I concluded that the subject behaviour threshold should be met when the subject is causing bodily harm or the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm. Even then, an officer should not deploy the weapon unless satisfied, on reasonable grounds, that no lesser force option would be effective, and de-escalation and/or crisis intervention techniques would not be effective. That is particularly important when dealing with an emotionally disturbed subject.

Given the increased medical risks associated with multiple or prolonged deployments of the weapon, I concluded that officers should be required to stop after the first five-second deployment and reassess the situation.

I also concluded that paramedic assistance should be requested in every medically high-risk situation, such as deployment in probe mode across the chest or for longer than five seconds, and when dealing with subjects who are emotionally disturbed, elderly, pregnant, or medically vulnerable. In addition, every officer who has a conducted energy weapon should have an automated external defibrillator readily available for use.

The provincial government should exercise its unquestioned legislative authority to set province-wide standards relating to conducted energy weapons, on issues such as approval of specific weapon models, the circumstances in which the weapon may (or must not) be used, qualifications, training, and mandatory reporting on weapon use. One agency, the Police Academy within the Justice Institute, should be responsible for

training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, and that training should emphasize the medical risks.

Every conducted energy weapon in use should be periodically tested for electrical output, as should a specific weapon when there has been a death or serious injury proximate to use of that weapon.

The Ministry of Public Safety and Solicitor General needs to strengthen the reporting requirements relating to conducted energy weapon usage, and that data needs to be regularly reviewed for the purposes of informing the development of policy and training. The ministry, and each law enforcement agency, should publish regular reports on weapon use. The ministry should also encourage other provinces and territories, and the federal government, to develop and fund a national research program for conducted energy weapons.

This Report is a starting point, not the final chapter on conducted energy weapons. I recommended that the Legislative Assembly ensure that a comprehensive review be conducted after three years, to determine the extent to which my recommendations have been implemented, to examine new information about medical risks and new models of weapons, and to make any necessary recommendations about weapon use and training.

Finally, I expressed concern that because the RCMP (which polices 70 percent of British Columbians) is regulated federally, the provincial government has very limited constitutional authority over the RCMP's internal management and administration. I concluded that, as a precondition to the province renewing its policing agreements with the RCMP in 2012, the minister require that the RCMP contractually agree to comply with the rules, policies, and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.

B. SUMMARY OF RECOMMENDATIONS

Seriousness of the matter threshold

1. I recommend that officers of provincially regulated law enforcement agencies be authorized to deploy a conducted energy weapon only in relation to enforcement of a federal criminal law.

Subject behaviour threshold

2. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon unless the subject's behaviour meets one of the following thresholds:

- the subject is causing bodily harm; or
- the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm.

3. I recommend that, even if the threshold set out in Recommendation 2 is met, an officer be prohibited from deploying a conducted energy weapon unless the officer is satisfied, on reasonable grounds, that:

- no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and
- de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.

Emotionally disturbed people

4. I recommend that the Ministry of Public Safety and Solicitor General approve a curriculum for crisis intervention training comparable to that recommended by presenters at our public forums, and require:

- that it be incorporated without delay in recruit training for officers of provincially regulated law enforcement agencies; and
- that all currently serving officers of provincially regulated law enforcement agencies satisfactorily complete the training within a time frame established by the ministry.

5. I recommend that officers of provincially regulated law enforcement agencies, when dealing with emotionally disturbed people, be required to use de-escalation and/or crisis intervention techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.

Subject self-harm

6. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon in the case of subject self-harm unless:

- the subject is causing bodily harm to himself or herself; or
- the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm to himself or herself.

Multiple deployments

7. I recommend that officers of provincially regulated law enforcement agencies be prohibited from discharging an electrical current from a conducted energy weapon on a subject for longer than five seconds, unless the officer is satisfied, on reasonable grounds, that:

- the five-second discharge was not effective in eliminating the risk of bodily harm; and
- a further discharge will be effective in eliminating the risk of bodily harm.

Requesting paramedic assistance

8. I recommend that paramedic assistance be requested in every medically high-risk situation, preferably before deployment of a conducted energy weapon or, if that is not feasible, then as soon as practicable thereafter. Medically high-risk situations include, but are not limited to:

- deployment in probe mode across the subject's chest;
- deployment in probe mode for longer than five seconds;

- deployment in any mode against:
    - an emotionally disturbed person;
    - an elderly person;
    - a person who the officer has reason to believe is pregnant; or
    - a person who the officer has reason to believe has a medical condition that may be worsened because of the deployment (*e.g.,* heart disease, implanted pacemaker or defibrillator, etc.).

Automated external defibrillators

9. I recommend that whenever a conducted energy weapon is assigned to an officer of a provincially regulated law enforcement agency, that the officer also have an automated external defibrillator readily available for use.

Provincial regulation

10. I recommend that the provincial government set province-wide standards relating to conducted energy weapons, including, but not necessarily limited to:

- which conducted energy weapon models are approved for use;
- the circumstances in which a conducted energy weapon may, or must not, be used;
- qualifications to begin training as an operator, instructor, or master trainer;
- the curriculum for operator, instructor, and master instructor training programs, including content, duration, pass/fail level, remedial training, and re-certification;
- mandatory reporting of each conducted energy weapon use, including what information must be reported and in what form; and
- periodic province-wide analysis of usage reports, with mechanisms to ensure that the results of such analysis inform policy development and training.

Training and re-training

11. I recommend that the Police Academy be responsible for training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, as an integral component of use-of-force training generally, and that

training be conducted in accordance with the policies established by the provincial government, taking into consideration the medical risks discussed in this Report.

12. I recommend that the province's standards relating to the curriculum for operator, instructor, and master instructor training and re-training prohibit a trainer's or trainee's exposure to the electrical current of a conducted energy weapon.

Certification of conducted energy weapons

13. I recommend that the Attorney General ask the federal minister responsible for administration of the *Hazardous Products Act*:

- to add conducted energy weapons to the schedule of restricted products under that Act; and
- to make regulations prescribing the circumstances and conditions under which such weapons may be imported into, and sold in, Canada.

Periodic testing of conducted energy weapons

14. I recommend that every conducted energy weapon used by officers of provincially regulated law enforcement agencies be periodically tested for electrical output, according to a testing protocol approved by an independent body and according to a schedule established by the Ministry of Public Safety and Solicitor General, and that the test include, but not necessarily be limited to:

- the number of pulses per second;
- the duration of each pulse; and
- the maximum current during each pulse.

Testing after a serious injury or death

15. I recommend that whenever there is a serious injury or death proximate to use of a conducted energy weapon by an officer of a provincially regulated law enforcement agency, the weapon be withdrawn from service and its electrical output be tested in accordance with, and for the matters referred to in, Recommendation 14.

Reporting on conducted energy weapon use

16. I recommend that the provincial Ministry of Public Safety and Solicitor General, without delay:

- develop a province-wide conducted energy weapon incident report form that will capture enough information to permit the type of analysis undertaken by this Commission, as reported in Part 7 of this Report;
- require that the report form be completed whenever an officer of a provincially regulated law enforcement agency deploys a conducted energy weapon, even if deployment is limited to display mode only;
- develop a province-wide electronic system for the reporting and analysis of conducted energy weapon incidents;
- require that every completed report form be forwarded without delay to the ministry, and that the data on the report form be entered into the province-wide electronic system;
- review reported incidents, at least quarterly, for the purposes of informing the development of policy and training;
- publish, at least annually, a detailed report on conducted energy weapon usage by provincially regulated law enforcement agencies; and
- require each provincially regulated law enforcement agency:
    - to implement a "sign out" policy whenever a conducted energy weapon and/or a probe cartridge is issued to an officer;
    - to designate a specific employee to download the data from every conducted energy weapon at least once every month (matching the data relating to each deployment against the related incident report), and to report any discrepancies to that employee's supervisor;
    - to review the use of conducted energy weapons by its own officers at least quarterly, to determine compliance with policy; and
    - to report at least annually, to the responsible provincial minister, and in the case of a municipal police department to the police board, on the agency's use of its conducted energy weapons.

Further research

17. I recommend that the Minister of Public Safety and Solicitor General encourage the minister's federal, provincial, and territorial counterparts to develop and fund a

national research program for conducted energy weapons that will promote independent, science-based, and peer-reviewed research that attaches priority to:

- quantifying the medical risks associated with conducted energy weapon use;
- identifying the highest-risk subjects;
- identifying the highest-risk external circumstances; and
- developing recommendations for best practices, including but not limited to:
    - deployments in probe mode across the subject's chest;
    - multiple deployments; and
    - emotionally disturbed people.

Future review

18. I recommend that the *Police Act* be amended to require that a special committee of the Legislative Assembly, or an individual appointed by the Legislative Assembly, begin a comprehensive review of conducted energy weapons within three years after this Report is made public and submit to the Legislative Assembly, within one year after beginning the review, a report that includes, but is not necessarily limited to:

- the extent to which the recommendations contained in this Report have been implemented;
- new information about the medical risks associated with the use of conducted energy weapons, including new models of weapons that have become available since this Report was written; and
- recommendations relating to the circumstances in which it is appropriate to use conducted energy weapons, and to training of officers in the use of such weapons.

RCMP compliance with provincial regulation

19. I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, policies, and

procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.