

Part 7

Incidence of Conducted Energy Weapon Use in British Columbia

**PART 7: INCIDENCE OF CONDUCTED ENERGY WEAPON USE
IN BRITISH COLUMBIA**

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A. INTRODUCTION

In this part I will examine the introduction of conducted energy weapons into British Columbia, how the number of weapons and the number of deployments have increased over the past decade, and the types of circumstances in which conducted energy weapons have been deployed.

B. THE INTRODUCTION OF CONDUCTED ENERGY WEAPONS

In December 1998, the Victoria Police Department began a six-month field study of conducted energy weapons. It used models supplied by two American manufacturers:

- Tasertron, located in Corona, California, which produced the TE-86 and TE-95, which were two-shot models, and a newer TE-93, which was a one-shot model; and
- TASER International, based in Scottsdale, Arizona, which produced the AIR TASER Model 34000.

Following the field study, Sgt. Darren Laur prepared a technical report, which the Canadian Police Research Centre published in 2000⁹⁸ for the assistance of police forces across the country. According to the report, a conducted energy weapon was used 14 times during the field study. In five cases, voluntary compliance was achieved simply through the threat of use, or by using the laser lights on the subject. In the other nine cases, the weapon was fired, causing incapacitation. In all cases, the subjects fully recovered within minutes without injury or after-effect.

With respect to medical research, the author stated (at p. 6), "To say that TASER pulse wave technology has been over-studied by the medical community would be an understatement," adding:

To date, all medical research involving the TASER has found that, when used on a normally healthy adult, the electrical current, supplied by a TASER with

98 Laur, Darren, *Taser Technology Research Paper* (Ottawa: CPRC, 2000), available at http://www.icpra.org/home/reading_2/CPRC_Taser_Research.pdf.

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50,000 volts and 5 watts, is extremely safe to use, and will not affect cardiac muscle, will not affect pace makers, or cause long term seizures.⁹⁹

After comparing the relative merits of the two manufacturers' law enforcement models, the author strongly endorsed the TASER pulse wave technology systems, which he concluded were "a safe, reliable and an effective less lethal option for the Canadian police and correctional agencies" (p. 27).

He identified numerous advantages to using TASER technology, based on the Victoria field study and his research paper, including increased officer and subject safety, decreased number of injuries to officers and subjects, increased success with subjects immune to pain compliance tactics, no fatalities directly related to TASER, a morally and legally responsible less lethal option, decreased liability issues for management, a more humane use-of-force option, and extremely cost effective.

In 1999 then-Attorney General Ujjal Dosanjh, Q.C., authorized municipal police departments in British Columbia to use conducted energy weapons. His decision was based largely on the results of the Victoria Police Department's field study. In his presentation during our public forums,¹⁰⁰ Mr. Dosanjh said that his approval was based on three assurances he had received:

- These conducted energy weapons were absolutely safe to use. They saved lives because in most instances in which a police officer might draw a firearm, that would not be required. It would be safer for police officers and for people on whom such weapons would be used.
- The matter of safety had been thoroughly researched, if not over-researched.
- These weapons would be used absolutely sparingly, only in situations where the subject was assaultive or combative—a threat to themselves, the police, or some third person.

In his presentation, the Director of Police Services echoed Mr. Dosanjh's understanding:

⁹⁹ In light of the medical research that has been done since Sgt. Laur's 2000 report, his suggestion that conducted energy weapons had been over-studied seems, in hindsight, to have been overly optimistic.

¹⁰⁰ Transcript, May 12, 2008, pp. 50-51.

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It was expected that Tasers would be limited to being used in situations where subjects were violent, aggressive, or armed; in other words, in situations with a very high level of risk and potential for serious injury to both police officers and subjects.... [W]e do share the concern that there has been slippage in terms of Tasers being used in increasingly lower risk encounters. This is not how the government originally envisioned or endorsed the use of Tasers.¹⁰¹

By 2001, all 11 municipal police departments in British Columbia were using conducted energy weapons, and the RCMP authorized use in its detachments across Canada on December 20, 2001. The Sheriff Services Division began using them in late 2001.

The provincial Corrections Branch began using conducted energy weapons in 2003. In 2007 the Transit Authority Police (formally called the South Coast British Columbia Transit Authority Police Service) authorized their use.¹⁰²

C. MUNICIPAL POLICE DEPARTMENTS

1. Methodology

Most of the information in this part of the Report is based on an empirical analysis of incident reports obtained from law enforcement agencies in British Columbia.

In April and May 2008, requests were sent to each of the 11 independent municipal police departments,¹⁰³ plus two tribal police agencies¹⁰⁴ and the Transit Authority Police,¹⁰⁵ asking for “conducted energy weapon incident reports” dating from when the department first equipped its members with conducted energy weapons to the present. Each department was also asked to provide information about when such

101 Transcript, May 7, 2008, pp. 53-54.

102 Two tribal police agencies (Stl’Atl’Imx Tribal Police and Kitsoo Tribal Police) also received authority to use conducted energy weapons. However, they will not be included in the analysis that follows, because the Stl’Atl’Imx Tribal Police reported no conducted energy weapon usage, and the Kitsoo Tribal Police (comprised of a single RCMP officer under contract) reported only one incident of conducted energy weapon usage.

103 Abbotsford, Central Saanich, Delta, Nelson, New Westminster, Oak Bay, Port Moody, Saanich, Vancouver, Victoria, and West Vancouver.

104 Only one of these agencies, the Kitsoo Tribal Police (comprised of a single RCMP officer under contract), had used the CEW. The Stl’Atl’Imx Tribal Police reported no CEW usage.

105 Originally known as the Greater Vancouver Transit Authority Police Service (GVTAPS) this agency is now known as the South Coast British Columbia Transit Authority Police Service.

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weapons were first acquired by the agency and inventory information about the number of weapons initially and subsequently acquired.

In order to facilitate and expedite the release of documents to the Commission, Sharon Samuels, Research Counsel, negotiated and signed confidentiality agreements with each of the independent police agencies, the Corrections Branch, and Sheriff Services ensuring that the privacy of individuals involved in conducted energy weapon incidents (both police and civilians) would be safeguarded by the Commission.

For some departments these requests posed a significant challenge in identifying and retrieving incident reports related to conducted energy weapon usage.¹⁰⁶ Incident reports were identified through multiple database, location, and manual searches. After the initial delivery of documents, several departments identified additional reports by searching for different spellings of key words (such as taser or tazer).¹⁰⁷

Incident information was provided in four main formats: control tactic reports, use-of-force reports, subject behaviour/officer response reports, and general occurrence reports. In some cases, more than one type of report (such as a use-of-force report and a general occurrence report) was provided. General occurrence reports were requested from some departments when it was determined that the use-of-force reports initially provided did not contain enough information, in particular a narrative or synopsis of the event, about the circumstances of the incident for the purposes of this analysis.

A coding form was developed to capture information about subject characteristics and behaviours, incident type and location, mode of weapon deployment, use of other force options, subject and officer injuries, arrest status, and policy compliance. The

106 West Vancouver could not locate any CEW incident reports from 2004 and did not know whether there were or were not any CEW incidents in that year. Other departments reported that a few early files had been purged from their systems and no reports could be provided.

107 Notably, among the last reports to be provided, following several inquiries and reminders, were those related to two fatalities associated with CEW use in Vancouver. Additional reports that had not previously been acknowledged were found in the possession of specialized units such as the VPD Emergency Response Team.

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form was modified somewhat, following the coding of approximately 100 incident files. File coding was completed in early September 2008.¹⁰⁸

For the purposes of this research, the unit of analysis was defined as “the use of a conducted energy weapon on an individual during a single event.” If the police incident report(s) described the use of the conducted energy weapon on more than one subject during a single event a “Conducted Energy Weapon Incident File Review Coding Form” was completed for each subject and would be counted as multiple instances of weapon use.

The period covered by this review is from December 1998 (when the first use of conducted energy weapons occurred during pilot testing of the weapon in Victoria) through to the end of 2007. Some departments provided reports from early in 2008; however, these incidents were excluded from the analysis in order to have a consistent study end date for all agencies.

This empirical analysis culminated in three research reports written by Karen A. Ryan,¹⁰⁹ which addressed use by municipal police departments, including the RCMP and the Transit Authority Police (Appendix G), the Sheriff Services Division (Appendix H), and the provincial Corrections Branch (Appendix I).

Since the conditions under which conducted energy weapons are used vary significantly among these different law enforcement agencies, I will discuss the municipal police departments first, and then deal separately with the RCMP, the Transit Authority Police, the Sheriff Services Division, and the provincial Corrections Branch.

108 Significant research assistance was provided by Jennifer B. Morgan, who completed much of the file coding and provided general research support.

109 *Use of Conducted Energy Weapons by Municipal Police Agencies in British Columbia, 1998-2007, Use of Conducted Energy Weapons by Provincial Corrections in British Columbia, 2003-2007, and Use of Conducted Energy Weapons by the Sheriff Services in British Columbia, 2001-2007.*

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2. Inventory of conducted energy weapons

There are 11 municipal police departments in British Columbia, policing 12 municipalities in Greater Victoria, the Lower Mainland, and Nelson. Over the past decade, most of these departments have increased their inventory of conducted energy weapons, as Table 4 shows:

Table 4: Inventory of CEWs by municipal police department, by year

Agency	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Greater Victoria										
Victoria	1	4	4	4	4	4	14	12	15	30
Oak Bay		1	1	3	3	3	4	4	4	4
Saanich			3	3	3	3	3	7	8	8
Central Saanich				2	2	2	2	2	2	2
Lower Mainland										
Vancouver			40	40	40	40	40	95	95	95
West Vancouver				2	5	5	5	5	5	6
Delta				3	15	19	23	26	30	34
Port Moody				2	2	2	2	2	6	4
New Westminister			3	3	3	9	9	15	15	15
Abbotsford			3	3	18	18	25	25	29	30
Nelson				1	1	1	1	1	1	1

Note: Counts are per year and are not cumulative. The current inventory for a department may be different from that shown for 2007, due to purchases made during 2008 and 2009, and weapons temporarily withdrawn from service in late 2008 for calibration testing.

The number of conducted energy weapons that any particular municipal police department has, in relation to the number of officers it employs, varies significantly (see Table 5), which suggests differing attitudes towards their use.

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Table 5: Ratio between policing agencies' authorized strength and number of conducted energy weapons in their inventory¹¹⁰

Policing agency	Authorized strength	Inventory	Number of officers/CEW
Greater Victoria			
▪ Victoria	221	30	7.4:1
▪ Oak Bay	22	4	5.5:1
▪ Saanich	147	8	18.4:1
▪ Central Saanich	21	2	10.5:1
Lower Mainland			
▪ Vancouver	1,214	95	12.8:1
▪ West Vancouver	79	6	13.2:1
▪ Delta	151	34	4.4:1
▪ Port Moody	40	4	10.0:1
▪ New Westminster	107	15	7.1:1
▪ Abbotsford	195	30	6.5:1
Nelson	17	1	17.0:1

3. Number of conducted energy weapon deployments

According to incident reports provided to the Commission, municipal police departments deployed¹¹¹ conducted energy weapons 1,397 times between 1998 and 2007.¹¹²

It is probably more accurate to say that there were *at least* 1,397 deployments during this time period—there may have been many more. Let me explain. When an officer deploys a conducted energy weapon, the officer is required to complete and file with the department a use-of-force report. Assuming that every officer does so, and

110 Authorized strength data is for 2006 (the most recent data available), and was extracted from the Police Services Division report, *Police Resources in British Columbia, 2006*. Inventory of conducted energy weapons data was provided to the Commission by each municipal police department, and is for the year 2007.

111 In this analysis, "deployment" includes a verbal warning that the weapon might be used, display of the weapon (*i.e.*, drawing the weapon from the holster, and possibly "sparking" it and/or targeting the laser light on the subject's body), and application of the weapon in push-stun mode, probe mode, or both.

112 The analysis in this section is based on Ms. Ryan's research paper entitled *Use of Conducted Energy Weapons by Municipal Police Agencies in British Columbia*. That paper reported a total of 1,404 conducted energy weapon incidents. However, that total included six incidents involving the Transit Authority Police and one incident involving the Kitasoo Tribal Police. These seven incidents have not been included in the analysis of municipal police departments.

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assuming that the police department retains all such reports and has provided all such reports to this Commission, then the Commission's tabulation of the number of deployments by all municipal police departments is reliable.

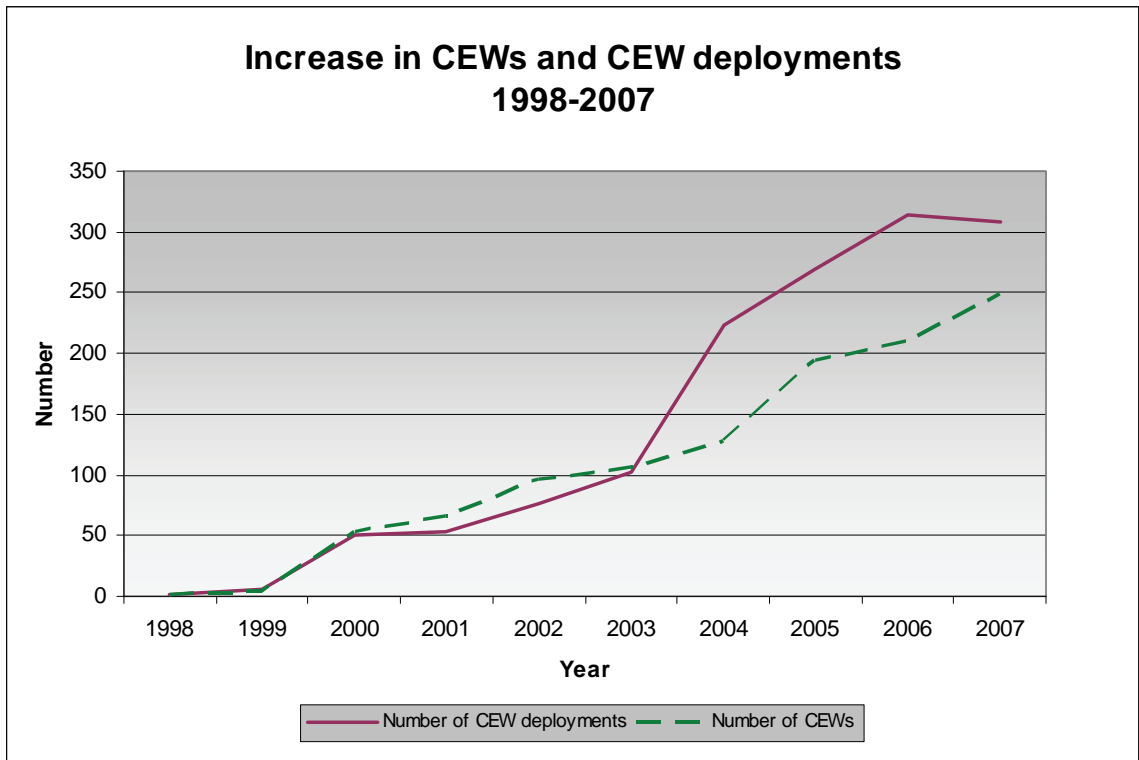
However, when Commission staff attempted to match incident reports against complaints received by the provincial Police Complaint Commissioner, they identified a significant anomaly. Between 2001 and 2007, the Police Complaint Commissioner received 32 complaints arising from incidents in which conducted energy weapons were alleged to have been used by municipal police departments. When Commission researchers tried to match those 32 complaints against incident reports received from police departments, they found that in 18 cases (56 percent), no corresponding incident report had been provided to the Commission. There are several possible explanations for this discrepancy—in over half of all conducted energy weapon deployments, the officer may not have completed and/or filed an incident report, or the department may not have retained the report and/or provided it to the Commission. Whatever the explanation, one could reasonably conclude that there have been far more deployments (up to twice as many) as the information provided by municipal police departments suggests.¹¹³

In any event, the Commission's review of the 1,397 incident reports reveals that the number of deployments has increased over the past decade, at a rate that exceeds the growth in the number of weapons that are in use, as Graph 1 shows.

113 This conclusion is consistent with a finding made by Paul E. Kennedy, Chair of the Commission for Public Complaints Against the RCMP, in his June 12, 2008 final report entitled: *RCMP Use of the Conducted Energy Weapon (CEW)* (available at http://www.cpc-cpp.gc.ca/af-fr/PDF/FinalCEWReport_e.pdf), at p. 38, where he stated: "Of the 76 Commission complaints about CEW deployment, 52 corresponding Forms 3996 could not be located in the RCMP database. This means that 68 percent of the Commission's deployment complaints could not be accounted for. Furthermore, of the 28 complaints where CEW deployment was only threatened, none of the Forms 3996 could be found in the database.... These two findings confirmed that there has been extensive underreporting of CEW use, especially in cases where the weapon was threatened but not deployed."

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Graph 1: Increase in CEWs and CEW deployments, 1998-2007



When we examine the frequency of conducted energy weapon deployment by individual municipal police departments, we find surprising variations, as Table 6 shows:

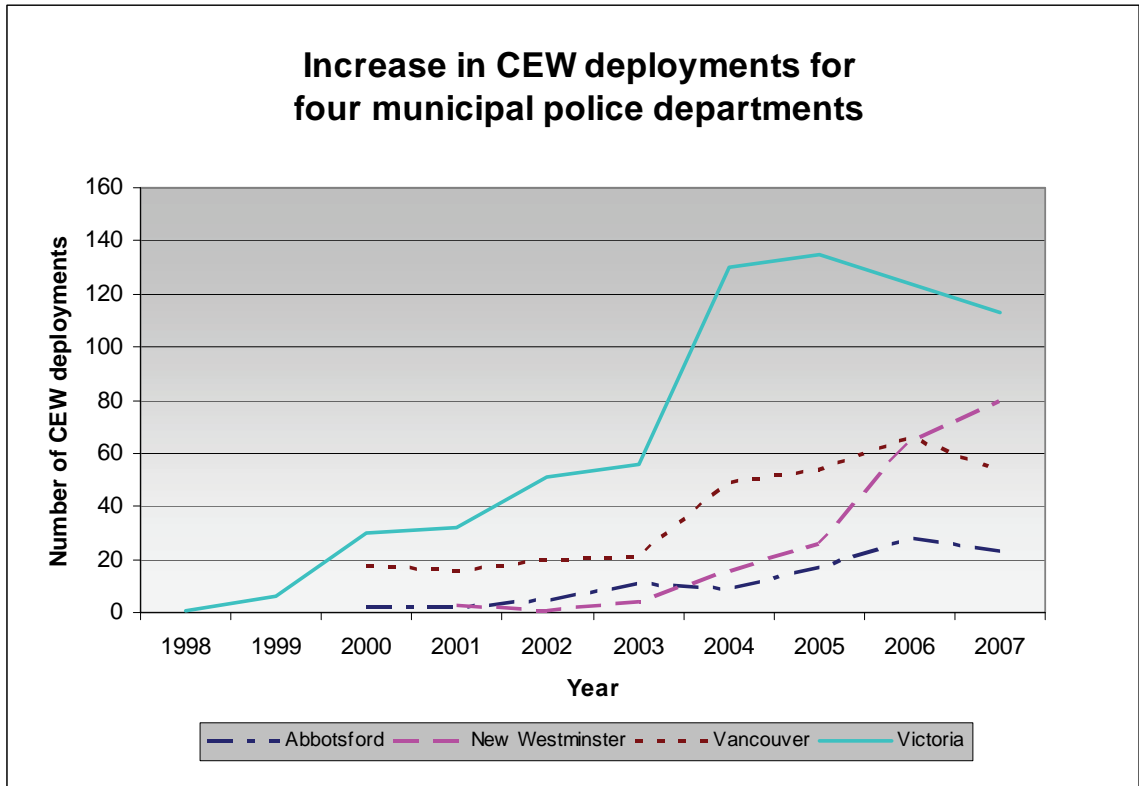
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Table 6: Frequency of conducted energy weapon deployment

Policing agency	Number of CEW deployments	Percentage
Greater Victoria		
▪ Victoria	678	48.5
▪ Oak Bay	7	0.5
▪ Saanich	43	3.1
▪ Central Saanich	5	0.4
Lower Mainland		
▪ Vancouver	297	21.3
▪ West Vancouver	19	0.6
▪ Delta	45	3.2
▪ Port Moody	8	0.6
▪ New Westminster	195	14.0
▪ Abbotsford	97	6.9
Nelson	3	0.2
TOTAL	1,397	100.0

If we isolate the four municipal police departments with the highest overall deployments, we find that in each case there has been a steady and consistent increase over the years, as Graph 2 shows:

Graph 2: Increase in CEW deployments for four municipal police departments



Note 1: Initial year of implementation may represent a partial year. Part of the increase in New Westminster between 2005 and 2006 is accounted for by an increase in reported incidents in which the CEW was displayed only (with no stun or probe deployment). In 2005, none of the 26 incidents were display only; while in 2006, 17 of 65 incidents (26 percent) were display only; and in 2007, 36 of 80 incidents (45 percent) were display only.

Note 2: This graph illustrates the difficulty Commission researchers had in obtaining reliable data about conducted energy weapon deployments. For example, the data provided by the Vancouver Police Department indicated that there had been 53 deployments in 2007. However, in a March 10, 2009, report to the Vancouver Police Board by the VPD's director of the Planning, Research and Audit Section, 80 deployments were reported for 2007, including six in display mode only. This represents an under-reporting to the Commission of approximately 33 percent.

Finally, it is informative to examine each municipal police department's deployment in relation to that municipality's population, as shown in Table 7:

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Table 7: Per capita CEW deployment by municipal police departments (2006)

Department	Population*	No. of CEW deployments	No. of deployments per 100,000 pop.
Greater Victoria			
▪ Victoria	**94,897	124	130.7
▪ Oak Bay	17,908	2	11.2
▪ Saanich	108,265	13	12.0
▪ Central Saanich	15,745	3	19.1
Lower Mainland			
▪ Vancouver	578,041	66	11.4
▪ West Vancouver	42,131	4	9.5
▪ Delta	96,723	5	5.2
▪ Port Moody	27,512	2	7.3
▪ New Westminster	58,549	65	111.0
▪ Abbotsford	123,864	28	22.6
Nelson	9,258	1	10.8

*2006 Canada Census

**Includes the population of Esquimalt (16,840), which the Victoria Police Department has policed since 2003.

4. Who are conducted energy weapons used against?

a. Personal characteristics

The Commission's review found that:

- Males were the subjects in over 90 percent of conducted energy weapon deployments.
- The average age of subjects was 32.7 years (but ranging between 13 and 84 years).
- Subjects were medium or average size in 75 percent of cases, large in 18 percent of cases, and small in 7 percent of cases.
- 75 percent of subjects were Caucasian, followed by Aboriginal (13 percent), and Asian, Black and South Asian (3 percent each). There was some variation in these rates among police departments.
- In 10 percent of cases the police had prior knowledge of a mental illness, although there was wide variation among police departments.

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- In 10 percent of cases the police had prior knowledge of the subject’s violent behaviour.
- In only 2 percent of cases the police had prior knowledge of the subject’s pre-existing medical condition, such as brain injuries, diabetes, hepatitis C, or seizure disorders.

b. Time and location of incidents

Two-thirds of conducted energy weapon deployments occurred during the evening or at night, between 6 p.m. and 6 a.m. Weapons were deployed at a wide variety of locations, including:

- on the street (38 percent)
- at a residence (34 percent)
- at police cells (8 percent)
- at businesses other than bars and nightclubs (5 percent)
- outside of bars and nightclubs (5 percent)
- at hospitals (3 percent)

c. Types of incidents

Information included on the incident reports enabled the Commission researchers to identify the types of incidents to which officers responded. Since some reports included two types of incidents, there is some overlap between categories. The highest rates were for the types of incidents set out in Table 8:

Table 8: Types of incidents resulting in conducted energy weapon deployment

Type of incident	Frequency	Percentage
Suicide attempt/threat/self-injurious behaviour	277	19.8
Violence/threat of violence to others (fight)	238	17.0
Disturbance	214	15.3
Drug/alcohol intoxication	173	12.4
Emotionally disturbed person	150	10.7
Domestic disturbance/violence	138	9.9
Patrol observes infraction	102	7.3
Person with knife	99	7.1

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In approximately 20 percent of cases, the subject was armed with some type of weapon, although this percentage ranged from 10 to 43 percent, depending on the municipality involved. The types of weapons included an edged weapon (68 percent), blunt weapon (19), pointed weapon (12), and firearm (2).

d. Levels of resistance

The types of subject behaviours, or the subject’s level of resistance, were also tabulated, as set out in Table 9. In this grouping as well, an incident report may contain multiple descriptors of subject behaviour or actions.

Table 9: Subject behaviours/actions

Subject behaviours/actions	Frequency	Percentage
Cooperative/compliant to directions	100	7.1
Passive resistance	108	7.7
Agitated	210	15.0
Pacing	19	1.4
Yelling	340	24.2
Smashing property	60	4.3
Verbally abusive/verbal threats/verbal aggression	322	22.9
Alcohol/drug intoxication	867	61.8
Symptoms of “excited delirium”	14	1.0
Symptoms of drug overdose	1	0.1
Symptoms of drug-induced psychosis	49	3.5
Active resistance	1,020	72.6
Assaultive	691	49.2
Violence/threatened violence to police	160	11.4
Violence/threatened violence to self	132	9.4
Violence/threatened violence to others	111	7.9
Threatened suicide by cop scenario	51	3.6
Grievous bodily harm or death	19	1.4
Officer assaulted	66	4.7

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The information in Table 9 should be approached with caution, because the behaviour categories are not mutually exclusive. For example, in an incident in which the subject’s behavior was initially passively resistant to police direction but escalated to active resistance, both passive and active resistance were recorded. Having said that, several findings are significant:

- the frequency of incidents involving subjects exhibiting alcohol and/or drug intoxication (867); and
- the relative rarity of incidents in which the officer perceived a risk of grievous bodily harm or death (19).

5. Types of deployments

There are several ways in which a conducted energy weapon may be deployed—display mode, push-stun mode, and probe mode, or any combination of those modes.

a. Single mode of deployment

Our review of incident reports reveals that conducted energy weapons were deployed in a single mode only in the following numbers of cases, as set out in Table 10:

Table 10: Instances of single mode of deployment

Department	Total deployments	Display only	Push-stun only	Probe only
Greater Victoria				
▪ Victoria	678	155	240	155
▪ Oak Bay	7	4	0	0
▪ Saanich	43	1	18	5
▪ Central Saanich	5	1	0	0
Lower Mainland				
▪ Vancouver	297	61	62	73
▪ West Vancouver	19	4	4	4
▪ Delta	45	19	4	5
▪ Port Moody	8	0	1	5
▪ New Westminster	195	55	42	41
▪ Abbotsford	97	8	28	30
Nelson	3	0	0	3
TOTAL	1,397	308	399	321

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While I am reluctant to draw firm conclusions from this data without having more detailed information about the circumstances of each deployment, I will make several general observations:

- It appears that in approximately 22 percent of cases, it was possible to resolve the situation by displaying the conducted energy weapon alone, without having to discharge it in either push-stun or probe mode.
- It appears that in almost exactly half the cases, it was possible to resolve the situation without resorting to discharge in probe mode.
- It appears that some police departments deploy conducted energy weapons in display mode only with greater frequency than other departments. This may indicate variations in training received, threat levels experienced by officers, reporting requirements for display-only use, or adherence to and enforcement of reporting requirements.

b. Effectiveness of deployments

When deployed in push-stun mode, the location of the subject's body most frequently targeted was the back (29 percent), legs (10), shoulders (6), side or ribs (5), and chest (4). It was effective in controlling the subject in almost 80 percent of cases.

When deployed in probe mode, the location of the subject's body most frequently targeted was the back (25 percent), chest (22), torso or centre mass (9), chest and abdomen (8), and abdomen (5). It was effective in controlling the subject in 67 percent of cases. When probe deployment was not effective, this was due to poor electrical conduction because of thick clothing (36 percent), one or both darts missing or becoming dislodged (24), or a malfunction of the weapon or low battery power (3).

c. Push-stun and probe mode deployments

In about 7 percent of cases (92), a conducted energy weapon was deployed in both push-stun and probe mode. This occurred in Victoria (35 times), New Westminster (22), Vancouver (16), Abbotsford (9), Delta (5), West Vancouver (3), and Saanich (2).

The frequency of such dual deployments has increased since conducted energy weapons were introduced. They accounted for 4 percent of deployments in 2000 and 8.6 percent of deployments in 2007.

d. Multiple deployments against a subject

When a conducted energy weapon was deployed in push-stun mode (with or without another mode of deployment as well), the subject was exposed to only one push-stun deployment in 55 percent of cases, and two such deployments in 26 percent of cases. The most push-stun deployments against a subject was 14.

When a weapon was deployed in probe mode, it was deployed for one cycle (normally five seconds in duration) in 64 percent of cases, and for two cycles in 23 percent of cases. The most probe-mode cycles deployed against one subject was 10.

6. Relationship between levels of resistance and mode of deployment

Earlier in this part I discussed the types of subject behaviours (or levels of resistance) that resulted in the deployment of a conducted energy weapon and then, in a separate analysis, the types of deployments (ranging from display mode to a combination of push-stun and probe modes). While informative when examined separately, it is even more interesting when data about both these matters are combined, as Table 11 shows.

Several noteworthy findings emerge from this analysis:

- In at least 12 percent of cases, conducted energy weapons were deployed contrary to the “active resistance” threshold established in the National Use of Force Framework, including 36 instances of deployment in push-stun or probe mode.¹¹⁴
- There were 19 instances in which the level of resistance (grievous bodily harm or death) justified the use of lethal force, but a conducted energy weapon was deployed instead.

114 In 13 of these 36 cases of passive resistance, the subject was armed with some type of weapon.

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Table 11: Method of CEW use by highest level of subject resistance

Highest Level of Resistance	Cooper- ative	Passive	Active	Assault- ive	GBH/ Death	Other	Total
CEW Use							
Warning Only	0	3	3	5	0	1	12
Display Only/ Deployment	92	32	89	75	0	20	308
Display & Stun	0	0	34	49	1	1	85
Display & Probe	0	16	55	88	7	3	169
Stun Only	0	2	145	244	2	6	399
Probe Only	0	17	129	147	9	19	321
Stun & Probe	0	0	22	37	0	0	59
Display & Stun & Probe	0	1	8	24	0	0	33
TOTAL	92	71	485	669	19	50	1,386

The Commission’s researchers determined that in approximately 62 percent of cases (860), alcohol or drug intoxication was identified as at least one of the subject’s behaviours. When that category of subjects was isolated, several interesting results emerged. First, in 11 percent of cases, a conducted energy weapon was deployed when the subject’s behaviour did not meet the “active resistance” threshold and, in 42 percent of these cases, the weapon was used in push-stun or probe mode, or both. Second, the types of deployments used for all intoxicated subjects were as follows:

- warning and/or display 139 (16.2 percent)
- push-stun mode 375 (43.6 percent)
- probe mode 289 (33.6 percent)
- push-stun and probe modes 57 (6.6 percent)

7. Use of other force options

The Commission's researchers also identified other intervention methods or force options that were employed against subjects, either before, during, or after deployment of a conducted energy weapon, including the following (in some cases, more than one intervention method was employed):

- *Before deployment*—verbal intervention (94 percent of cases), soft physical control (34), hard physical control (18), and firearm warning (5);¹¹⁵
- *During deployment*—verbal intervention (6), firearm warning (4), hard physical control (3), and soft physical control (2); and
- *After deployment*—restraint (95), hard physical control (10), and soft physical control (8).

With respect to restraint, 67 percent of subjects were arrested for *Criminal Code* violations, 20 percent of subjects were detained under the *Mental Health Act*, and approximately 10 percent were released. Of those released, 25 percent had been exposed to push-stun deployment, 37 percent had been exposed to probe-mode deployment, and 5 percent had been exposed to both modes of deployment.

8. Deaths, injuries, and medical attention

a. Deaths of and injuries to subjects

Two subjects died during or after an incident involving deployment of a conducted energy weapon by an officer of a municipal police department.

Twenty-four percent of subjects suffered a conducted energy weapon-related injury (rising to 31 percent in the case of subjects exposed to a push-stun or probe mode deployment). Of those:

- 98 percent suffered minor injuries, such as penetration of probe darts, welts from push-stun mode deployment, cuts, or falling after incapacitation; and
- less than 1 percent suffered more serious injuries, including lung collapse (after darts penetrated a lung), loss of consciousness (after falling and

¹¹⁵ "Firearm warning" refers to the practice of lethal overwatch, in which one officer draws his or her firearm and points it at the subject while another officer deploys the conducted energy weapon.

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hitting head while incapacitated), and facial and torso wounds from dart penetration.

b. Injuries to police officers

In 6 percent of cases (82), a police officer suffered some type of injury:

- Approximately two-thirds were minor injuries, such as bruises, cuts, scrapes, or muscle strains; and
- Approximately one-third were more serious, such as broken fingers, knee injuries, back injuries, or possible exposure to serious infectious disease (e.g., hepatitis; HIV).

c. Medical attention

In 33 percent of cases, provincial ambulance attendants examined the subject at the scene, although this percentage varied widely (zero to 71 percent) among police departments.

In 37 percent of cases, either the ambulance service or a police officer transported the subject to hospital, and half of such cases involved detention under the *Mental Health Act*.

9. Public complaints

At the Commission's request, the Police Complaint Commissioner provided information about public complaints he had received about municipal police departments' use of conducted energy weapons. Between 2001 and 2007, his office received 37 complaints, and subsequently determined that a conducted energy weapon was involved in 32 of those cases. Those 32 complaints were disposed of as follows:

- excessive force (officer suspended for three days without pay) 1
- unsubstantiated 13
- summarily dismissed 8
- informally resolved 5
- withdrawn by complainant 2
- not yet resolved; file remains open 3

D. ROYAL CANADIAN MOUNTED POLICE

1. Methodology

In April 2008, the Commission's researchers requested from the RCMP conducted energy weapon incident information relating to British Columbia, including incident reports and summaries. However, on July 22, 2008, the Commission notified the RCMP that this request (which had not been fulfilled) was being withdrawn, because the Commission's researchers would not be able to adequately review these incidents in time to meet the deadline for delivery of this Report to the Attorney General.

On July 31, 2008, the RCMP did provide the Commission with a CD-ROM disk containing incident reports, but by then it was too late to analyze the data and incorporate it into this Report.

Fortunately, the Commission for Public Complaints Against the RCMP had recently completed a Canada-wide review of RCMP use of conducted energy weapons. The Commission generously agreed to re-analyze its RCMP conducted energy weapon incident database, and to provide statistics for British Columbia ("E" Division) for the period January 1, 2002, to January 19, 2008. Where available, this data has been used to compare RCMP usage of conducted energy weapons with the results obtained from the Commission's review of municipal police department incidents.

In the discussion that follows, the reader should bear in mind that the RCMP, acting as British Columbia's provincial police force, provides policing services to approximately 70 percent of British Columbians. It serves in all areas of the province other than the 12 municipalities policed by the 11 municipal police departments.

2. Analysis of data

Based on the Commission for Public Complaints Against the RCMP's review of RCMP incident reports spanning the six years up to early 2008, the following findings emerge:

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- **Number of deployments**—RCMP officers in British Columbia deployed a conducted energy weapon on 1,466 occasions. However, this is almost certainly a significant undercount. As I noted earlier in this part, a national study by the chair of the Commission for Public Complaints Against the RCMP found that in 68 percent of cases, he could not find an incident report in the RCMP database to match the complaints he had received from members of the public about conducted energy weapon usage.¹¹⁶
- **Subject characteristics**—91 percent of subjects were males, with an average age of 33 years. These findings were almost identical to the findings applicable to municipal police departments.
- **Types of incidents**—the distribution of incident types was similar to municipal police departments, except that RCMP rates for mental health and causing a disturbance calls were higher, and suicidal person calls were significantly lower.
- **Substance use**—82 percent of RCMP cases involved use of substances (including alcohol and drugs), as opposed to 62 percent for municipal police departments.
- **Weapons**—35 percent of RCMP cases involved weapons, as opposed to 20 percent for municipal police departments.
- **Modes of deployment**—the RCMP deployed conducted energy weapons in push-stun mode more often than municipal police departments (45 percent vs. 41 percent), but in probe mode less often (39 percent vs. 42 percent). It deployed in both push-stun and probe mode significantly more often than did municipal police departments (8.5 percent vs. 6.6 percent).

I should also note that six subjects died during or after an incident involving deployment of a conducted energy weapon by an officer of the RCMP in British Columbia.

The RCMP now publishes quarterly reports on its members' use of conducted energy weapons across Canada.¹¹⁷

116 According to a recent report by the Commission for Public Complaints Against the RCMP, the incidence of conducted energy weapon use by the RCMP nationally dropped 30 percent in 2008 over 2007: see *RCMP Use of the Conducted Energy Weapon (CEW): January 1, 2008 to December 31, 2008*. Special Report dated March 31, 2008, p. 31, available at <http://www.cpc-cpp.gc.ca/prr/rep/sir/cew-ai-09-eng.aspx>.

117 See, for example, <http://www.rcmp-grc.gc.ca/ccaps-spcca/cew-ai/report-rapport-q2-2008-eng.htm>.

E. TRANSIT AUTHORITY POLICE

The Transit Authority Police began using conducted energy weapons in 2007, with an inventory of 20 weapons.

It used conducted energy weapons six times during 2007, including twice in push-stun mode and four times in probe mode. It reported no incidents in which a weapon was used in both push-stun and probe mode against one subject. In all cases the subject's behaviour met the active resistance threshold; however, in half these cases the active resistance consisted of fleeing from police after being stopped for a fare check.

In no cases did the Transit Authority Police deploy in push-stun mode more than once against a subject, or expose a subject to more than one probe-mode cycle.

Paramedics attended the scene in three of the Transit Authority Police's six deployments, and transported the subject to hospital.

The subject was arrested in three of the six deployments.

F. PROVINCIAL SHERIFF SERVICES

1. The role of Sheriff Services

The Sheriff Services Division comes within the Court Services Branch of the Ministry of Attorney General. It is responsible for court security, escort and detention of prisoners, jury management, service of court-related documents, execution of court orders and warrants, and coroner's court assistance.

Province-wide, there are currently 450 Sheriff Services Division peace officers. They provide courthouse security at 44 courthouses across the province, and are responsible for approximately 125,000 prisoner escorts annually.

2. Sheriff Services Division policy

The division's February 20, 2008, policy includes the following provisions:

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4.5.4 Use of TASER

- a. The TASER is an alternative force options tool.
- b. The TASER may be used as a control weapon against an active resister or assailant where other forms of control or weapons would be ineffective or inappropriate under the circumstances. It should be noted that this weapon may not always be effective when used on an active assailant.
- c. The TASER is not to be used on a person who has already been placed in restraints except where it is necessary to approach the subject for control purposes and the subject continues to present an undue risk to the deputy.

3. Methodology

In May 2008 the Commission made a request to the Ministry of Attorney General, asking for “conducted energy weapons incident reports,” including any video records of conducted energy weapon incidents involving Sheriff Services Division staff dating from 2001 to the end of 2007.

In order to facilitate and expedite Commission access to documents and videos, Sharon Samuels, Research Counsel, negotiated and signed a confidentiality agreement with the Ministry of Attorney General (and approved by the Freedom of Information and Protection of Privacy Office) that ensured that the privacy of individuals involved in conducted energy weapon incidents (both staff and inmates) would be safeguarded by the Commission.

A coding form was developed to capture information about subject characteristics and behaviours, incident type and location, mode of weapon deployment, use of other force options, injuries, and policy compliance. File coding was completed in September 2008.

For the purposes of this research, the unit of analysis was defined as “the discharge of a conducted energy weapon on an individual during a single event.” If the conducted energy weapon was used in stun or probe mode on more than one subject during a single event, a “Conducted Energy Weapon Incident File Review Coding Form” was completed for each subject and would be counted as multiple instances of weapon

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use. If the weapon was used as a display only/compliance tool on multiple subjects, a single coding form was completed for the incident.

Commission researchers met with a senior member of the Sheriff Services Division staff in August 2008 to view video records of conducted energy weapon incidents. In total, 16 video records (including CCTV images) were viewed, including 14 probe deployment incidents and two display compliance incidents. "TASER Deployment Reports" and/or "Court Services Incident Reports" were reviewed in Ministry of Attorney General offices in accordance with the confidentiality agreement. Incident reports relating to 127 conducted energy weapon use incidents were provided to researchers for review.

The period covered by this review is from late 2001 (when sheriffs and sheriff's deputies were first equipped with conducted energy weapons) through to the end of 2007.

4. Analysis of data

The number of conducted energy weapons in use, and the number of weapon incidents, has fluctuated since the weapon was introduced in late 2001, as Table 12 shows.

Table 12: Number of weapons in use and number of weapon incidents, 2001-2007

Year	Number of weapons in use	Number of weapon incidents	Percent of total
*2001	80	10	7.9
2002	80	18	14.2
2003	80	19	15.0
2004	80	14	11.0
2005	104	22	17.3
2006	95	21	16.5
2007	91	23	18.1
TOTAL		127	100.0

**Between October and December 2001 only.*

Significant findings include the following:

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- **Subject characteristics**—more than 92 percent of incidents involved males. Of the 127 incidents, 112 involved adult prisoners, four involved youth prisoners, and seven involved members of the public. A history of mental illness was noted for 30 percent of subjects, and 65 percent of incident reports noted that the subject had a history of violence.
- **Incident characteristics**—the type of duty being performed when the conducted energy weapon incident occurred was jail/holding cell security (72 percent), escort (14), criminal court security (13), and civil court security (1). The types of events that occasioned the use of a conducted energy weapon were, in percentages:
 - extraction from, or placement of a prisoner in, a cell 42
 - prisoner transfer 17
 - cell search 9
 - prisoner search 9
 - other (e.g., maintaining cell or courtroom order, taking remanded prisoners into custody, serving court orders or warrants) 24
- **Location of incidents**—the four originating locations that had the highest incidence of weapon use were Surrey (26 percent), Victoria (17), Abbotsford (12), and Vancouver (9).
- **Subject behaviours**—the most commonly identified behaviours recorded (each incident may contain two or more descriptors) were, in percentages:
 - active resistance 60
 - verbally abusive/verbal threats/verbal aggression 46
 - assaultive 42
 - violence/threatened violence to others 22
 - agitated 17
 - yelling 16
- **Types of deployments**—in 102 cases (81 percent), compliance was achieved either by a warning or display of the weapon, without actually discharging it. When display compliance was not effective, the weapon was used in push-stun mode only in 10 cases (8 percent), in probe mode only in 10 cases (8), and in both push-stun and probe modes in three cases (2).
- **Relationship between types of deployment and levels of resistance**—in the four cases involving only cooperative behavior or passive resistance, the weapon was used in display mode only. When the subject's highest level of resistance was active resistance, the weapon was used in display mode only

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in 31 cases, in stun mode in two cases and in probe mode in three cases. In the case of assaultive behaviour, the weapon was used in display mode only in 32 cases, in push-stun mode in nine cases, in probe mode in nine cases, and in both push-stun and probe mode in three cases.

- *Use of other force options*—prior to a conducted energy weapon being deployed, officers used other force options in most cases, including verbal intervention (121 cases), soft physical control (27), hard physical control (11), and restraints (7).
- *Injuries and medical attention*—in eight cases, a subject suffered a minor weapon-related injury, involving penetration of a probe dart into the skin. In addition:
 - In 10 incidents, subjects received non-weapon-related injuries, most of which were minor; and
 - In six incidents, officers received non-weapon-related injuries, including bruises, cuts, and strains.
- *Compliance with policy*—researchers compared conducted energy weapon use incidents to the Sheriff Services Division’s policy, and concluded that “policy compliance with respect to actions to be taken before, during, and after conducted energy weapon use is high.”

G. PROVINCIAL CORRECTIONS BRANCH

1. The role of the Corrections Branch

Among the law enforcement agencies discussed in this Report, the Corrections Branch is unique, in that its activities are focused primarily on people who are already in custody. The Adult Custody Division is responsible for the custody of persons remanded for trial, persons sentenced to imprisonment for the commission of crimes (usually for less than two years), and persons detained by immigration authorities. In addition, prisoners sentenced to imprisonment for two years or more may spend up to 15 days in a provincial correctional facility before being transferred to a federal penitentiary.

2. Corrections Branch policy

Any use of conducted energy weapons in correctional facilities in British Columbia, including presence, display, push-stun, or probe deployment, requires authorization from the warden, or from designated deputy wardens or assistant deputy wardens to whom the warden has delegated the authority. When not authorized for use to assist with a specific situation, conducted energy weapons are stored in a locked room.

Corrections Branch policy provides that officers may use conducted energy weapons in the following circumstances:

- tactical operations;
- cell entry or extraction;
- in response to an escape or escape attempt;
- external prowl (secure outdoor yard); and
- as approved by the warden when intervention is required to prevent self-harm, compel compliance, terminate violent and destructive behaviour, protect the safety of staff and inmates, or when lesser use of force is inappropriate or unreasonable.¹¹⁸

When possible, officers are supposed to make a video recording of conducted energy weapon deployments and, following deployment, the video recording and a use-of-force report are to be submitted to the provincial director of the Adult Custody Division.

3. Methodology

In May 2008, the Commission made a request to the Corrections Branch of the Ministry of Public Safety and Solicitor General, asking for “conducted energy weapon incident reports,” including any video records of conducted energy weapon incidents involving correctional staff dating from April 2003 to the end of 2007.

In order to facilitate and expedite the release of documents and videos to the Commission, Sharon Samuels, Research Counsel, negotiated and signed a

¹¹⁸ Ministry of Public Safety and Solicitor General, “Submissions of Corrections Branch, Adult Custody Division” (May 6, 2008). Written submission to the Braidwood Commission [unpublished].

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confidentiality agreement with the Ministry of Public Safety and Solicitor General (and approved by the Freedom of Information and Protection of Privacy Office) that ensured that the privacy of individuals involved in conducted energy weapon incidents (both staff and inmates) would be safeguarded by the Commission.

A coding form was developed to capture information about subject characteristics and behaviours, incident type and location, mode of weapon deployment, use of other force options, inmate and staff injuries, and policy compliance. File coding was completed in September 2008.

For the purposes of this research, the unit of analysis was defined as “the discharge of a conducted energy weapon on an individual during a single event.” If the conducted energy weapon was used in stun or probe mode on more than one inmate during a single event, a “Conducted Energy Weapon Incident File Review Coding Form” was completed for each subject and would be counted as multiple instances of weapon use. If the weapon was used as a display only/compliance tool on multiple inmates, a single coding form was completed for the incident.

Commission researchers met with senior Corrections Branch (Adult Custody Division, Policy and Programs) staff in early August 2008 to review incident reports and view video records of conducted energy weapon incidents. In accordance with the above-noted confidentiality agreement, all data collection took place in Ministry of the Attorney General offices. In total, 19 video records of conducted energy weapon incidents were reviewed, including seven involving the discharge (in stun or probe mode) of the weapon.¹¹⁹ The characteristics of six incidents were collected from video recordings alone, as Corrections Branch staff could not locate the written incident report. Data collection was completed by the end of August 2008.

The period covered by this review is from April 1, 2003 (when correctional staff were first equipped with conducted energy weapons) through to the end of 2007.

¹¹⁹ Researchers asked to view video records of all incidents involving the discharge of the CEW; however, of 27 applicable incidents, 14 video records could not be produced or did not work properly and six incidents were apparently not recorded.

4. Analysis of data

The Corrections Branch has had, since conducted energy weapons were introduced in 2003, an inventory of 22 weapons. During that period the weapons were deployed 149 times, as follows:

• 2003	17
• 2004	31
• 2005	23
• 2006	18
• 2007	60

One possible explanation for the spike in deployments in 2007 is an increase in the inmate count and a decrease in staff levels, resulting in “significant overcrowding and resulting tension.”¹²⁰

Perhaps the most significant finding is that in 82 percent of cases (122 deployments), the subject was warned that a conducted energy weapon may be used or the weapon was displayed only, without having to resort to push-stun or probe mode.

Other significant findings include the following:

- **Subject characteristics**—98 percent of incidents involved males. In most cases, neither age nor ethnicity was recorded. The inmate had a history of violence in 26 percent of cases, and a history of mental illness in 18 percent of cases.
- **Reasons for deployment**—a conducted energy weapon was used to assist in a cell extraction (48 percent of cases), cell entry (17), lock-up (11), cell extraction and escort (9), escort (7), intake (6), and hostage-taking (1).
- **Subject behaviours**—the most commonly identified behaviours recorded (each incident may contain two or more descriptors) were, in percentages:
 - active resistance 42
 - smashing/damaging property 38
 - verbally abusive/verbal threats/verbal aggression 35
 - assaultive 33

¹²⁰ See Appendix I, Tables 1 and 2.

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- o violence/threatened violence to staff 28
- o violence/threatened violence to self 24
- o cooperative/compliant to directions 23
- o agitated 20
- **Weapons**—in 20 percent of cases the inmate was armed with a weapon, which included an edged weapon (53 percent of those cases), pointed weapon (12), or a blunt weapon (20).
- **Types of deployments**—of the 149 incidents, the following shows the most frequent types of deployments recorded:
 - o warning 1
 - o display 121
 - o push-stun 6
 - o probe 18
 - o push-stun and probe 3
- **Multiple deployments**—in the nine cases in which a weapon was used in push-stun mode, it was deployed once (in 5 cases), three times (2), four times (1), and six times (1). In the 21 cases in which a weapon was deployed in probe mode, it was deployed for one 5-second cycle (in 13 cases), two cycles (6), and three cycles (2).
- **Relationship between types of deployment and levels of resistance**—in 22 percent of cases the highest levels of resistance reported were cooperative or passive resistance. In all those cases, officers gave a warning only or deployed the conducted energy weapon in display mode only. In cases of active resistance, the weapon was used in push-stun mode twice, probe mode three times, and both modes once. In cases of assaultive behaviour, the weapon was used in push-stun mode four times, probe mode 14 times, and both modes twice.
- **Use of other force options**—prior to a conducted energy weapon being deployed, officers used other force options in most cases, including verbal intervention (147 cases), soft physical control (13), hard physical control (2), and pepper spray (3).
- **Injuries and medical attention**—in 18 cases, the inmate suffered a minor weapon-related injury resulting from push-stun deployment or probe penetration. In seven cases, one or more Corrections Branch officers suffered minor (5) or unrecorded (2) injuries.
- **Compliance with policy**—in all but one case, proper authorization was obtained before a conducted energy weapon was deployed. In six cases, completed use-of-force reports were not available for review (although video

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recordings were). Out of 27 cases in which a conducted energy weapon was actually discharged, no video recording was made in six cases, while in 14 other cases the video recording could not be produced or did not work properly.