

Part 6

Training on Conducted Energy Weapon Use

PART 6: TRAINING ON CONDUCTED ENERGY WEAPON USE

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A. INTRODUCTION

In this part, I will examine the conducted energy weapon training materials developed by the manufacturer (TASER International, Inc.), by the 11 municipal police departments and the RCMP, and by the other law enforcement agencies in British Columbia (Transit Authority Police, the two tribal police services, the provincial Corrections Branch, and the provincial Sheriff Services Division).

Most of this discussion is based on a research paper and comparative training matrix prepared by one of the Commission's researchers. A more detailed breakdown of each policing agency's training is set out in Appendix F.

B. TRAINING MATERIALS

1. TASER International, Inc.

The manufacturer publishes training materials for the use of its conducted energy weapons. The most recent release is Version 14.0, published in October 2007.⁷³ It consists of a 265-slide PowerPoint presentation, as well as a DVD of video clips, many of which are real-life scenarios in which conducted energy weapons were deployed by law enforcement and corrections agencies.

2. Law enforcement agencies in British Columbia

The Justice Institute's Police Academy in New Westminster provides recruit training for all municipal police departments and other justice-related agencies, such as the Corrections Branch and Sheriff Services Division. Until recently the Police Academy trained all police recruits in the use of conducted energy weapons using course materials developed by the manufacturer, which ensured province-wide consistency.

73 TASER International, Inc. User Certification Course *TASER X26 and TASER M26 Electronic Control Devices—PowerPoint materials, Version 14.0.

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However, in 2006, the Vancouver Police Department decided that it did not want all its recruits trained in conducted energy weapon use. Rather, it wished to hand-select officers for training, to better control who was using conducted energy weapons.

Given that approximately half of all municipal police recruits come from the Vancouver Police Department, the Police Academy decided to withdraw from the training of police recruits in conducted energy weapon use, with the result that responsibility for this aspect of recruit training has devolved to individual municipal police departments, regardless of a particular department's size or training expertise. The Police Academy continues to provide conducted energy weapon training for the Sheriff Services Division and the Corrections Branch.⁷⁴

Given this devolution of training, Commission staff obtained from all BC law enforcement agencies copies of their conducted energy weapon training materials. These *training* materials are to be distinguished from the *policy* materials discussed in Part 5.

Ten of these agencies (seven municipal police departments and three other law enforcement agencies) rely exclusively on the manufacturer's training materials. Five of them rely on the most recent Version 14.0, while the other five agencies rely on earlier versions, going as far back as Version 11.0, published in January 2004. Several other municipal police departments use some of the manufacturer's images and slides, but base their training on Course Training Standards developed by Constable Mike Massine, the Victoria Police Department's Control Tactics/Use of Force Coordinator.

Since two-thirds of all law enforcement agencies in British Columbia rely exclusively on the manufacturer's training materials, I will in most instances refer first to how the manufacturer deals with an issue, and then refer to the agencies' training materials, to show where they add to, or depart from, the manufacturer's materials.

⁷⁴ The Justice Institute does continue to include a two-hour "restraining under power" course in its police recruit training for all municipal police departments. It is designed to encourage restraint during the initial conducted energy weapon deployment, to avoid multiple deployments against one subject. This training does not address how to use a conducted energy weapon, but what to do with a subject who has been exposed to a deployment.

C. ASPECTS OF TRAINING

1. Qualifications to train as an instructor or operator

The manufacturer offers a master instructor course, designed to train police officers so that they can in turn train instructors within their own agency. Those instructors will then train line officers as operators, who use conducted energy weapons on the street.

In BC, most agencies' training materials recognize the manufacturer's master instructor course, and authorize graduates of that program to certify other officers as instructors, who in turn will train officers as operators of conducted energy weapons.

There is some variation among agencies respecting qualifications to train in the use of conducted energy weapons. For example:

- *Master instructor*—eight agencies require five years' experience as a sworn officer and/or military service, two years' experience as an instructor with a minimum of 12 operator courses taught.
- *Instructor*—one agency requires candidates to take approved training courses in instructional techniques, and to spend one to two years in an apprenticeship/mentoring relationship.
- *Operators*—most agencies do not specify prerequisites. However, one agency requires candidates to be currently certified in first aid, and to be certified in the use of the police defensive baton, pepper spray, carotid control technique, and service pistol. Another agency requires that an officer be competent with basic force option skills as demonstrated in the field.

2. Duration and content of the conducted energy weapon training programs

There is considerable variation among agencies respecting the duration of training and re-certification programs:

- *Instructor*—one agency requires 14 hours; five other agencies require 16 hours; and another agency requires 32 hours.

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- *Operator*—one agency requires four hours; one agency requires five hours; six agencies require six hours; one agency requires seven hours; two agencies require eight hours; and another agency requires 16 hours.
- *Re-certification*—eight agencies require that instructors and master instructors be re-certified every two years. Nine agencies require that operators be re-certified annually, while one requires re-certification every two years.

There is similar variation in the student to instructor ratio, with three agencies specifying a maximum of 4:1, 8:1, and 20:1. The training materials of all other agencies are silent.

Eleven agencies require scenario- or reality-based training as a component of operator certification, although only one agency specifies that all scenario-based training must be conducted with live simulation air cartridges. One other agency requires that students go through two scenarios, one as an operator and the other as a backup. The training materials of eight agencies state that simulator training (*i.e.*, scenario-based training without live-fire exercises) is a valuable and effective supplemental training tool, but is not a substitute for live-fire exercises required for initial and annual certifications.

Most agencies require a written examination at the end of the operator course, although the passing grade varies between 70 percent (one agency) and 80 percent (nine agencies). With respect to the instructor course, six agencies require a written examination and a score of at least 90 percent.

Six agencies evaluate scenario training based on whether the proper approach was used, taking into account cover, distance, and scanning tactics; whether there was communication between the officers and with the subject before, during, and after the incident; whether there was appropriate force used including de-escalation tactics; and whether a pre-deployment verbal warning was used.

Only four agencies address course failure and remedial training, but even here the standards vary. For example:

- One agency allows three attempts to carry out a task successfully;

- One agency fails members who do not pass the written examination, or who demonstrate confused or poor decision-making during scenario training; and
- One agency allows one re-test for the practical portion of the course, but failure of the written component requires the member to repeat the operator course.

3. Wearing a conducted energy weapon

The manufacturer's training materials include a discussion of the advantages and disadvantages of carrying a conducted energy weapon on the firearm side of the body, but conclude with the statement that users should "refer to your department's tactical experts to make your own policy on how to carry, holster, and deploy" the weapon.⁷⁵

Only four agencies specify in policy that a conducted energy weapon must be carried in the holster on the opposite side from the firearm.

4. When a conducted energy weapon should not be used

The manufacturer cautions against using a conducted energy weapon against pregnant women whenever practicable (because they "are at elevated risks from falling, muscle contractions, stress and other factors"⁷⁶), and against the obviously frail or infirm.

Twelve agencies have adopted similar cautions in their training materials, with several adding an additional category—the very young. Several agencies train that conducted energy weapons should be used against these vulnerable groups only as an alternative to lethal force.

The manufacturer's training materials cite three external "increased deployment risk" situations, which are echoed in many agencies' materials. They are:

1. Deploying a conducted energy weapon against a person in an elevated position, because of the increased risk of fall injuries (12 agencies).

⁷⁵ *Ibid.*, footnote 73, slide 137.

⁷⁶ *Ibid.*, slide 38.

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2. Deploying a conducted energy weapon against a person in or near a flammable or explosive material, because of the risk that the material may ignite (12 agencies).
3. Deploying a conducted energy weapon against a person who is in water, because of the risk that the person may, when incapacitated, submerge and drown (nine agencies).

The manufacturer also recognizes an increased risk when a conducted energy weapon is deployed against someone who is running or who is operating a vehicle or machinery. These cautions are reflected in the training materials of nine agencies.

Neither the manufacturer nor police agencies restrict the use of conducted energy weapons to offences of a specified seriousness. In our public forums, Cst. Hammell of the Vancouver Police Department stated:⁷⁷

- Q You've got a subject who's standing holding on to something; does it matter whether you're attempting to arrest them for a *Liquor Act* violation or shoplifting or something more serious like bank robbery or murder?
- A It does not matter. Our purpose for using it would be based on the behaviour of our subject, for whatever reason we are apprehending them or arresting them.
- Q Regardless of the underlying offence?
- A Yes.

Another agency told the Commission that proportionality concerns are included in the "situational factors" section of its use-of-force continuum, and it may be that other agencies also address this issue as part of the officer's broad "situational" or "contextual" evaluation.

5. Use of a conducted energy weapon on a person with a medical condition

The manufacturer's training materials state that "modern pacemakers and implanted cardiac defibrillators withstand external electrical defibrillators at least 800 times stronger than the TASER conducted energy pulses" and "published peer-reviewed

⁷⁷ Transcript, May 8, 2008, p. 51. However, Deputy Chief Constable Bob Rich of the Vancouver Police Department told me that he would be "horrified" if an officer used a conducted energy weapon on a jaywalker who was walking away from an officer, even though walking away is included in the definition of active resistance: Transcript, May 14, 2008, p. 41.

research shows that there is no negative effect of the TASER device when used on a subject with an implanted device.”⁷⁸

The 10 agencies that rely exclusively on the manufacturer’s training materials include this information. The training material of two other agencies advises that there are medical opinions that the output of a conducted energy weapon exceeds the medical threshold required to cause seizure.

The manufacturer’s training materials also state that cocaine makes the heart *less* susceptible to electrically induced fibrillation; this information is included in nine agencies’ training materials. One agency also trains that the conducted energy weapon is safe and effective for suspects under the influence of drugs or alcohol.

The manufacturer states that its devices have been successfully used to incapacitate subjects under a variety of chemical and mental influences (including suicidal subjects and emotionally disturbed persons) because it affects the sensory and motor functions of the nervous system. It specifically addresses “excited delirium” (within the context of sudden unexpected deaths) which it defines as “a state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength, and endurance without apparent fatigue.”⁷⁹ It lists numerous behaviours that may require immediate medical assistance due to pre-existing conditions, possible overdose, cocaine psychosis, or excited delirium:

- bizarre or violent behaviour;
- signs of overheating or profuse sweating;
- disrobing;
- violence toward or attacking glass, lights, and reflective surfaces;
- superhuman strength and endurance;
- imperviousness to pain—self-mutilation;
- disturbances in breathing patterns or loss of consciousness; and
- complaints of respiratory difficulty.

⁷⁸ Footnote 73, *supra*, slides 30 and 31.

⁷⁹ *Ibid.*, slide 219.

The manufacturer implicitly supports use of its conducted energy weapons in such circumstances, adding the caution that the operator should “consider having [emergency medical services] standing by.”⁸⁰

6. Pre-deployment considerations

The manufacturer’s training materials advise operators to consider cover and distance tactics, and to “consider having lethal cover or other reasonable and appropriate force options available when practicable.”⁸¹ “Lethal cover” or “lethal force overwatch” refers to the practice of a second officer pointing his or her firearm at the subject while the conducted energy weapon is deployed, as a backup in the event that the conducted energy weapon is not effective at incapacitating the subject. Two agencies state that officers should always take advantage of cover and distance when a conducted energy weapon is used.

The manufacturer also trains that when practicable, there should be at least one backup officer present, in order to handcuff the subject while the conducted energy weapon is being used.

The manufacturer recommends using verbal commands in order to gain compliance (if practicable), sometimes accompanied by display of the weapon. It adds, “Some agency policies allow the officer to use ... the laser to ‘paint the target’ to attempt to gain compliance.”⁸² This refers to the operator activating the conducted energy weapon and pointing the weapon at the subject so that the built-in red laser light that is designed to assist the operator in aiming the weapon shines on the subject’s torso.

Operators are also trained to remove the cartridge and perform a spark test (*i.e.*, pulling the trigger so that a spark jumps between the two electrodes in the nose of the weapon), although several agencies train officers to do so only if another conducted energy weapon is present or the subject is contained.

80 *Ibid.*, slide 218.

81 *Ibid.*, slide 158.

82 *Ibid.*, slide 155.

7. Deployment considerations

a. Categories of subject behaviour

As discussed in Part 5 of this Report, one of the crucial issues in conducted energy weapons policy is articulating what level of resistance from a subject must be present before deployment of the weapon is warranted. The manufacturer recognizes that each jurisdiction is responsible for this important issue:

Each agency is responsible for creating their own use-of-force policy and determining how TASER devices fit into their use-of-force matrix based on legal and community standards.

Make sure your agency has a use-of-force policy that addresses TASER device use and that this policy is clearly addressed during end-user training.⁸³

In British Columbia, a conducted energy weapon is an “intermediate weapon.” According to the RCMP’s Incident Management/Intervention Model (IM/IM), which is binding on all its officers, an intermediate weapon may be deployed when a subject’s behaviour constitutes “active resistance,” which is defined as follows:

The person demonstrates resistance to control by the police officer through behaviours such as pulling away, pushing away or running away. This can include a situation where a police officer activates a police vehicle’s emergency equipment and the suspect fails to stop and attempts to evade apprehension by driving evasively.

During our public forums, Cpl. Gillis told me that active resistance also includes activities that involve exhibiting energy (like tensing up muscles) or turtling (holding one’s arms underneath the body while on the ground). RCMP officers are trained in accordance with this policy.

However, as noted earlier, a February 2009 RCMP policy amendment now requires that the subject’s behaviour also pose a threat to officer or public safety.

There is more variation in the training of municipal police officers and other provincially regulated law enforcement agencies for several reasons, including the fact

⁸³ *Ibid.*, slide 135.

that each agency is responsible for developing its own training materials and, unlike the RCMP's Incident Management/Intervention Model, the National Use of Force Framework is not binding on any particular law enforcement agency.

While most provincially regulated agencies train their officers to use conducted energy weapons when a subject exhibits active resistance:

- Most agencies' training materials do not describe what actions constitute active resistance.
- Those agencies that do adopt the definition of active resistance contained in the National Use of Force Framework⁸⁴ often add their own unique gloss:
 - One agency trains that active resistance includes subjects who are not complying with verbal commands and subjects who are non-compliant (*i.e.*, they pull away, twist and turn, resist control, "turtle" on the ground, etc.). It supports the use of a conducted energy weapon when lower levels of force are ineffective and/or inappropriate.
 - Two agencies include in their definition a subject resisting an officer's lawful efforts to take them into custody without attacking the officer.
 - One agency includes pulling arms away from controlling officers, running away, holding onto fixed objects, bracing themselves in doorways, or "turtling" by pulling their arms into the chest area resisting attempts to straighten the arms.
- One agency recently elevated the threshold to situations in which the subject is behaving in a combative manner or poses a risk of death or grievous bodily harm to the police or the public.

b. As an alternative to lethal force

The manufacturer's training materials state that its conducted energy weapon "is not a substitute for lethal force"⁸⁵ and most agencies train accordingly. Under the National Use of Force Framework and the RCMP's Incident Management/Intervention Model, lethal force is justified when the subject exhibits actions that the officer

⁸⁴ "The subject uses non-assaultive physical action to resist, or while resisting an officer's lawful direction. Examples would include pulling away to prevent or escape control, or overt movements such as walking toward, or away from an officer. Running away is another example of active resistance."

⁸⁵ Footnote 73, *supra*, slide 185.

reasonably believes are intended or likely to cause grievous bodily harm or death to any person. Thus, this training proposition would preclude use of a conducted energy weapon in such circumstances.

However, the situation in British Columbia is not quite so clear:

- One agency trains that a conducted energy weapon can be used in conjunction with deadly force where appropriate and reasonable to do so, without articulating “appropriate and reasonable” circumstances.
- The position of the BC Association of Chiefs of Police is that the conducted energy weapon is not an appropriate force option when an officer is attempting to stop a violent subject who is actively causing, or anticipating to cause, bodily harm or death, unless there is a second officer present providing “lethal overwatch,” and where time, distance, and an absence of imminent jeopardy exists.

c. Push-stun mode and probe mode deployments

As discussed earlier in this Report, use of a conducted energy weapon in push-stun mode is designed primarily to achieve pain compliance, while use in probe mode is designed to achieve compliance through incapacitation. Three agencies train that active resistance is required in order to use the weapon in push-stun mode, and that assaultive or combative behaviour is required to use it in probe mode. Other agencies either do not make this distinction, or train that the weapon may be used in either mode when active resistance is exhibited.

d. Aiming for particular parts of the subject’s body

The manufacturer’s training materials offer instruction on the parts of the subject’s body against which the conducted energy weapon should be deployed, which vary depending on the mode of deployment:

- *Push-stun mode*—the primary target areas should be the brachial plexus tie-in (upper chest), the radial (forearm), the common peroneal (outside of thigh), and the tibial (calf muscle). Secondary target areas include the carotid (sides of neck) and the pelvic triangle. It should not be deployed in the throat area. The manufacturer includes a warning:

Use care when applying drive stun to neck or groin. These areas are sensitive to mechanical injury (such as crushing to the trachea or

testicles if applied forcefully). However, these areas have proven highly effective targets. These areas should only be targeted when officers are defending themselves from violent attacks. Refer to your department's policy regarding drive stuns in these and other sensitive areas.⁸⁶

- *Probe mode*—if practicable, the probes should be deployed against the subject's back for several reasons:
 - Clothing fits tighter, so the probes are more likely to penetrate the skin;
 - The surprise factor;
 - The back has stronger muscles, so the neuromuscular incapacitation will be even more overwhelming; and
 - It avoids injuries associated with hitting sensitive areas such as the head, face, throat, and genitals.⁸⁷

e. Cuffing under power

The manufacturer trains that each five-second cycle of the conducted energy weapon is a “window of opportunity”⁸⁸ to attempt to establish control and restraint while the subject is incapacitated. Thus, officers should move in and handcuff the subject during the cycle, when it is reasonably safe to do so. This practice may preclude the need for multiple cycles of the weapon.

f. Over-dependence on a conducted energy weapon

The manufacturer's training materials include the caution: “Avoid TASER over-dependence,”⁸⁹ adding:

Some agencies have had so much success with TASER devices that officers sometimes neglect proper procedures and other force options. This is a training issue that must be addressed in all instructor and user courses and should also be emphasized in ongoing department training.

⁸⁶ *Ibid.*, slide 206.

⁸⁷ *Ibid.*, slide 53.

⁸⁸ *Ibid.*, slide 164.

⁸⁹ *Ibid.*, slide 158.

8. Multiple or prolonged deployments

a. Push-stun mode

The manufacturer's training materials provide that if deployment of the conducted energy weapon in push-stun mode is not effective, the user should evaluate the location selected, consider an additional cycle to a different pressure point, or consider alternative force options.⁹⁰

b. Probe mode

With respect to probe mode deployments, the manufacturer's training materials are more detailed. They acknowledge that the application of a conducted energy weapon is a physically stressful event, and officers should avoid extended or repeated applications where practicable. If circumstances require extended duration or repeated discharges, the operator should take care to observe the subject and provide breaks in the weapon stimulation when practicable. Officers should apply only the number of cycles reasonably necessary to allow them to safely restrain the subject. In a products warning document, the manufacturer states:

Continuous Exposure Risks. When practical, avoid prolonged or continuous exposure(s) to the TASER device's electrical discharge. In some circumstances, in susceptible people, it is conceivable that the stress and exertion of extensive repeated, prolonged, or continuous application(s) of the TASER device may contribute to cumulative exhaustion, stress, and associated medical risk(s).

With respect to whether application of the weapon affects the subject's breathing, the manufacturer's training materials may reflect a change in opinion. On one hand, the current PowerPoint presentation states, "Current human studies have concluded that TASER applications directly across the chest do not impair normal breathing patterns."⁹¹ However, in a 2005 Training Bulletin⁹² the manufacturer stated:

⁹⁰ *Ibid.*, slide 204.

⁹¹ *Ibid.*, slide 166.

⁹² TASER International, Inc., Training Bulletin 12.0-04.

Repeated, prolonged, and/or continuous exposure(s) to the TASER electrical discharge may impair breathing and respiration, particularly when the probes are placed across the chest or diaphragm. Users should avoid prolonged, extended, uninterrupted discharges or extensive multiple discharges whenever practicable in order to minimize the potential for over-exertion of the subject or potential impairment of full ability to breathe over a protracted time period.

These differing opinions are reflected in police agencies' training materials. Six train that there are no adverse effects on heart function or respiration deriving from multiple or prolonged deployments, while five agencies train that extended duration applications may cause sufficient muscle contractions to impair normal breathing patterns.

No agency imposes an absolute cap on the number of cycles permitted, although ten agencies train that an officer should apply only the number of cycles reasonably necessary to allow them to safely approach and restrain the subject. Several agencies train that if a third cycle is required, officers should consider another force option.

9. Post-deployment considerations

The manufacturer's training materials state that officers should evaluate the need for medical attention as they would with any other use-of-force incident, as directed by agency policy. A majority of agencies apply this general advice, although three agencies make medical examination by emergency health services personnel (*i.e.*, ambulance) mandatory, regardless of the mode of deployment.

The manufacturer leaves it up to each agency to establish its own policy on probe removal. One agency trains that only a qualified medical doctor may remove probes that are imbedded in the subject's skin, while another agency authorizes an officer certified in first aid to remove probes.

10. Excited delirium

The manufacturer's training materials acknowledge the incidence of sudden unexpected death arising out of circumstances in which a conducted energy weapon

was used—a phenomenon sometimes described as “death proximate to TASER use.” In such cases, there is considerable controversy around whether it can be established that the conducted energy weapon caused, or contributed to, the death. The materials identify eight common factors of sudden death (observing that the events leading to death are frequently set in motion hours, days, or even weeks before the police are called):⁹³

- chronic/toxic drug use;
- pre-existing heart conditions;
- obesity and poor cardiovascular condition;
- diabetes and other pre-existing diseases;
- protracted physical struggle;
- exhaustive mania/metabolic acidosis;
- agitated/excited delirium; and
- positional/restraint/compressive asphyxia.

The materials then discuss warning signs of sudden unexpected death, stating:

Should one or more of the following behaviors manifest, the suspect may require immediate medical assistance due to pre-existing conditions, possible overdose, cocaine psychosis, excited delirium, etc. Consider having EMS standing by when the subject exhibits:

- bizarre or violent behavior;
- signs of overheating/profuse sweating;
- disrobing;
- violence toward/attacking glass, lights, and reflective surfaces;
- superhuman strength and endurance;
- imperviousness to pain—self-mutilation;
- disturbances in breathing patterns or loss of consciousness; and
- complaints of respiratory difficulty.⁹⁴

⁹³ Footnote 73, *supra*, slide 217.

⁹⁴ *Ibid.*, slide 218.

These materials refer to “excited delirium” (which they also describe as “in-custody death syndrome”) as one of the eight sudden-death common factors and as one of the possible explanations for the unusual subject behaviours that are warning signs for sudden unexpected death. The materials define “excited delirium” as:

A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength and endurance without apparent fatigue.⁹⁵

As I will discuss in more detail in Part 9 of this Report, there is controversy within the medical community about whether excited delirium is a stand-alone diagnosis, or merely a symptom of an underlying condition. This debate is reflected in the agencies’ training materials:

- One agency trains that excited delirium is only a symptom of an underlying condition.
- One agency trains that excited delirium is a medical emergency with several possible causes, including psychiatric illness and/or stimulant abuse, alcohol withdrawal, insulin shock (very low blood sugar), head injury, or other medical problems.
- One agency provides a detailed physiological explanation, stating that excited delirium may involve an organic chemical imbalance in the brain, psychiatric illness, or stimulant abuse; it may be caused by hypoxia, hypoglycemia, stroke and intra-cranial bleeding; it involves sympathetic nervous system arousal, and is a run-away of the flight-or-fight response; it is associated with an increase in adrenaline/non-adrenaline release, an increase in body temperature, an increase in CO₂, decrease in blood pH, exertional rhabdomyolysis, heart arrhythmia, and cardiac arrest.

The manufacturer’s training materials support the deployment of a conducted energy weapon against a person who is in a state of excited delirium although, when discussing extended or repeated weapon applications, they caution, “Especially when dealing with persons in a health crisis such as excited delirium, it is advisable to minimize the physical and psychological stress to the subject to the greatest degree possible.”⁹⁶

95 *Ibid.*, slide 219.

96 *Ibid.*, slide 166.

The agencies' training materials provide guidance respecting how an officer should respond to a subject exhibiting these symptoms, with some variation among agencies:

- One agency states that sudden and unexpected death proximal to restraint is not a rare occurrence (there are approximately 200 deaths every year following police restraint), but then emphasizes (as do three other agencies) that excited delirium is a medical emergency and that there can be no medical treatment without restraint. It then offers the general advice that officers should weigh the need for immediate control against the risk to the subject.
- Eleven agencies train (in accordance with the manufacturer's materials) that officers should consider having emergency health services standing by.
- Nine agencies train that if a subject displays any of these unusual behaviour patterns, officers must ensure that the subject receives immediate medical attention, as the subject is at an elevated risk of in-custody death.
- Three agencies outline several pre-contact strategies when dealing with a subject in an excited delirium state, such as keeping the subject talking (to cause cognitive pattern interruption), keeping distance from the subject, and issuing simple and clear commands. However, they provide contradictory training on whether the officer should lower the lights or slow his or her physical movements.

11. Voluntary exposure

The manufacturer's training materials⁹⁷ state that exposure to a conducted energy weapon during training is not required for instructor or operator certification, although a 2004 training bulletin stated that the manufacturer strongly recommends a sample hit.

The Commission's survey of BC law enforcement agencies found that:

- No agency requires that trainees be subjected to a conducted energy weapon exposure;
- Seven provincially regulated agencies plus the RCMP permit exposure, if the trainee volunteers; and
- Seven agencies prohibit exposure during training, even with trainee consent.

⁹⁷ *Ibid.*, slides 45-51.

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For agencies that do permit voluntary exposure during training, the manufacturer's PowerPoint training materials offer the following advice:

- Exposure to neuromuscular incapacitation involves physical exertion similar to an athletic activity, such as weight lifting or wrestling. Risks of injury from physical exertion or falling, while low, are *not* zero.
- Volunteers should notify the instructor of any pre-existing injuries, medical conditions, or susceptibilities.
- Volunteers with pre-existing conditions, such as a back injury, should avoid exposure to the injured areas.
- Prior to taking an exposure, the volunteer should stretch and warm up as they would before exercising.
- The volunteer should stand on proper matting and the area should be clear of bystanders and objects.
- The volunteer must be placed face down on the mat or, if standing, must be supported by two spotters, each one holding an upper arm under the armpit so that the volunteer can be safely supported and lowered to the mat after deployment without twisting, rotating, or putting undue stress on the arm or shoulder. The volunteer and both spotters must wear eye protection.
- Exposure may be effected by attaching alligator clips to the volunteer's clothing, or by deploying the weapon in probe mode.
- Probes should be deployed from behind the volunteer into his or her back and/or legs, to avoid penetration of the face, throat, or genitals.

In addition, a 2004 training bulletin recommended removing the probes and barbs from the ends of the wires and taping the ends of the wires to the volunteer's shoulder, back, hip or leg, as well as limiting the electrical discharge to 1–2 seconds.

The agencies' training materials repeat these guidelines, with some variations:

- One agency states that exposure causes strong muscle contractions that may result in injuries to muscles, tendons, ligaments, back, joints, and stress fractures. For that reason, deployment may only occur to the front torso area, and wires must be attached to the volunteer's clothing with tape or alligator clips. The clips must be 12–18 inches apart, and exposure must be limited to 1–2 seconds, unless the volunteer requests a full five-second cycle.
- Eight agencies train to aim for the back of the legs, to further reduce stress to the volunteers.

D. CONCLUSIONS

From this review, I have reached several conclusions.

First, there is a troubling lack of consistency in provincial law enforcement agencies' training materials respecting conducted energy weapon use. Much of this is an inevitable consequence of the Police Academy's decision in 2006 to withdraw from conducted energy weapon training (except in relation to the Sheriff Services Division and Corrections Branch) after the Vancouver Police Department decided that it did not want all its recruits trained in use of this weapon. It has meant that all municipal police departments and several other law enforcement agencies have had to develop their own in-house training programs, regardless of their size or training expertise. It is inefficient and unnecessarily expensive, and has inevitably led to inconsistencies among agencies and an undue reliance on the manufacturer's training materials.

I can well understand why one police agency may not want all its officers to carry conducted energy weapons while on the street. However, it is regrettable that such an *operational* decision should have triggered such a detrimental impact on the *training* of police recruits across all agencies.

British Columbians would be much better served if one body assumed responsibility for basic training in conducted energy weapon use, as an integral component of use-of-force training generally. The Police Academy is, without question, the appropriate body to perform this function.

The provincial government has had, for at least a decade, the authority under s. 74(2)(t) and (u) of the *Police Act* to make regulations respecting police officer training, including training in the use of all types of weapons. It should exercise this authority to require that one agency, presumably the Police Academy, conduct all recruit training in the use of conducted energy weapons.

Second, the police agencies' training materials reveal confusion about which matters properly fall within the ambit of *training* and which should be dealt with as *policy*. At

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the risk of oversimplifying a complex topic, training should focus on how, and policy should focus on when. For example, training should address matters such as how the weapon functions, the differences between push-stun and probe modes, the impact of deployment on a subject, steps the officer should take to reduce the risk of injury, procedures for recording what happened and downloading data, and proper care of the weapon. On the other hand, policy should dictate 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 conducted energy weapon should never be deployed, and when repeated or prolonged cycles are appropriate.

To repeat what I said in Part 5, it is in my view the responsibility of the provincial government to set policy on such important issues as conducted energy weapon use. It then becomes the responsibility of trainers to train in the use of such weapons, within that policy framework.

Third, this review has shown an inappropriately high degree of dependence on the manufacturer's training materials, not only among the ten agencies that rely exclusively on the manufacturer's materials, but also among other agencies that profess to have developed "vendor-neutral" materials.

I do not mean to suggest that the manufacturer's materials should not be used in training. The manufacturer has designed and built the weapon, and knows how it works and how it should be cared for.

However, it is in my view inappropriate for law enforcement agencies to rely exclusively on the manufacturer's training materials, when they encroach into policy areas or issues of medical risks that may be under dispute.

If, as I have suggested, trainers focus on the *how*, not the *when*, then trainers' reliance on the manufacturer's training materials may cease to be a problem. It will be the responsibility of the provincial government to set policy on conducted energy

weapon use, which will require an understanding of, and objective analysis of, the medical issues that I will explore in Part 9.

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