



Commission for  
Public Complaints Against the  
Royal Canadian Mounted Police

Commission des  
plaintes du public contre la  
Gendarmerie royale du Canada

# **RCMP Use of the Conducted Energy Weapon (CEW)**

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**Final Report**

**Including Recommendations for Immediate Implementation**

**June 12, 2008**

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## MESSAGE FROM THE CHAIR

### *A time for a more conservative approach...*

The increasing reliance by the RCMP upon the conducted energy weapon has generated significant expressions of public concern. These concerns have been building over the years and involve the use of the conducted energy weapon by police forces generally in North America and other democratic countries.

The debate concerning deaths proximal to conducted energy weapon use and international instances of the weapon allegedly being employed as an instrument of torture have afforded the weapon a public reputation different from other types of equipment employed by the police. This may be an unfair reputation in light of the fact that many other police techniques induce pain and a number are in fact lethal; nevertheless, it is an important factor that has influenced the public debate concerning public acceptance or lack thereof of the conducted energy weapon. It is reasonable to assume that, absent a decision to the contrary, more devices will be acquired and deployed in future years. Instances of alleged improper use will abound and the current public expressions of concern will be further exacerbated.

To assist the public, the Minister of Public Safety and the Commissioner of the RCMP, and to acquire a clearer picture of the weapon's use, the adequacy of controls and the factual basis for policy shifts in recent years, the Commission for Public Complaints Against the RCMP has undertaken a systematic review of RCMP policies and practices following its adoption of the conducted energy weapon.

An analysis of data alone, however, would be a sterile exercise absent a philosophical context. In the area of policing, particularly the tradition that exists in Canada and most Commonwealth democracies, the guiding philosophical principles are those that were articulated in 1829 by Sir Robert Peel, the creator of the prototypical professional police force.

These principles, which may be found in their entirety in Appendix A, have become such an essential characteristic of policing in Canada that most people are unaware of their genesis or importance. However, we would quickly notice the difference in our quality of life if a number of these principles were to cease influencing and shaping how policing services are delivered in Canada. The wise counsel of Sir Robert Peel is as relevant today, as we discuss the proper usage of CEWs, as it was in 1829.

It is clear from an examination of the data provided by the RCMP that there was a lack of factual information to support any decision by the RCMP to depart from its initial 2001 decision to restrict conducted energy weapon use. It is also clear that inadequacies in the present data severely hamper the ability of the RCMP to make informed decisions concerning existing usage of the conducted energy weapon.

Inadequate policies, supervision, data collection and analysis have undermined the RCMP's ability to demonstrate adherence to four of the nine principles articulated by Sir Robert Peel. These principles are:

- The ability of the police to perform their duties is dependent upon public approval of police actions.
- The degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force.
- Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.
- Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.

A continued departure from these principles by the RCMP is not a minor matter. It is a harbinger of a new model of policing in Canada, one in which the police are a group distinct from the public and whose decisions are the preserve of public safety experts. It is a model in which officer safety takes precedence over that of the general public and where the exercise of persuasion, advice and warning is significantly undervalued. The cumulative effect of these trends over time may reduce the degree of co-operation of the public that is essential to public safety in Canada.

The tasks that we ask police to fulfill are challenging and are increasingly becoming more so. We have an obligation to ensure that officers have the best tools available to perform their duties. The very nature of the work performed by the police entails the potential use of force attendant with the application of pain and in rare cases, serious injury or death.

The conducted energy weapon has a role to play in this use of force model. The policies, training and actual deployment of the weapon must be circumscribed by clear policies and practices that recognize that it induces intense pain and may in some cases play a role, as yet undefined, in the death of persons upon whom the device is used. Failure to draft and adhere to strict protocols on the weapon's use will continue to have a corrosive impact upon public support for the police.

Certain realities face today's RCMP: a high number of new recruits, a high rate of turnover, a high number of baby boomers retiring, experienced members leaving the force for a variety of reasons, and a lack of resources have resulted in the inadequate mentoring of new members, understaffing of detachments, and morale issues. All of these factors influence operations and, in turn, influence policy. Subtle changes to policy can, and do, have major consequences on behaviour. Policy, in fact, drives training, which drives conduct. In a workforce of less-experienced members, the need for strong policy guidance is imperative.

The Commission supports the continued use and deployment of the conducted energy weapon. However, in light of the above-mentioned realities confronting the RCMP, this support is subject to RCMP acceptance and implementation of the recommendations contained in this report.

It is of note that during the production of the Interim and Final Reports, the level of cooperation and openness of the RCMP has been commendable.

A handwritten signature in cursive script that reads "Paul E. Kennedy".

Paul E. Kennedy  
Chair, Commission for Public Complaints  
Against the RCMP

## **EXECUTIVE SUMMARY**

Like all large institutions, the RCMP is confronted with a host of challenges stemming from a dynamic and demanding environment. At times, fundamental change must be made to address new challenges while also preserving the core attributes of our uniquely Canadian policing model. Built over years of tradition and experience, the core principles of Sir Robert Peel and Sir Richard Mayne are still woven throughout the overall architecture of how the RCMP interact with those it serves.

Experience has shown that the RCMP is not always adequately aware of an existing problem or the degree of action required to address it. This is why public policy debates are essential for institutions such as the RCMP. However, the RCMP has been reticent to accept the premise that its use of the conducted energy weapon (CEW) is in fact very much a public policy issue, and that the public has a role to play in shaping how the police use the weapon.

The heart of the debate over CEW use is about deciding what philosophy of policing the RCMP and the Canadian public want. Is it a model that maintains its philosophical roots to Peel and Mayne, or is it a model based on the notion that the police are the use of force experts and can unilaterally decide what is appropriate for those they serve?

The Commission for Public Complaints Against the RCMP (the “Commission”) is uniquely positioned as an informed interlocutor to bring a much-needed perspective to the public policy debate on the RCMP’s use of CEWs. As such, on November 20, 2007, the Minister of Public Safety, the Honourable Stockwell Day, requested that the Commission “[...] review the RCMP’s protocols on the use of CEWs and their implementation, including compliance with such protocols and provide an interim report by December 12, 2007.”

On December 11, 2007, the Commission provided the Minister with its Interim Report, which made ten (10) recommendations for immediate implementation that covered three broad conclusions:

- 1) The RCMP needs to coordinate and strengthen its efforts related to data collection and analysis of CEW use;
- 2) The RCMP needs to empirically justify policy shifts with respect to CEW use, especially when that shift loosens the restrictions of deployment; and
- 3) The RCMP needs to clarify to its members and to the public when it is permissible to deploy the weapon. (Appendix B)

The Interim Report examined not only those situations where it was appropriate for the RCMP to use the weapon, but also situations where it was inappropriate. This examination concluded that deployment of CEWs should be restricted to those situations where the subject’s behaviour was, at a minimum, combative.

Following the release of the Interim Report, the RCMP moved to implement some of the recommendations, albeit at a much slower rate than the Commission had expected. The RCMP failed to implement the primary recommendation of immediately reclassifying the CEW as an impact weapon and allowing for deployment only in situations where an individual was behaving in a manner classified as “combative” or posing a risk of “death or grievous bodily harm” to the member, themselves or the general public. The Commission reaffirms this recommendation.

The RCMP failed to implement the second recommendation related to “excited delirium.”<sup>1</sup> RCMP training teaches that “excited delirium” is a medical emergency wherein gaining control of the individual for the purpose of treatment is paramount and where the CEW is viewed as the best option to gain that control. The Commission disagrees with this perspective and reaffirms its recommendation.

The Commission recommended that the RCMP institute and enforce stricter reporting structures. The RCMP is in the process of taking positive steps in this direction, and the Commission is aware that some Divisions are attempting to strengthen their reporting structures and oversight processes, albeit at differing speeds across the country. National uniformity is essential.

The Commission also recommended that the RCMP produce both quarterly and annual statistical reports on CEW use by its members. The Commission has yet to see a quarterly report, though six (6) months have elapsed.

The RCMP did appoint a National Use of Force Coordinator and to its credit some Divisions went further and proactively created a Divisional Use of Force Coordinator to augment the work being done at the national level. In addition, the RCMP has exceeded the recommendation related to recertification and is adopting a one-year recertification requirement for the CEW.

The Commission continues to have three interrelated concerns: 1) that the inappropriate assessment of a subject’s behaviour has resulted in elevating the level of intervention beyond what was acceptable according to the RCMP’s use of force model; 2) that the position of the CEW on the use of force model allows for the deployment of the weapon far too early in police encounters; and 3) that RCMP data collection and analysis practices for the CEW usage database are both ineffective and inefficient.

Central to the debate over CEW use is the principle that decisions around when to deploy the weapon should be based on the principle of proportionality: the amount of force used should bear some reasonable relationship to the threat the member is facing and its impact upon public safety. This has guided the work undertaken by the Commission for the production of the Final Report.

The Final Report focuses on two main areas: an in-depth statistical analysis of the RCMP CEW database, and a comparative analysis of other police forces’ CEW policies.

The main finding within this report is that the quality of data in the CEW usage database is so poor that any of the policy shifts following the 2001 introduction of the weapon cannot be factually

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<sup>1</sup> It should be noted that “excited delirium” is not a condition that has universal acceptance within the medical community.

supported; this is a dangerous practice, as small policy changes often have major operational consequences.

Officer and subject safety is often discussed in the debate over CEW use. While the CEW reporting system attempts to capture the member's perception of whether the use of the weapon avoided the use of lethal force or injuries, the requirement to simply report a "yes" or "no" answer with no further descriptive or narrative articulation that can be efficiently data-mined renders the database ineffective for this discussion. Contextual information is essential for establishing a factual basis around the officer safety perspective and whether the CEW, as claimed by some, avoids injury to both the subject and the member. Independent data collection and analysis is needed in this area.

After reviewing the database and Forms 3996, the Commission can state:

- Supervision to ensure proper CEW deployment reporting is faulty and in some cases may be non-existent.
- There is a systemic under-reporting that must be addressed immediately.
- Divisions should be instructed to locate any outstanding Forms 3996 and submit them immediately for inclusion in the database.
- Quarterly cross-referencing of CEW data downloads with the associated Form 3996 in the CEW database must occur.
- For oversight and analysis purposes, the narrative portion of Form 3996 needs to be properly filled out and an effective way of analyzing that data must be identified and implemented.
- CEW deployments in *push stun* mode are not adequately captured in Form 3996. Given the propensity for "usage creep," the RCMP must have a clearer means of monitoring this type of deployment.
- The electronic version of Form 3996 should contain a drop-down list that captures the subject's behaviour category in addition to the already existing narrative section of the form.
- The database does not specifically capture deployments in rural or remote settings.
- The database cannot provide an in-depth quantitative and qualitative analysis of the narrative portion of Form 3996.
- There should be the ability to link and/or cross-reference related Forms 3996.

To place CEW use in its proper context, it is useful to ask the following question: Is the RCMP using the device more often in police encounters now than it was when the weapon was first introduced to front-line members in late 2001?

Unfortunately, this question cannot be definitively answered by analyzing the database or factoring in other relevant information such as number of devices in the field, number of members trained, etc. The Commission knows that CEWs have been deployed or threatened to be deployed a minimum of 4234 times and that over the years the number of usage reports has increased. However, key information to answer this question, such as the exact number of members certified by Division at any one time, is not available. Without this information the Commission cannot establish patterns of deployment by year across all Divisions.

Despite this obvious limitation, the database does provide some valuable information that begins to paint a picture of CEW usage trends. A total of 4234 usage reports (Form 3996) were found, and the number of reports filed in the database has increased yearly. In terms of raw numbers, the Western provinces account for the bulk of CEW reports and together, British Columbia, Alberta, Saskatchewan and Manitoba contribute more than three quarters (78.3%) of all reports. This is not surprising as most RCMP members are posted in these provinces, and these Divisions have the greatest number of devices in the field.

CEW-related events occur predominantly in the evening hours, with over half of all report-generating events taking place between 8:00 pm and 4:00 am, and about one quarter of the reports generated on Friday and Saturday nights.

The number of members present at a scene is also significantly related to the use of the CEW. More precisely, the two increase together. When only one member is present, the CEW is deployed in 71.4% of incidents. However, when two (2) or more members attend, the rate of deployment goes up to between 79.1 and 87.7%. So, if more than one member is present, the likelihood that the CEW will be deployed is increased.

The vast majority of the subjects are male (90.2%) and are on average over 30 years of age. However, a notable number are above 50 years of age, and 90 reports exist where the subject is 16 years or younger. There are reports of CEWs being deployed against subjects as young as 13 years old.

Use of the CEW in *push stun* mode is more common than *probe* mode, and in a small but not trivial number of cases both modes are deployed. In one in five cases the CEW is not deployed, but deployment is threatened. However, based on the information in the database, it is not possible to determine whether the threatened deployment actually defused the situation.

When used in *probe* mode, it is rare that more than one (1) cartridge is fired and 66% of the time the weapon is cycled only once. Conversely, *push stun* is the mode more apt to be used multiple times. When *push stun* mode alone is used, it is used two or more times on 40% of occasions. This is significant and confirms a concern raised repeatedly by the Commission that *push stun* mode is the most susceptible usage subject to usage creep.

In this report, treatment at a medical facility is taken as a rough proxy for the perception by the member of seriousness of injury. While it is important to recognize that subjects are sometimes taken for medical examinations even though their injuries are not directly related to the use of a CEW, in general the narratives in the usage forms suggest that the medical examinations were related primarily to the CEW.

Three quarters of the reports indicate no injuries to the subject (68.6% in cases where the CEW was actually deployed). Where injuries or physical afflictions are recorded, they are generally described as “punctures” or “marks” produced by probes and “burns” associated with *push stun* mode.

Use of the CEW in *probe* mode, either alone (43.1%) or in conjunction with *push stun* mode (43.9%), brings a much higher likelihood of receiving a medical examination than *push stun* mode

alone (16.0%). Furthermore, each successive use of the weapon, in *probe* or *push stun* modes, brings a greater likelihood of a medical examination.

Just as more members increase the likelihood of CEW deployment, so too does it raise the likelihood of receiving medical attention. When six (6) or more members are present, there is a 50/50 chance that the subject will be taken for a medical examination.

Suspected or confirmed substance use by the subject and the involvement of a weapon affect differently the probability that medical treatment is sought. The presence of weapons significantly increases the likelihood of a subject being taken to a medical facility. In contrast, the confirmation or suspicion of substance use serves to reduce the probability that a subject will be examined by a medical professional.

While missing data presented a severe analytic challenge, the data that was analyzed allowed the Commission to reasonably develop a profile of who is most likely to be subjected to a CEW deployment.

The subject is more likely to be:

- A male who is unarmed
- Between the ages of 20-39
- Suspected of, or confirmed to be, using a substance, most likely alcohol
- Aware of the presence of the CEW

The actual deployment of the CEW most likely:

- Involves a cause disturbance or assault-related offence
- Involves the presence of two (2) members who are Constables on general duty
- Occurs between the hours of 8:00 pm and 4:00 am
- Utilizes a M26 Taser<sup>®</sup> in *push stun* mode
  - In *probe* mode cycled once for five seconds
- Involves no discernable injuries to the subject
  - Any injuries caused are puncture wounds; no photo will be taken and medical assistance will not be sought.

Subjects are more likely to receive medical attention if:

- They are 50 years of age or older
- They are female
- They are suicidal or experiencing mental health crises
- Weapons are involved;
  - However, if substance use is suspected, medical attention is less likely
- The CEW is deployed in *probe* mode, alone or combined with *push stun* mode
- Multiple members are present

In an attempt to confirm the robustness and accuracy of the RCMP CEW database, the Commission conducted a mini-audit comparing public complaints lodged with the Commission<sup>2</sup>

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<sup>2</sup> It is important to recognize that the mere existence of a complaint does not automatically confirm a CEW deployment. Some complaints are later deemed vexatious or false.

versus the existence of a Form 3996. The purpose of this audit was to confirm whether a Form 3996 existed and could, subsequently, be correlated to all Commission lodged complaints related to CEW deployment and/or threatened deployment. To ensure precision, Commission staff and RCMP members jointly searched the CEW database at RCMP Headquarters in an attempt to resolve data anomalies. A total of 104 public complaints lodged with the Commission were identified: 76 related to CEW deployments and 28 related to threatened CEW deployments.

The results of the mini-audit were problematic, but aptly highlighted the Commission's concern about inadequate reporting practices. Of the 76 public complaints about CEW deployment, 52 (68%) of the corresponding Forms 3996 could not be located in the RCMP database. Of the 28 complaints where CEW deployment was threatened, none (0%) of the Forms 3996 could be found in the database.

These two findings confirm the Commission's belief that there has historically been extensive underreporting of CEW use, especially in cases where the weapon was threatened but not deployed. Therefore, it is reasonable to conclude that current and past RCMP CEW policies with respect to reporting have not been followed by members.

Drawing from examples of deployment parameters from other police services, the Commission is recommending that members must be faced with a situation that is combative/assaultive before they contemplate the use of the CEW. Until this behaviour category is displayed or threatened, it may be more prudent for the member to utilize other use of force options or, if possible, attempt tactical repositioning and/or engage in further dialogue. It is incumbent on the police officer to fully assess the situational factors and response options before acting. The Commission is not suggesting that members have to be assaulted before they can contemplate deploying the CEW.

While it is true that most police services across Canada tend to classify the CEW as an "intermediate device/weapon" and allow its use in the various forms of what is generally referred to as "resistant" behaviour, there are subtle but significant differences in the various operational policies that actually place caveats surrounding deployment that further restrict use.

The Toronto Police Service provides a good example of operational use and guidance around CEW use, and the Regina Police Service approach is one based on careful consideration of situational factors with efforts to minimize risk and injury to the subject. Similarly, the Edmonton Police Service is quite prescriptive in the situational caveats that allow and limit CEW use.

Canada is uniquely positioned to examine how fellow members of the Commonwealth have approached CEW use by their law enforcement services. Perhaps the best examples are the approaches taken in the U.K. and Northern Ireland, where officers are authorized to deploy CEWs when they are faced with incidents of serious violence or threats. While the U.K. has comprehensive policies governing the use of CEWs, recently police forces throughout the country have begun a field trial in which non-firearms officers have been trained in the use of CEWs with a view towards widening the weapon's use.

In 2003 during the initial field trial to assess the possible adoption of the CEW as a use of force option, U.K. police officers were instructed only to use the weapons when confronted with an armed suspect. Following consultation with various stakeholders and after assessing the results of

the field trial, it was decided that CEW deployment would be acceptable on subjects whose behaviour posed a serious risk of violence but who may or may not possess a weapon.

This careful thought process is an example of what the Commission is advocating, adjusting the restriction for use after careful and thorough consultation and fact-based analysis.

No CEW deployment policies examined substantively touched on CEW deployments against at-risk groups. Given the apparently disproportionate number of people with substance or alcohol abuse issues who come into contact with the police and who have an increased statistical likelihood of becoming an in-custody death statistic, RCMP CEW deployment policy should require that a member must seek medical attention for an individual who has been subjected to a CEW deployment.

Taking into consideration the CEW policies of other Canadian and international police forces and the results of the quantitative analysis of the RCMP CEW database, the Commission feels that the RCMP CEW policy should include, at a minimum, the following:

- Clear guidance on seeking medical treatment;
- Use restricted to Constables who have a minimum of five (5) years of operational experience;
- An appreciation of the operational realities faced by rural, remote and Northern detachments; and
- A requirement that reporting include clear and concise descriptions of the deployment(s):
  - The circumstances of use;
  - The subject behaviour and if and how that behaviour changed over the course of the interaction; and
  - Situational factors that led to the member choosing the CEW over other force options.

Finally, overall RCMP CEW policy should focus less on the technical aspects of the weapon and more on the contextual issues surrounding deployments. Clearly, operational guidance in this area is needed.

To address the concerns identified throughout this Final Report, the Commission recommends, **for immediate implementation**, the following:

**Recommendation 1:** The RCMP immediately implement all of the Commission’s Interim Report recommendations, in particular:

- Recommendation #1 that the conducted energy weapon be classified as an “impact weapon” and use be allowed only in situations where an individual is “combative” or posing a risk of “death or grievous bodily harm” to the member, the individual or the general public.
- Recommendation #2 that the conducted energy weapon be used on individuals appearing to be experiencing the condition(s) of excited delirium only when the behaviour is “combative” or posing a risk of “death or grievous bodily harm” to the member, the individual or the general public.

**Recommendation 2:** The RCMP immediately instruct its members who deploy a conducted energy weapon on a subject seek immediate medical attention for the subject in all circumstances.

**Recommendation 3:** The RCMP immediately implement clearer operational guidelines around conducted energy weapon use against “at-risk populations”<sup>3</sup> and in particular the role of emergency medical services post-weapon deployment.

**Recommendation 4:** The RCMP immediately direct, through policy and implement operational guidance, that the conducted energy weapon will be used only by the following members:

- Corporals or above in urban<sup>4</sup> settings.
  - All members of specialized response teams<sup>5</sup> are exempt from this criterion.
- Constables with at least five (5) years of operational experience who are posted to detachments in rural<sup>6</sup> settings.
  - All members of specialized response teams are exempt from this criterion.

Any RCMP member who is currently trained and certified to use a conducted energy weapon who does not meet any of these criteria will be prohibited from using the weapon until the criterion is met.

**Recommendation 5:** The RCMP immediately modify reporting Form 3996 to include the capture and search capabilities, at a minimum, of the following information:

- Description of the context surrounding weapon deployment;
- Description of the subject’s behaviour;
- Identification of deployments in rural or urban detachments;
- Specific indications of types of deployment: threatened, *push-stun*, *probe*, or a combination thereof;
- Factors leading to the member’s decision to deploy a CEW;

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<sup>3</sup> At-risk populations include, but are not limited to, people with mental health issues, substance abuse problems, the homeless, and other persons from marginalized groups.

<sup>4</sup> Urban setting is defined as a population of 5000 residents or more.

<sup>5</sup> Specialized response teams include Emergency Response Teams (ERTs), Tactical Troops, Containment Teams and High Risk Entry Teams.

<sup>6</sup> Rural setting is defined as a population less than 5000 residents.

- Electronic linking capabilities to capture related events and reports;
- Member's articulation of factors leading to use of force choice(s);
- Description of whether other use of force tools were utilized;
- Articulation of how member safety was augmented by CEW use; and
- Fulsome description of factors relevant to a multiple or prolonged application of the weapon and the member's rationale in support of such multiple or prolonged applications.

**Recommendation 6:** The RCMP immediately instruct all Divisions to conduct a comprehensive review of conducted energy weapon use, identify all outstanding Form 3996 reports and immediately submit all reports to the national database.

**Recommendation 7:** The RCMP immediately establish Use of Force Coordinators in all Divisions reporting to the National Use of Force Coordinator. All Divisional Use of Force Coordinators will immediately:

- Enforce the requirement that Form 3996 be completed and submitted as per operational requirement by the end of each shift where the conducted energy weapon was used;
- Enforce appropriate administrative disciplinary measures for members who under-report use of the weapon or who do not report use;
- Identify members who have engaged in multiple or prolonged applications of the weapon, and determine the circumstances and reasons for such use and report this to appropriate professional standards units and RCMP Headquarters; and
- Review, verify and approve all Form 3996 submissions in their Division prior to final submission to the national database.

**Recommendation 8:** The National Use of Force Coordinator must hold the rank of a Commissioned Officer in order to ensure national implementation of policies and procedures and to implement institutional behavioural change. Divisional Use of Force Coordinators must report to the National Use of Force Coordinator.

**Recommendation 9:** The RCMP immediately direct through policy that Divisional and national professional standards units and training coordinators receive carbon copies of all Form 3996 submissions sent to the national database.

**Recommendation 10:** The RCMP immediately implement a requirement that the Learning and Development Services group receive all reporting Form 3996 submissions where the subject is considered to be part of an "at risk group", to ensure:

- Relevancy of training and training standards; and
- Proper modification of training programs.

**Recommendation 11:** The RCMP publicly release the requested Quarterly and Annual Reports concerning the RCMP's use of the conducted energy weapon.

**Recommendation 12:** The RCMP provide the Commission unvetted copies of all Forms 3996 on a monthly basis for a period of three years, commencing January 1, 2008, so that the Commission can provide a comprehensive yearly assessment of conducted energy weapon use by the RCMP.

As stated in the Interim Report, the Commission is not calling for an immediate moratorium on CEW use. Having said that, if the RCMP fails to immediately implement all of the recommendations made by the Commission, then it is conceivable that the problems of CEW deployments currently being raised will continue. The recommendations in both reports have been made to hold the RCMP publicly accountable for the use of a weapon that causes the Canadian public apprehension and to control usage creep. The Commission's belief that the CEW has a place in the RCMP's arsenal is conditional on acceptance and implementation of the recommendations contained in this report. Simply put, if the RCMP cannot account for the use of this weapon and properly instruct its members to appropriately deploy the CEW in an operational setting, then such use should be prohibited until proper and strict accountability and training measures can be fully implemented.

A handwritten signature in cursive script that reads "Paul E. Kennedy". The signature is written in black ink and is positioned above the typed name and title.

Paul E. Kennedy  
Chair, Commission for Public Complaints  
Against the RCMP

## COMMISSION'S INTERIM REPORT AND RCMP RESPONSE

With the mandate provided by the Minister of Public Safety in November 2007, the Commission embarked on a review of all RCMP policies and protocols related to the use of CEWs in order to prepare a thorough understanding of how the RCMP is using the weapon. The Interim Report identified and reviewed significant Canadian academic studies, the RCMP's Incident Management/Intervention Model (IM/IM), the history of CEW policy development, RCMP CEW training and CEW-related public complaints lodged with the Commission. Immediately following the release of the Interim Report in December 2007, the RCMP released a statement indicating that it would be implementing some of the Commission's recommendations in a number of areas.

The Interim Report provided ten (10) initial recommendations. The primary recommendation was for the RCMP to immediately reclassify the CEW as an impact weapon and allow for deployment only in situations where an individual was behaving in a manner classified as "combative" or posing a risk of "death or grievous bodily harm" to the member, themselves or the general public.

Central to the debate is the principle that decisions around when to deploy the weapon should be based on the principle of proportionality: the amount of force used should bear some reasonable relationship to the threat the member is facing and its impact on public safety.

The primary recommendation was rejected by the RCMP. The RCMP changed its use of force model to divide the resistant category into two: active resistant and passive resistant. RCMP policy was amended to state that CEWs may be deployed only in situations where the member was faced with behaviour that could be categorized as active resistant or higher. This amendment has created more confusion as the nuances present in these two definitions are not adequately explained to properly guide members in an operational setting.

The RCMP has not adequately responded to the second recommendation related to "excited delirium." RCMP training teaches that "excited delirium" is a medical emergency where gaining control of the individual for the purpose of treatment is paramount and where the CEW is viewed as the best option to gain that control. The Commission disagrees with this perspective because the obligation of RCMP members is to enforce public safety. The majority of members are certified only in standard first aid and are not qualified to make medical diagnoses and decisions at the scene. The CEW is not a medical device and may not be the best alternative for a variety of at-risk groups. Decision making around appropriate intervention techniques must rest with the medical community, which has been conspicuously absent during this debate.

The Commission also recommended that RCMP members be recertified on the use of CEWs every two years, bearing in mind the need to balance operational realities and the need to ensure that members remain current on use of force options. The RCMP, to its credit, surpassed this recommendation and is adopting a one-year recertification requirement.

The Commission recommended that the RCMP institute and enforce stricter reporting structures. This is crucial for the creation of relevant and effective policy and operational guidance. The RCMP has not adequately addressed historic governance issues with the CEW usage database, which in turn has limited the ability of the RCMP to empirically assess the value of CEWs.

The Commission is aware that some Divisions are attempting to strengthen their reporting structures and oversight processes, albeit at different rates across the country. This Divisional response is problematic. National uniformity is essential.

The Commission also recommended that the RCMP produce both quarterly and annual statistical reports on CEW use by its members. It is understood that preparations are underway for the release of these statistical reports, but the Commission has yet to see a quarterly report, though six (6) months have elapsed. Resource implications notwithstanding, it is essential that the RCMP complete and release these reports in a timely manner so that any issues, be they positive or negative, can be addressed promptly.

The RCMP did however implement the recommendation of appointing a National Use of Force Coordinator, albeit at the rank of a Non-Commissioned Officer. To their credit, some Divisions, for example British Columbia, went further and proactively created a Divisional Use of Force Coordinator to augment the work being done at the national level. However, appointing the National Use of Force Coordinator was only the first of many requirements outlined in the Interim Report. This position needs to be at the rank of Commissioned Officer who can provide national direction on all use of force techniques and equipment, including development and implementation of national policies, procedure and training, as well as the monitoring of compliance, creation of databases and analyses of trends that will feed back into policy development. Such national direction and influence is needed both at the operational level and at Depot in order to ensure consistency and a standardized approach, not only for CEW use, but also for all use of force options.

## **ANALYSIS OF THE RCMP DATA COLLECTION AND CEW DATABASE**

The lack of robustness of the RCMP CEW database raises a number of concerns, particularly with the fact that there appears to be systemic underreporting by members. There is also concern that the quality of the data reported is suspect. The result is that the RCMP is neither able to effectively use the database to support policy development nor understand members' use of this weapon. The Commission's ability to fully analyze and identify trends is also severely limited by these shortcomings.

### ***RCMP Reporting Protocols***

The RCMP currently has in place an electronic database that captures completed versions of Form 3996, the CEW usage form. The Commission is aware that the database is incomplete due to historical reporting and governance issues. Unfortunately, there is no realistic way to recover lost information during those periods when the RCMP neglected to maintain comprehensive record keeping. These time periods include the earliest CEW use, when members only had to record events in their notebook; a period commencing in June 2004, when the RCMP lowered the mandatory reporting requirements it had introduced in 2002; and a period in June 2005, after the RCMP had again made reporting mandatory, but shifted from paper to electronic reports.

The Commission has been advised of the RCMP's intention to implement a comprehensive reporting structure, referred to as the Subject Behaviour-Officer Response (SB/OR) report, which requires members to complete a report every time they use physical control, intermediate weapons and/or lethal force types of responses. This reporting structure is not just for use by the RCMP, it is envisioned that many police services across the country will adopt this reporting structure and that the information and database will be able to be shared. It is believed that the SB/OR report database will increase transparency and provide fulsome public accountability through quantitative and qualitative analysis of the RCMP's interaction with the public. It is also hoped that the information gathered will provide useful data on training issues, policy gaps, insights into how the RCMP interact with various at-risk and marginalized populations, and officer safety considerations. The SB/OR report and database is still in the development stages and has not been implemented.

### ***RCMP Form 3996***

Members must complete Form 3996 if the CEW was deployed or deployment was threatened. There have been two iterations of the reporting form since 2001.

The original Form 3996 included a variety of technical information about the weapon (serial number, model, cartridges, etc.) and other factors related to weather conditions, information on the subject, and the provision of medical treatment. The current Form 3996 is similar to the first version, but captures less information about the subject's behaviour, possible mental health issues and whether other use of force options were considered. The current form lacks any substantive information about members or their experience, which would be useful for reporting and training purposes. Additional contextual information is to be captured in the narrative portion of the form, but it remains unclear whether members fully understand what is to be included in that section.

Further, at present there is no discernable means to adequately data-mine the narrative section, which means that any trend analyses would have to be done manually, conceivably by one person reading thousands of usage forms.

Unfortunately, Form 3996 does not systemically capture whether other use of force options were considered. Members must be able to articulate how they came to choose the CEW over other options and describe the context of the situation. Further, there must be a field in the report to capture whether other use of force options were employed during the altercation by the member or by other members present. It is important to understand the reasoning behind the member's choice.

Specific to issues of member and subject safety, the current Form 3996 allows the RCMP to quantitatively determine how many times the use of lethal force and injuries were avoided because the CEW was present or deployed. That particular section of the form requires a "yes" or "no" answer, which does not allow for an explanation as to how injury was avoided or member safety augmented. This contextual information is essential for establishing a factual basis around the officer safety perspective and determining whether the CEW, as claimed, avoids injury to both the subject and the member. As stated, the narrative section may contain such contextual information, but analyzing this information would be difficult.

The information contained in Form 3996 is not enough to properly assess member safety issues and other substantive issues that speak to public accountability and trust in law enforcement's use of the weapon. It is necessary to electronically link Form 3996 with the RCMP Continuation Report and other relevant documents from the operational file. The RCMP would have a better appreciation of what is occurring in the field if the information was quantitatively and qualitatively analyzed at both the Division and National level.

Another limitation of the database is the inability to link reports stemming from the same incident. The Commission came across situations where two reports appeared to be describing the same event, or one subject was subjected to two different CEW applications during the same incident. Currently, the only way to confirm that these reports were related is to manually review the narratives, which is time-consuming and not particularly accurate. The RCMP should add a field that allows the database to keep track of related events.

### ***Conclusion***

With the current database, neither the Commission nor the RCMP is able to definitively answer how many times the CEW has been deployed in the past.

After reviewing the database and Forms 3996, the Commission can state:

- Supervision to ensure proper CEW deployment reporting is faulty and in some cases may be non-existent. It is up to supervisors to ensure that members under their command submit a usage form by the end of their shift for both deployments and threatened deployments.
- There is a systemic underreporting that must be addressed immediately. This underreporting is especially true if use of the weapon has only been threatened.
- It is conceivable that Forms 3996 are being held at the Divisional level and have not yet been uploaded to the CEW database. This must be rectified and Divisions should be

instructed to locate any outstanding Forms 3996 and submit them immediately for inclusion in the database.

- Measures need to be instituted so that for each quarter, CEW data downloads after use with the existence of the associated Form 3996 in the CEW database.
- Measures need to be instituted that allow for more in-depth quantitative and qualitative analysis of the narrative portion of Form 3996.
- It is often difficult to ascertain the situational context of deployments based on the information contained in the narrative. For oversight and analysis purposes, the narrative portion of the form needs to be properly filled out and an effective way of analyzing the data must be identified and implemented.
- The contextual circumstances of CEW deployments in *push stun* mode are not adequately captured on Form 3996. Given the propensity for usage creep in this mode, it is imperative that the RCMP has a clearer means of monitoring this type of deployment.
- The electronic form, should contain a drop-down list that captures the subject's behaviour category in addition to the already existing narrative section of the form.
- The database does not specifically capture deployments in rural or remote settings. Such an omission means that the RCMP is unable to fully appreciate and then appropriately adapt its policies to reflect the realities of policing in these areas of Canada. This leaves members posted to these areas at a distinct disadvantage and without adequate guidance for use.
- There should be the ability to link and/or cross-reference related Forms 3996.

## ***Quantitative Analysis of RCMP CEW Database***

Recognizing the various limitations of the RCMP data collection process and of the CEW database itself, the Commission nonetheless endeavoured to empirically analyze what information had been collected. The database was provided to the Commission by the RCMP in January 2008.<sup>7</sup> The first area in the analysis examined relates to characteristics surrounding CEW deployment, while the second relates to factors relevant to actual deployments.

### **Incident and Environmental Characteristics**

A summary of factors pertinent to the circumstances of CEW use is presented in Table 1; in total, 4234 reports were found. The number of CEW reports in the database has increased yearly. In terms of raw numbers, the Western provinces account for the bulk of CEW reports. British Columbia alone produces more than a third of these reports. Together, British Columbia, Alberta, Saskatchewan and Manitoba contribute more than three quarters (78.3%) of all reports. This is not surprising as most RCMP members are posted in these provinces and these Divisions have the greatest number of devices in the field.

CEW incidents tend to draw a crowd: two or more members are present at 85 % of all CEW-related events. This is significant. Not surprisingly, CEW-related events occur predominantly in the evening hours. Over half of all report-generating events take place between 8:00 pm and 4:00 am. About one quarter of CEW usage reports are generated on Friday and Saturday night (10:00 pm – 4:00am), or 12.5% and 11.9% respectively.

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<sup>7</sup> This qualitative analysis was completed by converting the RCMP database into an SPSS (Statistical Package for Social Science) data file. The following analysis offers descriptive and bivariate analyses in the form of chi-square analysis of 4,234 CEW usage reports completed by the RCMP between January 1, 2002, and January 19, 2008; as there were only two (2) usage reports in the database for 2001, they were not included in the analyses. A chi-square analysis is designed to allow for the measurement of the degree of “dependence” between two variables. If two variables are “dependent,” they are necessarily associated with one another. If the value of one variable is known, one can have a better idea about the value of the other variable. Conversely, “independent” variables are not associated; knowing something about one reveals nothing statistically pertinent about the other.

| <b>Table 1: Incident and Environmental Characteristics</b> |                 |      |                            |                 |      |
|--|-----------------|------|----------------------------|-----------------|------|
|  | <i>N (4234)</i> | %    |                            | <i>N (4234)</i> | %    |
| <b>Time of Day</b>   |                 |      | <b>Division</b>            |                 |      |
| 12 Midnight to 4 AM  | 1405            | 33.2 | Headquarters               | 3               | 0.1  |
| 4 AM to 8 AM   | 430             | 10.2 | National Capital Region    | 2               | 0    |
| 8 AM to 12 Noon  | 255             | 6    | Nfld. and Labrador (B)     | 88              | 2.1  |
| 12 Noon to 4 PM  | 392             | 9.3  | Manitoba (D)               | 391             | 9.2  |
| 4 PM to 8 PM   | 605             | 14.3 | British Columbia (E)       | 1466            | 34.6 |
| 8 PM to 12 Midnight  | 1127            | 26.6 | Saskatchewan (F)           | 499             | 11.8 |
| <b>Year</b>  |                 |      | Northwest Territories (G)  | 194             | 4.6  |
| 2002   | 84              | 2    | Nova Scotia (H)            | 128             | 3    |
| 2003   | 560             | 13.2 | New Brunswick (J)          | 190             | 4.5  |
| 2004   | 240             | 5.7  | Alberta (K)                | 958             | 22.6 |
| 2005   | 602             | 14.2 | Prince Edward Island (L)   | 49              | 1.2  |
| 2006   | 1124            | 26.5 | Yukon (M)                  | 131             | 3.1  |
| 2007   | 1557            | 36.8 | Ontario (O)                | 1               | 0    |
| 2008   | 58              | 1.4  | Nunavut (V)                | 122             | 2.9  |
| Missing  | 9               | 0.2  | Missing                    | 12              | 0.3  |
| <b>Incident Type</b>                                       |                 |      | <b>Number of Members</b>   |                 |      |
| Arrest Warrant Execution                                   | 125             | 3    | 1                          | 647             | 15.3 |
| Assault (Non-domestic)                                     | 450             | 10.6 | 2                          | 1830            | 43.2 |
| Cause Disturbance  | 781             | 18.4 | 3                          | 890             | 21   |
| Cell Block   | 568             | 13.4 | 4                          | 486             | 11.5 |
| Domestic Dispute   | 507             | 12   | 5                          | 217             | 5.1  |
| Firearms Complaint   | 33              | 0.8  | 6+                         | 162             | 3.8  |
| Gen. Patrol - No Complaint                                 | 108             | 2.6  | Missing                    | 2               | 0    |
| Impaired Driving   | 167             | 3.9  | <b>Setting</b>             |                 |      |
| Mental Health  | 460             | 10.9 | Interior                   | 2065            | 48.8 |
| Prisoner Escort  | 32              | 0.8  | Exterior                   | 2146            | 50.7 |
| Robbery  | 19              | 0.4  | Missing                    | 23              | 0.5  |
| Search Warrant Execution                                   | 16              | 0.4  | <b>Lighting Conditions</b> |                 |      |
| Suicidal Person  | 163             | 3.8  | Poor artificial light      | 695             | 16.4 |
| Traffic Stop   | 74              | 1.7  | Good artificial light      | 1786            | 42.2 |
| Weapons (Non-firearm)                                      | 202             | 4.8  | Day light                  | 780             | 18.4 |
| Other  | 503             | 11.9 | Dusk                       | 133             | 3.1  |
| Missing  | 26              | 0.6  | Dark                       | 766             | 18.1 |
|  |                 |      | Missing                    | 74              | 1.7  |

Specific information concerning the RCMP member filing a CEW report is somewhat sparse. Table 2 shows that reporting members are overwhelmingly Constables. Table 2 also demonstrates that a considerable number of members are involved in multiple reports.

In theory, the usage reports collect an assortment of environmental data, including setting, temperature, weather and lighting conditions, wind direction and wind speed. In practice, however, much of the information is incomplete, so much so that all but two of the fields (setting and lighting conditions) are essentially useless. The more complete data indicates that CEW usage is

roughly evenly split between interior and exterior settings, and that about 20% of events occur under less than optimal lighting conditions.

| <b>Table 2: Member Operating CEW- Characteristics</b> |                 |      |                                 |                 |      |
|---|-----------------|------|---------------------------------|-----------------|------|
|   | <i>N (4234)</i> | %    |                                 | <i>N (2349)</i> | %    |
| <b>Rank</b>   |                 |      | <b>Usage Reports Per Member</b> |                 |      |
| Constable   | 3657            | 86.4 | 1                               | 1420            | 60.5 |
| Corporal  | 363             | 8.6  | 2                               | 496             | 21.1 |
| Sergeant  | 79              | 1.9  | 3                               | 200             | 8.5  |
| Staff Sergeant  | 16              | 0.4  | 4                               | 112             | 4.8  |
| Missing   | 119             | 2.8  | 5                               | 55              | 2.3  |
| <b>Duty Type</b>                                      |                 |      | 6                               | 24              | 1    |
| General Duty  | 3296            | 77.8 | 7                               | 16              | 0.7  |
| Highway   | 60              | 1.4  | 8                               | 12              | 0.5  |
| ERT   | 18              | 0.4  | 9                               | 4               | 0.2  |
| Other   | 97              | 2.3  | 10+                             | 10              | 0.4  |
| Missing   | 763             | 18   | Mean                            | 1.8             |      |

**Subject Characteristics**

Relevant subject characteristics are captured in Table 3. The vast majority of the subjects against which the CEW is deployed are male (90.2%). On average, subjects are just over 30 years old; a notable number are above 50. What is not illustrated is the range of ages. There are reports of CEWs being deployed against subjects as young as 13 years old. There are almost 90 reports where the subject is 16 years or younger. This is a small number relative to the total number of reports, but is worthy of concern.

A large percentage of events (86.0%) involve suspected substance use; in more than three-quarters (76.1%) of all cases, alcohol was suspected. In contrast, the prevalence of weapons (31.7%) is lower. Where weapons were present, the mostly likely is a knife or some other edged weapon (58.1% of reports involving weapons). However, the item “Weapons carried or immediately accessible by subject,” is ambiguous and there is no specific narrative that goes along with this question to allow for greater qualitative analysis. In essence, it is impossible to tell from this information if the use of a weapon is actually being threatened, or if something close to the subject could quickly be turned into a weapon; this is an important distinction.

| <b>Table 3: Subject Characteristics</b> |                 |      |                                  |                 |      |
|---|-----------------|------|----------------------------------|-----------------|------|
|   | <i>N (4234)</i> | %    |                                  | <i>N (4234)</i> | %    |
| <b>Age</b>                              |                 |      | <b>Sex</b>                       |                 |      |
| Under 20                                | 497             | 11.7 | Female                           | 343             | 8.1  |
| 20 - 29                                 | 1491            | 35.2 | Male                             | 3817            | 90.2 |
| 30 - 39                                 | 1222            | 28.9 | Missing                          | 74              | 1.7  |
| 40 - 49                                 | 722             | 17.1 | <b>Weapon Involved</b>           |                 |      |
| 50+                                     | 247             | 5.8  | No                               | 2891            | 68.3 |
| Missing                                 | 55              | 1.3  | Yes                              | 1343            | 31.7 |
| Mean                                    | 31.5            |      | <b>Type of Weapon*</b>           |                 |      |
| <b>Substance Use Involved</b>           |                 |      | Gun, Rifle, or Shotgun           | 54              | 1.3  |
| No                                      | 593             | 14.0 | Knife                            | 606             | 14.3 |
| Yes                                     | 3641            | 86.0 | Other Edged Weapon               | 174             | 4.1  |
| <b>Type of Substance*</b>               |                 |      | Inert Projectile                 | 215             | 5.1  |
| Alcohol                                 | 3221            | 76.1 | Baton, Club, Rod, or Stick       | 159             | 3.8  |
| Cannabis                                | 373             | 8.8  | Other Weapon                     | 441             | 10.4 |
| Cocaine                                 | 586             | 13.8 | <b>Avoid use of lethal force</b> |                 |      |
| Heroin                                  | 34              | 0.8  | No                               | 2656            | 62.7 |
| Amphetamines                            | 122             | 2.9  | Yes                              | 1578            | 37.3 |
| Prescription Drugs                      | 237             | 5.6  | <b>Avoid injuries</b>            |                 |      |
| Other Substance                         | 305             | 7.2  | No                               | 437             | 10.3 |
|   |                 |      | Yes                              | 3797            | 89.7 |

\* More than 1 answer per report was possible.

### **Injury and Medical Characteristics**

As outlined in Table 4, three quarters of reports indicate no injuries to the subject (68.6% in cases where the CEW was actually deployed). Where injuries or physical afflictions are recorded, they are generally described as being consistent with the routine operation of a CEW. These include the “punctures” or “marks” produced by probes and “burns” associated with *push stun* mode.

It is worth noting that the reports regularly diminish injuries, characterizing them as small or minor. In fact, almost half of the narratives (47.9%) contain some reference to the injury as “minor,” “small,” “light,” “superficial,” “minimal,” and/or “little.” This characterization is especially evident in circumstances that would otherwise appear to be more serious. For example, if an injury involving blood or bleeding is recorded, it is typically downplayed as being “a small amount of blood” (69.4%).

The issue of injury seriousness is, to some degree, captured by two fields: whether photos of the injuries are taken, and whether the subject is examined at a medical facility. The former occurs in relatively few cases (7.0%), but medical examinations are much more common. The factors relating to medical examinations will be analyzed below.

| <b>Table 4: Injury and Medical Characteristics</b> |                 |          |   |                 |          |
|--|-----------------|----------|---|-----------------|----------|
|  | <i>N (4234)</i> | <i>%</i> |   | <i>N (4234)</i> | <i>%</i> |
| <b>Injury Description</b>                          |                 |          | <b>Photos Taken</b>                                 |                 |          |
| No Injury  | 3185            | 75.2     | No  | 3939            | 93.0     |
| Puncture/Cut                                       | 416             | 9.8      | Yes   | 295             | 7.0      |
| Burn   | 211             | 5.0      | <b>Medical Examination</b>                          |                 |          |
| Marks  | 227             | 5.4      | No  | 3196            | 75.5     |
| Redness  | 47              | 1.1      | Yes   | 1038            | 24.5     |
| Bleeding   | 13              | 0.3      | <b>Proportion of Cases – CEW Engaged (N = 3343)</b> |                 |          |
| Welts/Bruising/Swelling                            | 23              | 0.5      | <b>Injury Described</b>                             |                 |          |
| Chest pains/short of breath                        | 13              | 0.3      | No  | 2294            | 68.6     |
| Abrasions/Irritation/Scrape                        | 30              | 0.7      | Yes   | 1049            | 31.4     |
| Injury after event                                 | 23              | 0.5      | <b>Photos Taken</b>                                 |                 |          |
| Undisclosed Wound/Injury                           | 35              | 0.8      | No  | 3060            | 91.5     |
| Defecation/Urination                               | 8               | 0.2      | Yes   | 283             | 8.5      |
| Dead   | 3               | 0.1      | <b>Medical Examination</b>                          |                 |          |
|  |                 |          | No  | 2373            | 71.0     |
|  |                 |          | Yes   | 970             | 29.0     |

### **Medical Examination**<sup>8</sup>

In this report, treatment at a medical facility is taken as a rough proxy for the perception of seriousness of injury. As such, it is important to recognize that subjects are sometimes taken for medical examination even though their injuries are not directly related to the use of a CEW. In general, the narratives in the usage forms suggest that the medical examinations were primarily related to the CEW. It is also worth mentioning that all of the following analyses are limited to circumstances in which the CEW is actually deployed and not just threatened.

With regard to *mode of engagement* (Table 5), use of the CEW in *probe* mode, either alone (43.1%) or in conjunction with *push stun* mode (43.9%), brings a much higher likelihood of receiving medical examination than *push stun* mode alone (16.0%). These differences are statistically significant.

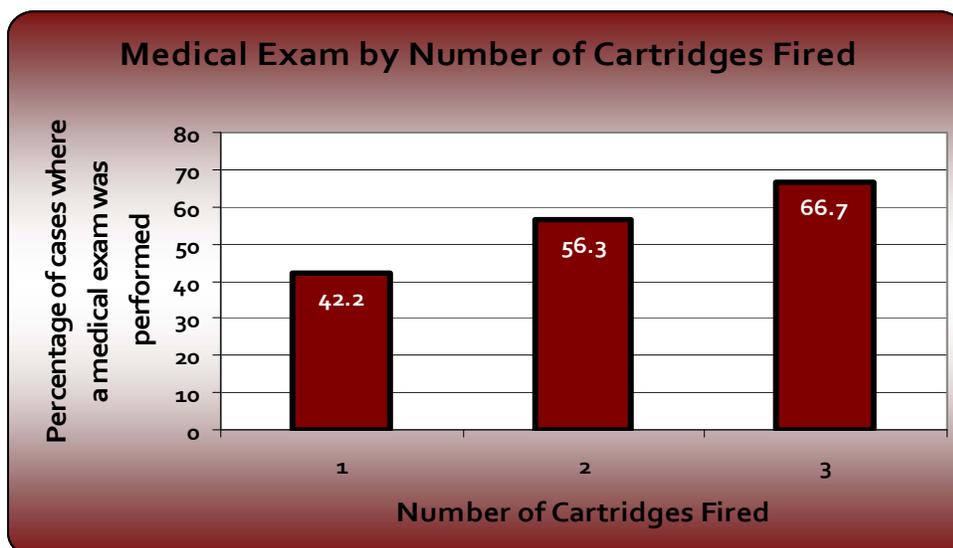
<sup>8</sup> The results of these analyses are present in tables 15 through 26.

| <b>Table 5: Whether Medical Examination was Performed by Mode of Engagement</b> |                            |              |              |
|---|----------------------------|--------------|--------------|
| <b>Engagement Mode</b>  | <b>Medical Examination</b> |              | <i>Total</i> |
|   | <i>No</i>                  | <i>Yes</i>   |              |
| Cartridges Only   | 692<br>56.9%               | 525<br>43.1% | 1217         |
| Push Stun Mode Only   | 1469<br>84.0%              | 279<br>16.0% | 1748         |
| Both Cartridges and Push Stun Mode Used   | 212<br>56.1%               | 166<br>43.9% | 378          |
| Total   | 2373<br>71.0%              | 970<br>29.0% | 3343<br>100% |

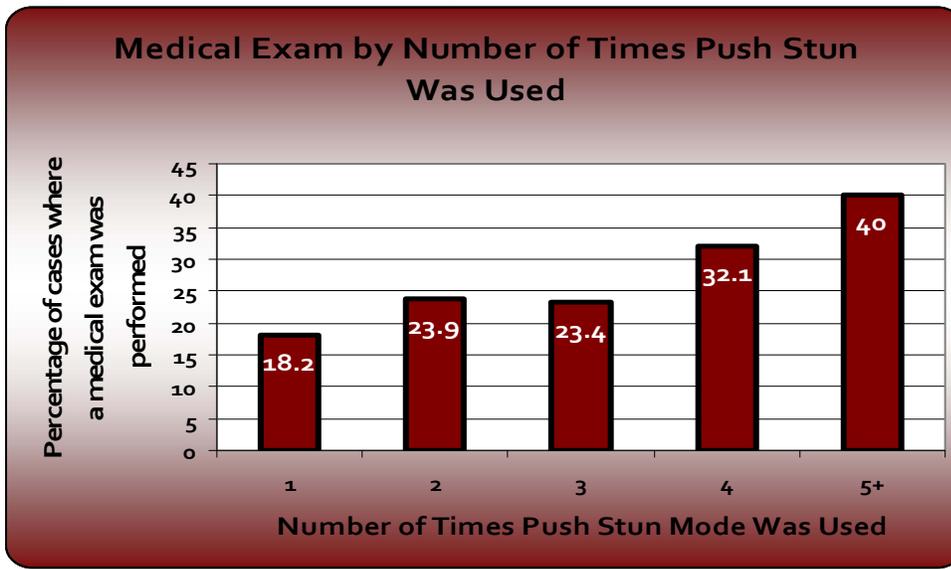
$\chi^2 = 303.24, df = 2, p < .000$

Graphs 1 and 2 show a strong, positive relationship between both *the number of cartridges fired* and the *number of times push stun mode is used*. After the first cartridge, the rate of medical examination is at least 10 percentage points higher for each subsequent cartridge fired. The same pattern is evident in relation to *push stun* mode. In general, each time *push stun* mode is used, the likelihood of requiring a medical examination increases. The pattern is particularly noticeable after three deployments.

**Graph 1: Medical Examination by Number of Cartridges Fired**



**Graph 2: Medical Examination by Number of Times *Push Stun* was Used**



The pattern of linear elevation is also observed for *number of members present* (Table 6). Just as more members increase the likelihood of a CEW deployment, so too does it raise the likelihood of medical attention. When six (6) or more members are present, there is a 50/50 chance that the subject will need to be taken for a medical examination.

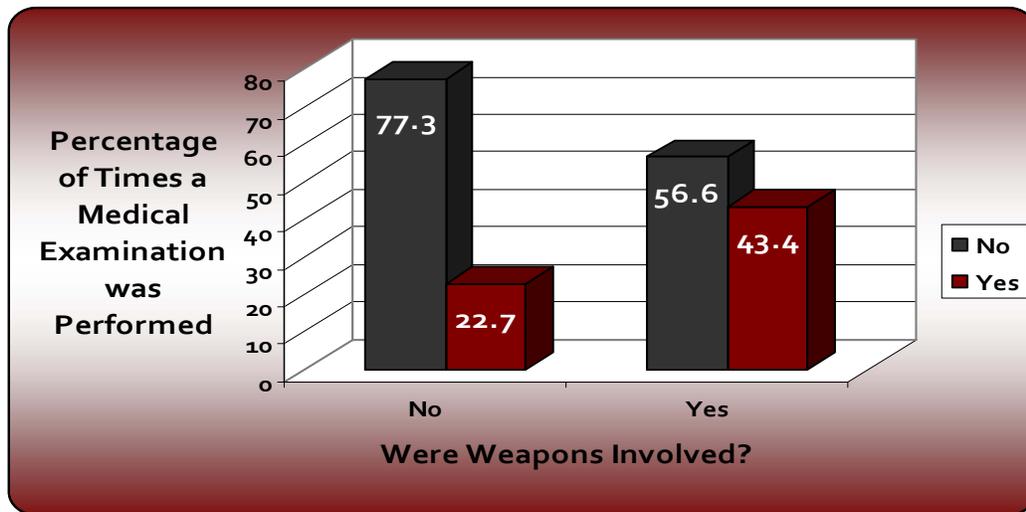
Although it is difficult to ascertain why an increase in the number of members correlates with an increase in the likelihood that the subject would be taken for a medical examination, two scenarios seem plausible: the degree of chaos of any given incident may be correlated with the number of members, in that chaotic circumstances are more likely to cause injury; or, it may simply be that the presence of more members emboldens and/or engenders more aggressive action by the subject. When only one member is on scene, he or she might be more careful, more willing to take the time necessary to defuse situations. However, this is mostly speculation, as there is not enough information to analyze this particular correlation.

| <b>Table 6: Whether Medical Examination was Performed by Number of Members Present</b> |                            |              |              |
|--|----------------------------|--------------|--------------|
|  | <b>Medical Examination</b> |              |              |
| <b>Number of Members Present</b>   | No                         | Yes          | Total        |
| 1  | 349<br>75.5%               | 113<br>24.5% | 462          |
| 2  | 1048<br>72.4%              | 399<br>27.6% | 1447         |
| 3  | 519<br>72.8%               | 194<br>27.2% | 713          |
| 4  | 274<br>68.0%               | 129<br>32.0% | 403          |
| 5  | 113<br>64.2%               | 63<br>35.8%  | 176          |
| 6+   | 70<br>49.3%                | 72<br>50.7%  | 142          |
| Total  | 2373<br>71.0%              | 970<br>29.0% | 3343<br>100% |
| $\chi^2 = 45.36, df = 5, p < .000$   |                            |              |              |

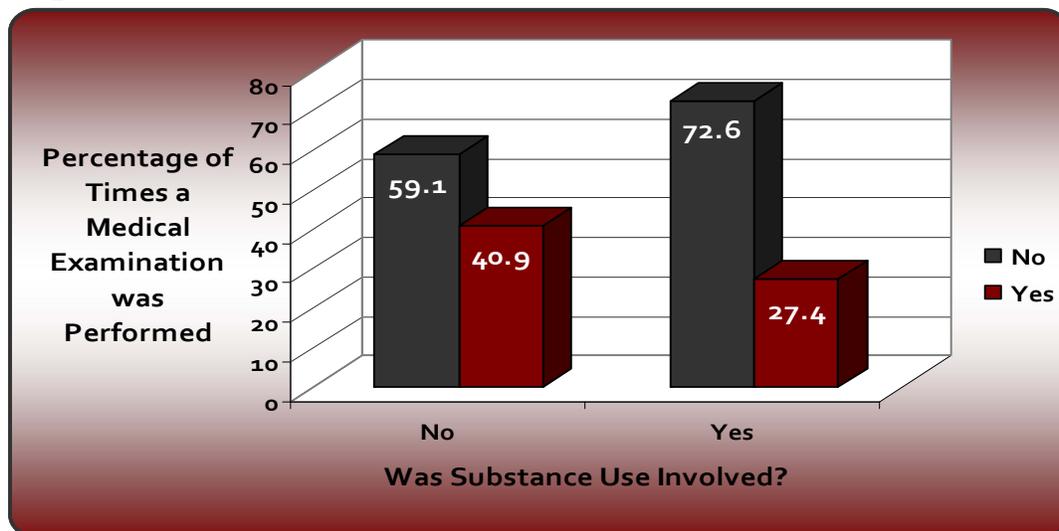
*Substance use* and the *involvement of a weapon* affect differently the probability that medical treatment is sought. The presence of weapons significantly *increases* the likelihood of a subject being taken to a medical facility. In contrast, the confirmation or suspicion of substance use serves to *reduce* the probability that a subject will be examined by a medical professional.

These findings are of concern to the Commission, as those under the influence of substances are likely more vulnerable to CEW deployments. Based on this, the Commission believes that those who are under the influence of drugs or alcohol and who are subjected to a CEW deployment should be given medical attention by either EMS or personnel at a medical facility.

**Graph 3: Weapons Involvement and Medical Examination**



**Graph 4: Substance Use and Medical Examination**



It was also determined that *subject sex* (Table 7) is not a factor in distinguishing whether a medical examination occurs; females are slightly more likely to be taken for examination, but the difference is not significant. *Subject age*, on the other hand, shows a more distinctive pattern (Table 8). The rate of examinations increases with age, with subjects 50 or older receiving medical attention more than 40% of the time.

| <b>Table 7: Whether Medical Examination was Performed by Subject Sex</b> |                            |              |              |
|--|----------------------------|--------------|--------------|
|  | <b>Medical Examination</b> |              |              |
| <b>Subject Sex</b>   | <i>No</i>                  | <i>Yes</i>   | <i>Total</i> |
| Female   | 185<br>67.0%               | 91<br>33.0%  | 276          |
| Male   | 2139<br>71.0%              | 872<br>29.0% | 3011         |
| Total  | 2324<br>70.7%              | 963<br>29.3% | 3287<br>100% |
| $\chi^2 = 1.96, df = 1, p < .167$  |                            |              |              |

| <b>Table 8: Whether Medical Examination was Performed by Subject Age</b> |                            |              |               |
|--|----------------------------|--------------|---------------|
|  | <b>Medical Examination</b> |              |               |
| <b>Subject Age</b>   | <i>No</i>                  | <i>Yes</i>   | <i>Total</i>  |
| Under 20   | 281<br>75.9%               | 89<br>24.1%  | 370           |
| 20 - 29  | 879<br>75.0%               | 293<br>25.0% | 1172          |
| 30 - 39  | 700<br>71.5%               | 279<br>28.5% | 979           |
| 40 - 49  | 364<br>62.3%               | 220<br>37.7% | 584           |
| 50+  | 111<br>56.6%               | 85<br>43.4%  | 196           |
| Total  | 2335<br>70.7%              | 966<br>29.3% | 3301<br>100T% |
| $\chi^2 = 54.20, df = 4, p < .000$                                       |                            |              |               |

Table 9 ranks various *types of incidents* by their propensity to result in a medical examination. The figures for cases categorized as involving *suicidal persons* or *mental health* are remarkable. The rates of examination for subjects in these types of cases, at over 60% and 70% respectively, are almost double those of the next-closest incident type. At the other end of the spectrum, *cell block* cases result in medical attention less than 10% of the time.

**Table 9: Whether Medical Examination was Performed by Incident Type**

| Incident Type                 | Medical Examination |               | Total        |
|-------------------------------|---------------------|---------------|--------------|
|                               | No                  | Yes           |              |
| Suicidal Person               | 41<br>25.2%         | 122<br>74.8%  | 163          |
| Mental Health                 | 172<br>37.4%        | 288<br>62.6%  | 460          |
| Firearms Complaint            | 22<br>66.7%         | 11<br>33.3%   | 33           |
| Weapons (Non-firearm)         | 155<br>76.7%        | 47<br>23.3%   | 202          |
| Traffic Stop                  | 57<br>77.0%         | 17<br>23.0%   | 74           |
| Prisoner Escort               | 25<br>78.1%         | 7<br>21.9%    | 32           |
| Domestic Dispute              | 398<br>78.5%        | 109<br>21.5%  | 507          |
| Other                         | 400<br>79.5%        | 103<br>20.5%  | 503          |
| Assault (non-domestic)        | 358<br>79.6%        | 92<br>20.4%   | 450          |
| Impaired Driving              | 135<br>80.8%        | 32<br>19.2%   | 167          |
| Search Warrant Execution      | 13<br>81.3%         | 3<br>18.8%    | 16           |
| Arrest Warrant Execution      | 105<br>84.0%        | 20<br>16.0%   | 125          |
| Cause Disturbance             | 666<br>85.3%        | 115<br>14.7%  | 781          |
| General Patrol – No Complaint | 95<br>88.0%         | 13<br>12.0%   | 108          |
| Robbery                       | 17<br>89.5%         | 2<br>10.5%    | 19           |
| Cell Block                    | 516<br>90.8%        | 52<br>9.2%    | 568          |
| Total                         | 3175<br>75.5%       | 1033<br>24.5% | 4208<br>100% |

$\chi^2 = 727.65, df = 15, p < .000$

## **CEW Engagement Characteristics**

CEWs in *push stun* mode are deployed more commonly than those in *probe* mode. In a small but not trivial number of cases, both modes are deployed. In one in five cases, the CEW is not deployed but is threatened, which could point to the potential deterrent effect of CEWs; however, it remains to be seen if the situation where the CEW use was threatened was actually defused. As discussed previously in the report, it is conceivable that cases of CEW use that was threatened but not deployed is under-reported.

When used in *probe* mode, more than one (1) cartridge is rarely fired and 66% of the time the weapon is cycled only once. On the other hand, *push stun* mode is more apt to be used multiple times. When *push stun* mode is used, it is used two or more times on 40% of occasions. This is significant and confirms a concern raised repeatedly by the Commission that *push stun* is the mode most susceptible to usage creep.

Subjects are usually made aware that a CEW is present. However, anecdotal evidence gleaned from the usage report narratives indicates that members may keep the CEW from view in particular situations, including: the need to maintain tactical advantage; and the desire to avoid further provoking an already agitated suspect. As well, CEWs sometimes remains hidden in circumstances involving subjects who are clearly suicidal or wishing to harm themselves.

## **Cartridge Usage Characteristics**

In addition to completing an overall usage report, members are similarly required to complete an ancillary report on every cartridge that is actually fired. These reports are summarized in Table 12, which can be found in Appendix C. The first noteworthy finding is that the field *Distance from operator to subject* has been recorded as “0” since about June 1, 2005. This explains why 83.7% of *distances* are reported as 0. It is unclear as to why this requirement is being ignored.

In terms of the *duration* of discharge, *probe* deployments are often cycled for the full five-second interval. The weapon is usually cycled once, but multiple cyclings are not uncommon. The clustering of the probes, as indicated by *spread*, is most often less than 30 cm.

In keeping with the theory of “central mass,” it is to be expected that the intended target on the subject’s body (*Point of Aim*) is the chest or back. Given the often-chaotic nature of events, it is also not surprising that there appears to be a fair degree of imprecision in where the probes actually impact. In 20% of cases, one or both probes miss their intended target.

The usage report also provides an indication as to whether the following verbal command is given before the CEW is engaged: *Police stop or you will be hit with 50,000 volts of electricity!* The command is actually given prior to engagement in fewer than 40% of cases. In another quarter of cases (27.2%), some alternative command is given. In these cases, the command involves the use of the word “Taser,” or a warning about “50,000 volts.” In cases where the command is not given, anecdotal evidence gleaned from the narrative section, identifies these rationales:

- No time to give command (with or without further elaboration)
- Sudden or unexpected change in subject behaviour
- Subject was combative

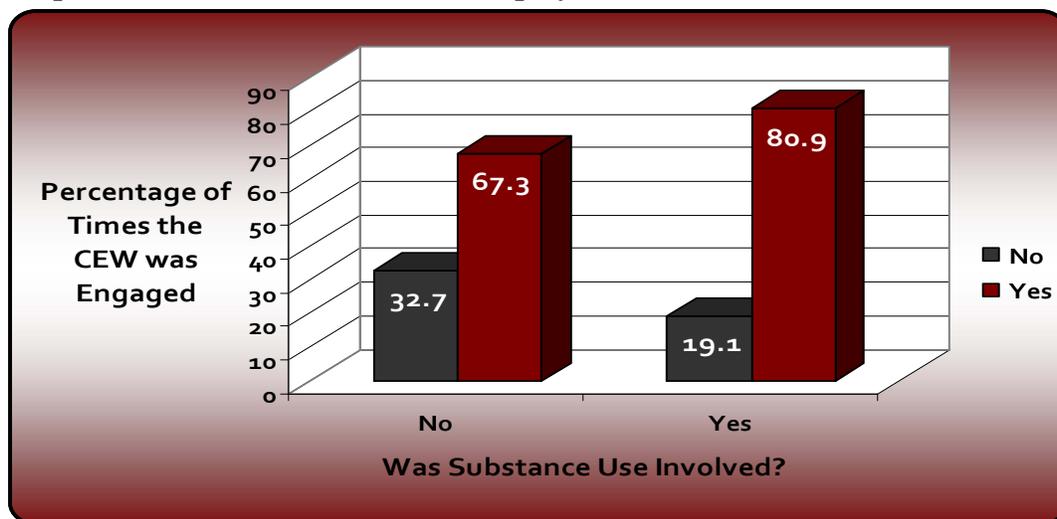
- Members were already engaged with the suspect when CEW arrived
- Subject posed immediate threat/possible or suspected weapon
- Subject suicidal or threatening or attempting to harm him/herself
- Subject delusional/irrational/agitated/not responding to verbal commands
- Subject fleeing/members already in pursuit of suspect
- Tactical considerations/element of surprise
- Weapon had already been deployed once
- Subject aware of Taser/Taser visible to subject
- Subject deaf or unable to hear command (i.e. loud saw in vicinity)
- Subject was a dog

### CEW Engagement

The Commission knows that CEWs have been deployed or threatened to be deployed a minimum of 4234 times and that over the years the number of usage reports has increased. We also know that members have been systemically underreporting CEW deployments, especially in *push stun* mode. Unfortunately, because of the problems with the database it is difficult to ascertain with certainty if the weapon is being deployed appropriately. The Commission is not able to make comparative analyses between detachments or Divisions, thereby limiting the ability to measure proportionality of use year by year and across Divisions.

An examination of the various factors relevant to deployment was undertaken. To do this, analyses were performed against whether or not the CEW was deployed in certain circumstances, with the exception of subject sex and age. First is the association between *CEW engagement* and *substance use* in Graph 5. In this case, both variables were measured dichotomously, “yes” or “no”. That is, either the CEW was either deployed, or it was not; either substance use was involved, or it was not.

**Graph 5: Substance Use and CEW Deployment**



When substance use is suspected or confirmed, the proportion of cases in which the CEW is deployed is 80.9%. Thus, one can conclude that substance use is related to CEW usage in that it significantly increases the probability that the CEW will be deployed, most likely due to a subject’s inability or unwillingness to function rationally, thereby escalating the situation. Further, the

probability of whether a threatened CEW is actually deployed, increases when there are several contextual factors present, particularly when substance use is involved, when two or more members are present, and when the subject is 20 years of age or older.

Table 10 similarly demonstrates that *the number of members present* is also significantly related to the use of the CEW. More precisely, the two increase together. When only one member is present, the CEW is deployed in 71.4% of incidents. However, when two (2) or more members attend, the rate of deployment goes up to between 79.1% and 87.7%. Secondary analyses revealed that the important difference is between one and more than one member. So, if more than one member is present, the likelihood that the CEW will be deployed is increased.

| <b>Table 10: Whether CEW was Engaged by Number of Members Present</b> |                       |               |              |
|---|-----------------------|---------------|--------------|
|   | <b>CEW Engagement</b> |               |              |
| <b>Number of Members Present</b>                                      | <i>No</i>             | <i>Yes</i>    | <i>Total</i> |
| 1   | 185<br>28.6%          | 462<br>71.4%  | 647          |
| 2   | 383<br>20.9%          | 1447<br>79.1% | 1830         |
| 3   | 177<br>19.9%          | 713<br>80.1%  | 890          |
| 4   | 83<br>17.1%           | 403<br>82.9%  | 486          |
| 5   | 41<br>18.9%           | 176<br>81.1%  | 217          |
| 6+  | 20<br>12.3%           | 142<br>87.7%  | 162          |
| Total   | 891<br>21.0%          | 3343<br>79.0% | 4234<br>100% |
| $\chi^2 = 35.55, df = 5, p < .000$                                    |                       |               |              |

As is the case with the preceding table, in those cases where weapons are involved, the likelihood of a CEW deployment increases as the number of members on scene also increases (see Table 29 in Appendix C). However, there is insufficient information to appreciate the context of these deployments, and further research is necessary.

*Incident types* have been arranged from highest to lowest likelihoods for CEW deployment in Table 11, ranging from 84.8% (Firearm Complaint) to 57.9% (Robbery). Simply put, different types of incidents result in statistically significant patterns of CEW deployment. The top three incident types that required police attendance and that subsequently ended with a CEW deployment were cause disturbance (19%), cell block (13%) and domestic disputes (12%). Certain types of incidents also present higher probabilities of actual deployment, notably firearms complaints,

causing a disturbance, non-domestic assault, cell block cases, and mental health and suicidal persons.

| <b>Table 11: Whether CEW was Engaged by Incident Type</b> |                       |               |              |
|---|-----------------------|---------------|--------------|
|   | <b>CEW Engagement</b> |               |              |
| <b>Incident Type</b>                                      | <i>No</i>             | <i>Yes</i>    | <i>Total</i> |
| Firearms Complaint  | 5<br>15.2%            | 28<br>84.8%   | 33           |
| Gen. Patrol - No Complaint                                | 18<br>16.7%           | 90<br>83.3%   | 108          |
| Cause Disturbance   | 136<br>17.4%          | 645<br>82.6%  | 781          |
| Assault (Non-domestic)                                    | 79<br>17.6%           | 371<br>82.4%  | 450          |
| Cell Block  | 103<br>18.1%          | 465<br>81.9%  | 568          |
| Mental Health   | 86<br>18.7%           | 374<br>81.3%  | 460          |
| Suicidal Person   | 34<br>20.9%           | 129<br>79.1%  | 163          |
| Other   | 108<br>21.5%          | 395<br>78.5%  | 503          |
| Impaired Driving  | 38<br>22.8%           | 129<br>77.2%  | 167          |
| Domestic Dispute  | 126<br>24.9%          | 381<br>75.1%  | 507          |
| Prisoner Escort   | 8<br>25.0%            | 24<br>75.0%   | 32           |
| Traffic Stop  | 20<br>27.0%           | 54<br>73.0%   | 74           |
| Search Warrant Execution                                  | 5<br>31.3%            | 11<br>68.8%   | 16           |
| Weapons (Non-firearm)                                     | 69<br>34.2%           | 133<br>65.8%  | 202          |
| Arrest Warrant Execution                                  | 43<br>34.4%           | 82<br>65.6%   | 125          |
| Robbery   | 8<br>42.1%            | 11<br>57.9%   | 19           |
| Total   | 886<br>21.1%          | 3322<br>78.9% | 4208<br>100% |
| $\chi^2 = 62.90, df = 15, p < .000$                       |                       |               |              |

Although CEW reports are generated in relation to a wide variety of incident types, some circumstances generate more reports than others. The top five of these situations (“causing a disturbance,” “cell block,” “domestic disputes,” “mental health,” and “non-domestic assault”) comprise almost two thirds (65.3%) of incident types. Even with these raw figures, however, the Commission is unable to speculate about the “proneness” of incident types. There is no way to determine whether, for example, disturbance calls are more likely to result in CEW use without knowing what proportion of *all* calls are categorized as such. This more in-depth fulsome analysis of country-wide RCMP/public encounters could be better addressed in a wider RCMP research project.

Other statistical analyses were conducted and are presented in tables, which can be seen in Appendix C.

### ***Conclusion***

Missing data presented a severe analytic challenge. In many instances nothing could be done about the missing data. For some variables, however, the decision was made to recode the missing values. Take, for example, the question relating to substance use. If one assumes that substance use would be mentioned if it were present, one can then assume that a missing value is actually an answer of “no” (e.g., no, substance use was not a contributing factor). The mere fact that large amounts of data were missing and that assumptions had to be made for analysis purposes speaks to an inherent problem with the RCMP data collection process and compliance. Table 28 provides information on the variables that were recoded in this manner.

From the data analyzed, the Commission can reasonably develop a profile of who is most likely to be subjected to a CEW deployment. The subject is more likely to be:

- A male who is unarmed
- Between the ages of 20-39
- Suspected of, or confirmed to be, using a substance, most likely alcohol
- Aware of the presence of the CEW

The actual deployment of the CEW most likely:

- Involves a cause disturbance or assault-related offence that was of such a nature that the RCMP had to attend
- Involves the presence of two (2) members who are Constables on general duty
- Occurs between the hours of 8:00 pm and 4:00 am
- Utilizes a M26 Taser® in *push stun* mode
  - If the weapon was used in *probe* mode, the CEW will only have been cycled once for five seconds.
- Involves no discernable injuries to the subject
  - If injuries are caused, they will present as puncture wounds; no photo will be taken and medical assistance will not be sought.

Subjects are more likely to receive medical attention if:

- They are 50 years of age or older
- They are female

- They are suicidal or experiencing mental health crises
- Weapons are involved;
  - However, if substance use is suspected, medical attention is less likely.
- The CEW is deployed in *probe* mode, alone or combined with *push stun* mode
  - Multiple cartridges are fired in *probe* mode.
- Multiple members are present

## COMMISSION'S MINI-AUDIT OF RCMP DATABASE

In an attempt to confirm the robustness and accuracy of the RCMP CEW database, the Commission conducted a mini-audit comparing public complaints lodged with the Commission versus the existence of a Form 3996. The purpose of this audit was to confirm whether a Form 3996 existed and could, subsequently, be correlated to all Commission lodged complaints related to CEW deployment and/or threatened deployment. To ensure precision, Commission staff and RCMP members jointly searched the CEW database at RCMP Headquarters in an attempt to resolve data anomalies.

The selection process involved looking at all complaints specific to CEW deployment or threatened deployment and discounting complaints that did not fall within the pre-established timeline of December 21, 2001, to January 19, 2008. As a result of this parameter, 104 files were identified: 76 public complaints related to CEW deployment and 28 related to threatened CEW deployment.

The results of the mini-audit were problematic, but they aptly highlighted concerns about governance issues related to reporting. Of the 76 Commission complaints about CEW deployment, 52 corresponding Forms 3996 could not be located in the RCMP database. This means that 68% of the Commission's deployment complaints that 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.

| <b>Number of Complaints</b> | <b>Use</b> | <b>Threat</b> | <b>All</b> |
|-----------------------------|------------|---------------|------------|
| <b>Found</b>                | 24         | 0             | 24         |
| <b>Not Found</b>            | 52         | 28            | 80         |
| <b>Total</b>                | <b>76</b>  | <b>28</b>     | <b>104</b> |

| <b>% of Complaints</b> | <b>Use</b> | <b>Threat</b> | <b>All</b> |
|------------------------|------------|---------------|------------|
| <b>% Found</b>         | 32%        | 0%            | 23%        |
| <b>% Not Found</b>     | 68%        | 100%          | 77%        |

These two findings confirmed that there has been extensive underreporting of CEW use, especially in cases where the weapon was threatened but not deployed. It is clear, therefore, that current and past RCMP CEW policies with respect to reporting have not been followed by members or supervisors. There appears to be no discernable means to ensure that members complete the paperwork that is required of them, especially when the CEW is threatened. This becomes even more problematic when one considers that the reporting process relies on a professional "honours system" and there is presently no ability to reconcile CEW data downloads and Forms 3996.

Besides the fact that in some cases members are simply not filling out the required reporting documentation, there are other possible reasons why some Forms 3996 may be missing from the database. First, there may be, and has historically been, confusion as to what constitutes CEW use, which in turn impacts the completion of forms. Members should be advised that threatened use must also be reported.

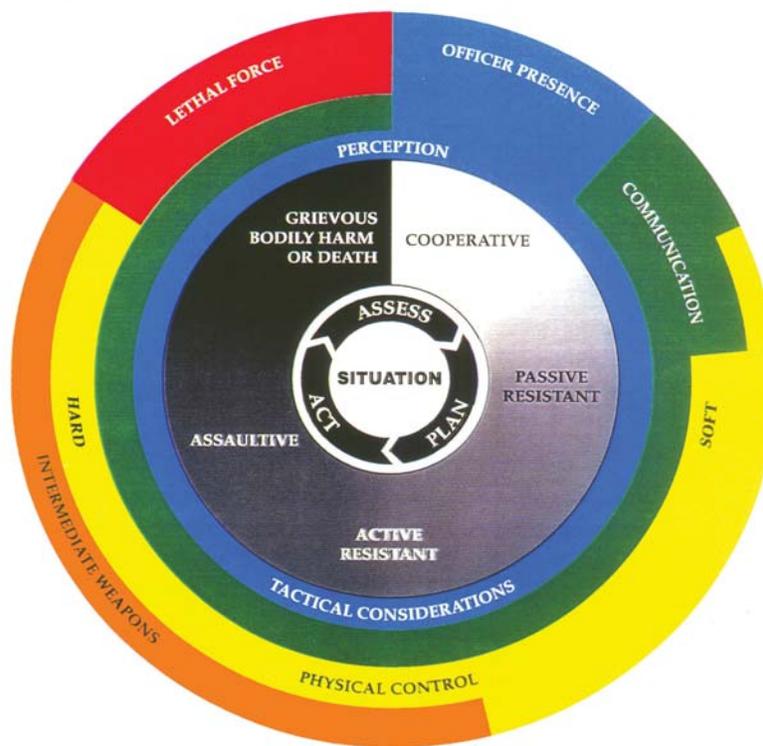
Further, the forms are sometimes filled out but have not been forwarded to Headquarters for inclusion in the database. Failure by Divisions to provide Headquarters with the required and necessary documentation is not a new problem for the RCMP, but a growing disconnect between the Divisions and Headquarters is becoming more apparent to the Commission.

With respect to missing information, the Commission could not establish whether members were sufficiently trained on how to fill out Form 3996, with respect to the narrative portions. Additionally, given that only five (5) sections of the form are required to be filled out, members do not have to provide fulsome information before their forms are accepted by the database.

## PLACEMENT OF CEWS ON USE OF FORCE MODELS

In Canadian use of force models, intermediate weapons are generally considered appropriate force options once a subject exhibits behaviour that can be interpreted as actively resistant towards an officer. Most Canadian police services have assessed CEWs as intermediate weapons, and viable less-lethal force options. Less-lethal weapons are “those [weapons] whose use is not intended to cause serious injury or death.”<sup>9</sup> Typically, intermediate weapons bridge the gap between soft physical control and lethal force. All municipal and provincial police forces follow or have a variant of the National Use of Force Model.

**Figure 1: National Use of Force Model**



The officer continuously assesses the situation and acts in a reasonable manner to ensure officer and public safety.

The CEW is a use of force option that, when properly used, may enable police officers to incapacitate a violent subject from a safe distance, thereby minimizing the risk of injury to themselves and others. Apart from serving as a pain compliance or incapacitation tool, the mere presence of the CEW may have a deterrent effect on individuals who do not wish to be subjected to the weapon. However, this rationale infers choice, i.e. that the subjects, of their own free will, may choose to continue the resistant or combative behaviour. In cases where the subjects are suffering from a mental illness or is under the influence of a substance, they may have very little conscious

<sup>9</sup> Canadian Association of Chiefs of Police, *A National Use of Force Framework*, November 2000, p. 11.

control over their actions and therefore unintentionally escalate the situation. It is incumbent on the police officer to fully assess the situational factors and response options before acting.

The Commission supports the notion that the use of force options that cause the least amount of harm while maintaining the necessary amount of control remains the most appropriate option.

Although various Canadian use of force guidelines should not be viewed as force option continuums, there is a general recognition that use of force options, and tools, are linked to the notion of proportionate use and reasonableness. The differences in force policies and use of force frameworks lie in the definition of, and response to, subject behaviour. Although these appear to be minimal, the Commission is of the view that these differences have an immense impact on operational situations, weapon options and member interaction.

### ***CEW Deployment Policy: Municipal and Provincial Police Services***

As outlined in the Interim Report, CEWs may be used in one of two ways: *push stun* mode or *probe* mode. In *push stun* mode, the CEW is pressed against the subject and electrical energy is transferred to the body. To ensure maximal effect and to minimize the chance of injury, police officers are trained to apply the CEW onto designated areas of the body. This is done when the weapon is engaged, initiating a five-second discharge. The duration may be shortened by removing the CEW from the subject or engaging the safety. In this mode, the CEW is considered to be a *pain compliance tool* and will not generally cause muscular incapacitation.

In *probe* mode, the CEW shoots probes from a cartridge attached to the front of the CEW. The probes are tipped with a short dart that has a small barb to ensure that they remain embedded in the subject. They are fired with enough force to penetrate layered clothing and are attached to the CEW by two wires through which electrical current pulses into the subject. Each of the probes must hit the target or the CEW will have no effect. Usually, the probes strike the subject farther apart than would be the case in *push stun* mode. The result is a much wider area of sensory and muscle disruption that translates into *muscular incapacitation in addition to pain*.

The Toronto Police Service, which is guided by the Ontario Use of Force Model, allows CEW deployment on those subjects displaying assaultive behaviour and above. Specific to CEW deployment, the Toronto Police Service's policy<sup>10</sup> states that:

Police officers may use the TASER as a force option

- to prevent themselves from being overpowered when violently attacked
- to prevent a prisoner being taken from police custody
- to disarm an apparently dangerous person armed with an offensive weapon
- to control a potentially violent situation when other use of force alternatives are not viable, or
- for any other lawful and justifiable purpose

The authorization of CEW deployments in situations where the subject is displaying assaultive behaviour is similar to where the Commission has argued that the RCMP should be situating this weapon. Additionally, the Toronto Police Service allows for the use of other intermediate

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<sup>10</sup> Toronto Police Service *Policy and Procedure Manual, Use of Force and Equipment, 15-09 TASER*, O.R.2007.12.28-1789, Toronto: Toronto Police Service, December 28, 2007, p. 2.

weapons, such as OC spray, where subjects are displaying active resistance. Those authorized to use the CEW are restricted to tactical units, hostage rescue teams, preliminary perimeter control and containment teams, and qualified front-line supervisors.<sup>11</sup>

The Regina Police Service classifies the CEW as an intermediate weapon and restricts its use to SWAT team members in tactical situations. The policy mandates that medical assistance is to be sought for the subject if the device has been deployed. The Regina Police Service requires that all CEW use, be it pointing the device at someone or an actual deployment, be reported and the information from the CEW download sent to the Use of Force Committee for review. The policy states, that “[...] if two five-second discharges are not sufficient to gain control, members should consider other use of force options.”<sup>12</sup>

The Victoria Police Department classifies CEWs as an intermediate weapon. Deployment is authorized “[...] on those subjects whom an officer has reasonable grounds to believe are a danger to themselves or others and need to be immediately controlled. CEWs may also be used if the officer reasonably believes the subject will be actively resistant/assaultive toward police or others, or poses a threat to the officer or others, of serious bodily injury or death.”<sup>13</sup> Officers must complete a Subject Behaviour Report after the deployment as soon as practicable, although this requirement does not include the use of a CEW as a force presence.<sup>14</sup>

The Vancouver Police Department classifies CEWs as intermediate weapons which are authorized for use: “[...] when lower levels of force have been ineffective and/or inappropriate, and the use of higher levels of force may not be justified and/or appropriate.”<sup>15</sup> The policy for CEW use states that the emergency medical service (EMS) must be notified and attend the scene when the weapon is deployed and a Use of Force Report shall be completed. This reporting requirement includes CEWs used as a force presence.<sup>16</sup>

The Edmonton Police Service classifies CEWs as an intermediate weapon that can be deployed when “[...] a subject that is an active resister or higher coupled with the possibility of violence, the perception of violence or previous knowledge that this subject has been violent in the past.”<sup>17</sup> “When a subject is compliant or poses no physical threat, the CED (Conducted Energy Device) shall not be deployed in probe or stun mode; it must be reasonably necessary. As well, if a subject is fleeing, this is not sole justification for use of a CED. Severity of the offence and other circumstances should be considered before members deploy a CED on a fleeing subject.”<sup>18</sup> The Edmonton Police Service does not restrict use to specialized units; rather, it allows CEWs to

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<sup>11</sup> *Ibid*, p. 1.

<sup>12</sup> Regina Police Service, *Amendment to the Procedure Manual (Conducted Energy Devices)*, L38.7A, Regina: Regina Police Service, June 21, 2006.

<sup>13</sup> Victoria Police Department, *Operations Section. OH: Use of Force, Oh30. Conducted Energy Weapon Use of Force Policy*, Victoria: Victoria Police Department, Amended May 20, 2008.

<sup>14</sup> *Ibid*.

<sup>15</sup> Vancouver Police Department, *Use of Force 31.01 Use of Force – Justification*, Vancouver: Vancouver Police Department, January 2, 2008, s.10-12.

<sup>16</sup> *Ibid*, s.10-12.

<sup>17</sup> \_\_\_\_\_, “RE: CED policy Edmonton” [Electronic Mail], December 11, 2007 2:52 PM.

<sup>18</sup> Edmonton Police Service, *Policy and Procedure “10. Use of Conducted Energy Device (CED)”*, Edmonton: Edmonton Police Service, November 2007, (5).

be used by officers who have completed the appropriate training.<sup>19</sup> A Control Tactics Report must be completed and submitted for every deployment.<sup>20</sup>

The Calgary Police Service classifies the CEW as an intermediate weapon that can be used to “gain control of violent, assaultive and difficult to control subjects when other use of force options are ineffective or inappropriate under the circumstances.”<sup>21</sup> It is a weapon that is available to front line officers. CEWs are considered part of the use of force reporting process whereby each deployment is reviewed<sup>22</sup>.

The Ottawa Police Service classifies the CEW as an intermediate weapon which is provided to front line supervisors and tactical units.<sup>23</sup> The CEW is authorized for deployment against: “[...] those subjects that an officer has reasonable and probable grounds to believe is a danger to themselves and/or members of the public, and needs to be immediately controlled; or the officer believes will be, or has been, resistive, actively aggressive/assaultive towards the police or members of the public, or poses a threat of serious bodily harm or death to the officer or members of the public.”<sup>24</sup> After a CEW is deployed, the officer must submit a use of force report, which is reviewed by a staff member from the Professional Development Centre.<sup>25</sup>

The Sûreté du Québec classifies the CEW as an intermediate weapon. Authorized deployment is limited to ensure that the suspect has refused to comply, and an assessment is made of the suspect’s potential for violence, the degree of injury the suspect poses to themselves or others, the weapons the suspect possesses, the benefits of using a CEW as opposed to other use of force options and the CEW’s capabilities based on the situation.<sup>26</sup> The report states that if a subject is severely agitated officers should, if possible, call for medical help before any physical force is used.<sup>27</sup> Officers must notify their immediate supervisors to report every CEW use.<sup>28</sup>

There are subtleties in the use of language related to the parameters of CEW deployments that can greatly affect the operational application of the weapon. While police forces authorize the deployment of the CEW in situations where the subject is displaying various forms of resistant behaviour, the Commission notes that there are numerous caveats surrounding deployment that further restrict use even if the subject displays behaviour that is actively resistant or higher.

The Commission had the opportunity to provide its comments to the RCMP on its CEW policy changes in mid-2007, but while the RCMP did make changes with respect to that policy in response to many of the observations made by the Commission, it should be noted that the policy primarily dealt with technical aspects of the CEW. Issues related to training and protocols

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<sup>19</sup> Edmonton Police Service, *Policy and Procedure* “10. Use of Conducted Energy Device (CED)”, Edmonton: Edmonton Police Service, November 2007.

<sup>20</sup> *Ibid*, (6)(I).

<sup>21</sup> Calgary Police Service, *Conducted Energy Weapons Frequently Asked Questions*, Calgary: Calgary Police Service, September 20, 2005, p. 2.

<sup>22</sup> *Ibid*, p. 4.

<sup>23</sup> Ottawa Police Service, *Use of Force Annual Report 2007*. Ottawa: Ottawa Police Service, February 19, 2008.

<sup>24</sup> Ontario Civilian Commission on Police Services, *Constable Paulo Batista vs Paul Smith*, OCCPS #07-06, p. 2.

<sup>25</sup> Ottawa Police Service, *Use of Force Annual Report 2007*. Ottawa: Ottawa Police Service, February 19, 2008.

<sup>26</sup> Government of Quebec, Standing Advisory Subcommittee on the Use of Force, *Analysis and recommendations for a Quebec police practice on the use of conducted energy devices*, Quebec City: Quebec, December 17, 2007, p. 62-63.

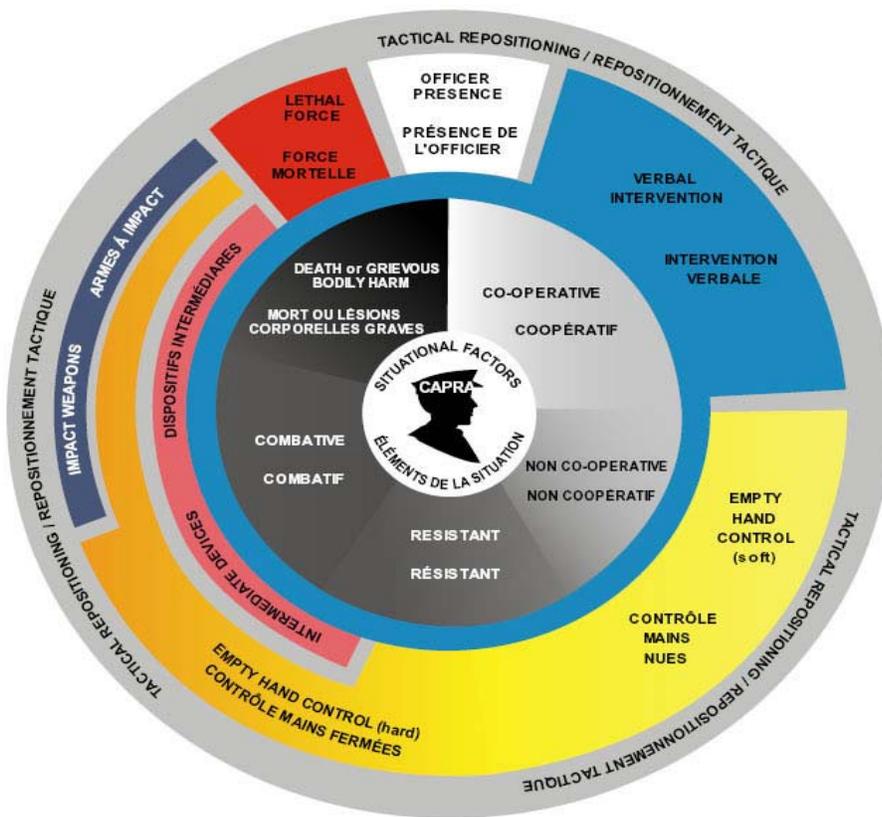
<sup>27</sup> *Ibid*, p.61

<sup>28</sup> *Ibid*, p. 61.

governing use were not fully explored with the RCMP. As mentioned, the Commission’s primary concern with respect to the CEW is its placement on the IM/IM and the member’s ability to deploy the weapon in an appropriate manner and then articulate why they opted for the weapon. It should be clearly stated that the Commission has not endorsed the current RCMP CEW policy or past iterations, as this is not a function that the Commission is mandated to undertake.

The current RCMP IM/IM separates impact weapons from intermediate devices and restricts the use of these weapons to a higher, more aggressive, level of subject behaviour. The RCMP IM/IM is the only Canadian use of force model to make such a distinction. Currently, the RCMP considers the CEW an intermediate device, which allows for deployment in situations where subjects are exhibiting active resistant behaviour or higher.

**Figure 2: RCMP Incident Management/Intervention Model**



This means that refusing to let go of an object, pulling away from a member or struggling while being placed in a police cruiser are all instances when a CEW or any other intermediate device would be considered an appropriate use of force option for RCMP members to employ to gain compliance from the subject. The differences that are inherent in each situation that members may encounter indicate that different levels of force may be required to subdue subjects in similar circumstances. However, guidelines need to be in place to ensure that members are employing proportionate methods of control towards subjects who are resisting without overt violence. The CEW may not necessarily be the best option for proportionate response and control, and police officers must understand and be able to quickly identify in these dynamic situations that there are

other devices and techniques available to them. The Commission believes that scenario-based training is the most effective means of training an individual to be able to properly respond to a situation in a dynamic environment out in the field.

### ***Comparative Analysis – International***

A quick review of CEW use internationally suggests a wide variation of CEW placement on use of force models and differences in deployment parameters specified in policy.<sup>29</sup> Police departments in the U.S., New Zealand, Australia, Northern Ireland and across the U.K. have added CEWs to their weapons' options. The U.K., Northern Ireland, Australia and New Zealand police forces have adopted similar policies governing the appropriate use of CEWs. Police forces in the U.S. appear to lack consistent national guidelines when it comes to CEW usage; however, it must be stated that most U.S. police departments do not post their use of force models on their Web sites for public consumption, and therefore extensive analysis has been limited.

In New Zealand and the U.K., CEWs are placed at a higher level of subject resistance than in the RCMP IM/IM. The New Zealand Police Services have restricted the use of CEWs to those subjects who display 'assaultive' behaviour and above on their Tactical Options Framework.<sup>30</sup> Similarly, officers in the U.K. are authorized to deploy CEWs when they are faced with incidents of serious violence or threats. The policy governing the use of CEWs in the Devon and Cornwall Constabulary, for example, states that CEWs provide trained officers with "an additional means of dealing with violence or threats of violence of such severity that it is likely that they will need to use force to protect the public, themselves, and/or the subjects."<sup>31</sup>

The U.K. has comprehensive policies governing the use of CEWs. Many police forces within the U.K., as well as the Police Service of Northern Ireland, are not permitted to deploy CEWs prior to a threat of serious injury or threat to life and before that threat has reached a level that would normally allow for the use of a firearm.<sup>32 33</sup>

Police forces in the U.K. permit only Authorised Firearm Officers to be trained and carry CEWs. Recently, however, police forces throughout the country have begun a trial in which non-firearms officers have been trained in the use of CEWs<sup>34</sup> with a view towards widening the use of CEWs.

Interestingly, in 2003 during the initial field trial to assess the possible adoption of the CEW as a use of force option, U.K. police officers were instructed to use the weapons only when confronted with an armed suspect. Following consultation with various stakeholders and after assessing the

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<sup>29</sup> Some information on CEW deployment policy has been gleaned from open source media and media releases from the specified police forces.

<sup>30</sup> New Zealand Police, *Staff Safety Tactical Training – Defensive Tactics: Tactical Options Framework and Theory*, November 2004, p.10. For the Tactical Options Framework and Theory and the CEW's placement on the model, please refer to <http://www.police.govt.nz/resources/2006/taser-trial/taser-tactical-options-card.pdf>

<sup>31</sup> Devon and Cornwall Constabulary, *Force Policy and Procedure Guideline, 'Taser'- Conducted Energy Devices (CEDs)*, D360, Exeter, Devon: Devon and Cornwall Constabulary, February 1, 2008, p.4.3.

<sup>32</sup> Police Service of Northern Ireland, *Equality Impact Assessment-Proposal to Introduce Taser*, Belfast: Police Service of Northern Ireland, January 2008, p. 4.

<sup>33</sup> It is of note that not all police officers in the U.K. carry firearms.

<sup>34</sup> The U.K. Home Office, the U.K. government department that handles issues that pertain to terrorism, anti-social behaviour and crime, is in charge of the pilot project, ensuring that it will be carefully monitored and accountable to the public.

results of the field trial, it was decided that CEW deployment would be acceptable on subjects whose behaviour posed a serious risk of violence, but may or may not possess a weapon.<sup>35</sup>

Similar to the U.K., officers in the Police Service of Northern Ireland will not be permitted to deploy CEWs prior to a threat of serious injury or threat to life and before that threat has reached a level that would normally allow for the use of a firearm.<sup>36</sup> After consultation with various human rights groups, the Police Service of Northern Ireland classified the CEW as potentially lethal equipment.<sup>37</sup> Further, “[...] the use of Taser will be justified where the Officer honestly and reasonably believes that it is necessary in order to prevent a risk of death or serious injury. Taser will not be used as a compliance tool or in public order situations.”<sup>38</sup>

This careful thought process as evidenced by both the U.K. and the Police Service of Northern Ireland are examples of what the Commission is advocating, adjusting the restriction for use after careful and thorough consultation and analysis.

Some police services in Australia, which for the purposes of this report is limited to the Australian Federal Police, Northern Territory Police and Queensland Police, classify CEWs as either a less-lethal or non-lethal force option. The Australian Federal Police limit the use of CEWs to members of the Specialist Response and Security Team and the Tactical Response Team,<sup>39</sup> while Queensland Police are considering issuing CEWs to all front-line officers.<sup>40</sup> The Northern Territory Police authorize use, “[...] to defend themselves or others, to disarm and/or restrain violent offenders, prevent self harm or to control an animal. They can be used when the actions of the person against whom they are used give rise to a fear that physical injury to any person will result.”<sup>41</sup>

### *United States*

Unlike Canadian police forces, the U.S. lacks an overarching use of force model, meaning that every city, county and state may adopt very different use of force models and policies. As previously mentioned, many of the US police departments do not make their use of force models or CEW policies readily available to the public. Therefore, some department-specific information is more fulsome than others, and some of the information may not be current.

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<sup>35</sup> Metropolitan Police Service, *MPS Taser Trial – Update Report* [online], London: Metropolitan Police Service, November 22, 2007, pp. 3-5.

<sup>36</sup> Police Service of Northern Ireland, *Equality Impact Assessment-Proposal to Introduce Taser*, Belfast: Police Service of Northern Ireland, January 2008, p. 4.

<sup>37</sup> Police Service of Northern Ireland, *The PSNI’s proposed introduction of taser- Human Rights Advice*. Belfast: Police Service of Northern Ireland, May 23, 2007, p.3.

<sup>38</sup> Police Service of Northern Ireland, *Service Procedure No. 6/2008*, Belfast: Police Service of Northern Ireland, 2008.

<sup>39</sup> Australian Federal Police. “Police SRS Team adopts Tasers”. ACT Policing Media Release [online]. August 18, 2006.

<sup>40</sup> Queensland Police Service *Duty Officer of Trial Taser* [online]”. June 30, 2007.

<sup>41</sup> Northern Territory Police, Fire and Emergency Services *Northern Territory Police introduce TASER* [online], January 30, 2008.

The Police Executive Research Forum (PERF)<sup>42</sup> has created guidelines<sup>43</sup> governing the use of CEWs, but extent to which police forces in the U.S. have actually adopted these template policies is unclear. The forum recommends that the CEW should only be used against persons who “[...] are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others. CEDs should not be used against a passive subject.”<sup>44</sup> They also recommend that medical attention should be provided to the subject after being subjected to a CEW deployment. They distinguish between deployments in *probe* and *push stun* mode noting that *probe* mode is preferable.

The Cincinnati Police Department’s Use of Force Continuum has the CEW situated as being higher than verbal warnings but lower than escort techniques and balance displacement.<sup>45</sup> CEWs are described as a non-lethal alternative. Interestingly, the policy requires that quarterly, supervisors are to download the previous three months of deployment data stored within the weapon. Activations that last for ten seconds or more, and or three or more consecutive activations with minimal time in between these activations, warrant that the investigating supervisor provide a brief, handwritten response on the quarterly Taser Download Sheet justifying the activation.<sup>46</sup>

The Los Angeles Police Department permits the use of CEWs when faced with aggressive or combative subjects. The Los Angeles Police Department does not allow for CEWs to be used on passive subjects, but does allow for CEWs to be used in *probe* mode on assaultive and violent subjects. The use of *push stun* mode is discouraged, but officers are permitted to use it if “‘probe’ deployment is not possible and the immediate application of the ‘Drive Stun’ will bring a subject displaying active, aggressive or aggravated aggressive resistance safely under control.”<sup>47</sup>

The Seattle Police Department differentiates between *push stun* and *probe* mode and classifies the CEW as a less lethal device. In *push stun* mode, the CEW “[...] is viewed as a lesser use of force than OC spray and on par with pain compliance techniques, such as wrist locks and control holds.”<sup>48</sup> In *probe* mode the CEW “[...] is viewed as greater use of force than pain compliance techniques, but a lesser one than punches, kicks, or the use of other impact weapons.”<sup>49</sup> Officers are required to document the deployment and clearly articulate the reasons for selecting the CEW.

The Miami Police Department authorizes CEWs in “[...] situations involving a violent combative subject, an emotionally disturbed person, a person suffering from the symptoms of

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<sup>42</sup> The Police Executive Research Forum is a “national membership organization of progressive police executives” from across the United States. PERF’s main goal is to improve policing through research and involvement in public policy debate. PERF can be found at: <http://www.policeforum.org/index.asp>

<sup>43</sup> Police Executive Research Forum. *Conducted Energy Device Policy and Training Guidelines for Consideration*. Washington DC: PERF, October 25, 2005.

<sup>44</sup> *Ibid.* p.1.

<sup>45</sup> Cincinnati Police Department, *Procedure Manual. Section 12.545-Use of Force.*, Cincinnati: Cincinnati Police Department, April 10, 2007, p. 8.

<sup>46</sup> *Ibid.*

<sup>47</sup> Las Vegas Metropolitan Police Department, *Procedural Order – Use of the Taser®*, PO-43-04, Las Vegas: Las Vegas Metropolitan Police Department, November 4, 2004.

<sup>48</sup> Seattle Police Department. SPD Special Report- Taser Implementation Year 1. Seattle: Seattle Police Department, May 2002. p.5.

<sup>49</sup> *Ibid*

Excited Delirium or a subject under the influence of a mind-altering drug”<sup>50</sup>. It is the responsibility of the training unit to collect and analyze the data from all deployments in an effort to identify training needs and issues. The Internal Affairs Division reviews all reports concerning CEW deployments to ensure compliance with policy. All CEW deployments are recorded in a taser log and the supervisor must sign the log verifying the information is accurate.<sup>51</sup>

In 2005, the Florida Senate issued a report on CEWs<sup>52</sup>. This report found that Florida police departments generally allowed for CEW deployments in situations where subjects displayed passive physical resistance and active physical resistance. The descriptions of both passive physical resistance and active physical resistance were very similar to active and passive resistant definitions found in the Canadian National Use of Force Model.

### ***Conclusion***

Current CEW policies from Canadian law enforcement agencies indicate that CEWs are generally considered an intermediate weapon, such as OC spray. This is most likely due to the fact that aside from handguns all other tools available to a police officer typically fall into this category. In many cases, CEW use is limited to specialized units or higher-ranking officers, whereas in other forces it is available to all front-line officers.

Until the behaviour category of “combative” is displayed, it may be more prudent for members to utilize other use of force options or, if possible, attempt tactical repositioning and/or engage in further dialogue. The Commission is not suggesting that members have to be assaulted before they can contemplate deploying the CEW; it is, however, recommending that there must be specifically presented behaviour patterns before the weapon can be deployed or threatened.

It should be noted that no CEW deployment policies examined substantively touched on CEW deployment against at-risk groups. However, in a publicly released report<sup>53</sup> on CEW use, the Toronto Police Service identified that all subjects against whom CEWs were deployed against were categorized as being either a *person in crisis*,<sup>54</sup> or a person perceived to be suffering from a mental disorder<sup>55</sup>. *Persons in crisis* accounted for 77% of CEW deployments, while 22% of CEWs deployed were against those who<sup>56</sup> were perceived to be suffering from a mental disorder.<sup>57</sup>

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<sup>50</sup> Miami Police Department. *Electronic Control Devices (Training Unit)*. Miami: Miami Police Department, September 6, 2006

<sup>51</sup> *Ibid*

<sup>52</sup> The Florida Senate, Committee on Criminal Justice, Senator Stephen R Wise, Chair. *Interim Project Report 2006-110 – Dart-Firing Stun Guns*. Tallahassee FL: Florida Senate, September 2005.

<sup>53</sup> Toronto Police Services Board, *Minutes of March 27, 2008 Meeting, #P60 2007 Annual Report – Use of Tasers*, Toronto: Toronto Police Services Board, March 27, 2008.

<sup>54</sup> The Toronto Police Service defines a Person in Crisis to be someone who “suffers a temporary breakdown of coping skills, but often reaches out for help, demonstrating that they are in touch with reality. Once a person in crisis receives the needed help, there is often a rapid return to normalcy”

<sup>55</sup> Toronto Police Services Board, *Minutes of March 27, 2008 Meeting, #P60 2007 Annual Report – Use of Tasers*, Toronto: Toronto Police Services Board, March 27, 2008.

<sup>56</sup> 1% of deployments were against animals.

<sup>57</sup> Subjects who are deemed to have a mental disorder suffer from “any disease or disability of the mind. A person suffering from a mental disorder may have to live with a long-term breakdown of coping skills including perception, decision making and problem solving abilities.”

Given the apparently disproportionate number of people with substance or alcohol abuse issues, who come into contact with the police and who have an increased statistical likelihood of becoming an in-custody death statistic, RCMP CEW deployment policy should require that a member must seek medical attention for an individual who has been subjected to a CEW deployment.

Interestingly, the Commission's analysis of provincial coroner and ombudsman reports has demonstrated that recommendations made by inquests across the country regarding CEW use by law enforcement are consistent with the recommendations made by the Commission. These recommendations often focus on training and reporting protocols.

On January 8, 2008, the Province of Alberta's Office of the Medical Examiner recommended "[...] that a central reporting and data management system be implemented such that any sudden and unexpected death after police restraint be reported to the system."<sup>58</sup> The Coroner's Office in British Columbia had similar findings and recommendations in 2004<sup>59</sup> in that the police should make reporting of CEW use mandatory and that standardized training should be introduced.

The Office of the Chief Coroner in Ontario emphasized the need to adequately train officers so that they deploy CEW appropriately and ensure that officers remain current on use of force techniques and training as they relate to CEWs and other intermediate weapons. The Ontario Coroner's Office also recommended "restricting use of the weapons to situations where the subject is assaultive and other immediate weapons are ineffective, or situations where there is risk of serious injury or bodily harm."<sup>60</sup>

Taking into consideration the CEW policies of other Canadian and international police forces and the results of the quantitative analysis of the RCMP CEW database, the Commission feels that the RCMP CEW policy should include, at a minimum, the following:

- Clear guidance on seeking medical treatment;
- Use restricted to Constables who have a minimum of five (5) years of operational experience;
- An appreciation of the operational realities faced by rural, remote and Northern detachments;
- A requirement that reporting include clear and concise descriptions of the deployment(s):
  - The circumstances of use;
  - The subject behaviour and if and how that behaviour changed over the course of the interaction; and
  - Situational factors that led to the member choosing the CEW over other force options.
    - These factors would also include knowledge of past violence by the subject or other information gathered prior to attending the scene.

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<sup>58</sup> Government of Alberta. *Report to the Minister of Justice and Attorney General Public Fatality Act*. F.E.L. le Reverend, Edmonton: Alberta, January 8, 2008, p.3

<sup>59</sup> Government of British Columbia. *The BC Coroners Service Annual Report (2004)*. Posted August 2007, p.p.17-27

<sup>60</sup> Ontario Office of the Chief Coroner. *Verdict of Coroner's Jury*. Toronto: November 23, 2006, p.2.

Finally, overall RCMP CEW policy should focus less on the technical aspects of the weapon and more on the contextual issues surrounding deployments. Clearly, operational guidance in this area is needed.

## COMMISSION'S FINAL RECOMMENDATIONS

The Commission for Public Complaints Against the RCMP (Commission) is uniquely positioned as an informed interlocutor to bring a much-needed perspective to the public policy debate on the RCMP's use of CEWs. As such, on November 20, 2007, the Minister of Public Safety, the Honourable Stockwell Day, requested that the Commission "[...] review the RCMP's protocols on the use of CEWs and their implementation, including compliance with such protocols and provide an interim report by December 12, 2007."

On December 11, 2007, the Commission provided the Minister with its Interim Report which made ten (10) recommendations for immediate implementation that covered three broad conclusions:

- 1) The RCMP needs to coordinate and strengthen its efforts related to data collection and analysis of CEW use;
- 2) The RCMP needs to empirically justify policy shifts with respect to CEW use, especially when that shift loosens the restrictions of deployment; and,
- 3) The RCMP needs to clarify to its members and to the public when it is permissible to deploy the weapon. (Appendix B)

The Commission continues to have three interrelated concerns: 1) that the inappropriate assessment of a subject's behaviour has resulted in elevating the level of intervention beyond what was acceptable according to the RCMP's use of force model; 2) that the position of the CEW on the use of force model allows for the deployment of the weapon far too early in police encounters; and 3) that RCMP data collection and analysis practices for the CEW usage database are both ineffective and inefficient.

Central to the debate over CEW use is the principle that decisions around when to deploy the weapon should be based on the principle of proportionality: the amount of force used should bear some reasonable relationship to the threat the member is facing and its impact on public safety. This has guided the work undertaken by the Commission for the production of the Final Report.

The main finding within this report is that the quality of data in the CEW usage database is so poor that any of the policy shifts following the 2001 introduction of the weapon cannot be factually supported; this is a dangerous practice, as small policy changes often have major operational consequences.

Officer and subject safety is often discussed in the debate over CEW use. While the CEW reporting system attempts to capture the member's perception of whether or not the use of the weapon avoided the use of lethal force or injuries, the requirement to simply report a "yes" or "no" answer with no further descriptive or narrative articulation that can be efficiently data-mined, renders the database ineffective for this discussion. Contextual information is essential for establishing a factual basis around the officer safety perspective and whether the CEW, as claimed by some, avoids injury to both the subject and the member. Independent data collection and analysis is needed in this area.

The Commission is not positioned to determine, because of the problems with the database, how compliant members have been with reporting requirements prescribed in policy. What the Commission can state after reviewing the database and Forms 3996 is that:

- Supervision to ensure proper CEW deployment reporting is faulty and in some cases may be non-existent.
- There is a systemic under-reporting that must be addressed immediately.
- Divisions should be instructed to locate any outstanding Forms 3996 and submit them immediately for inclusion in the national database.
- Quarterly cross-referencing of CEW data downloads with the associated Form 3996 in the CEW database must occur.
- For oversight and analysis purposes, the narrative portion of Form 3996 needs to be properly filled out and an effective way of analyzing that data must be identified and implemented.
- CEW deployments in *push stun* mode are not adequately captured in the Form 3996. Given the propensity for “usage creep”, the RCMP must have a clearer means of monitoring this type of deployment.
- The electronic version of Form 3996 should contain a drop-down list that captures the subject’s behaviour category in addition to the already existing narrative section of the form.
- The database does not specifically capture deployments in rural or remote settings.
- The database cannot provide an in-depth quantitative and qualitative analysis of the narrative portion of Form 3996.
- There should be the ability to link and/or cross-reference related Forms 3996.

To place CEW use in its proper context, it is useful to ask the following question: Is the RCMP using the device more often in police encounters now than it was when the weapon was first introduced to front-line members in late 2001?

Unfortunately this question cannot be definitively answered by analyzing the database, or factoring in other relevant information such as number of devices in the field, number of members trained, etc. The Commission knows that CEWs have been deployed or threatened to be deployed a minimum of 4234 times and that over the years the number of usage reports has increased. However, key information to answer this question, such as the exact number of members certified by Division at any one time, is not available. Without this information the Commission cannot establish patterns of deployment by year across all Divisions.

CEW-related events occur predominantly in the evening hours, with over half of all report-generating events taking place between 8:00 pm and 4:00 am, and about one quarter of the reports generated on Friday and Saturday nights.

The number of members present at a scene is also significantly related to the use of the CEW. More precisely, the two increase together. When only one member is present, the CEW is deployed in 71.4% of incidents. However, when two (2) or more members attend, the rate of deployment goes up to between 79.1 and 87.7%. So, if more than one member is present, the likelihood that the CEW will be deployed is enhanced.

The vast majority of the subjects are male (90.2%) and are on average over 30 years of age. However, a notable number are above 50 years of age, and 90 reports exist where the subject is 16 years or younger. There are reports of CEWs being employed against subjects as young as 13 years old.

Use of the CEW in *push stun* mode is more common than *probe* mode, and in a small but not trivial number of cases both modes are deployed. In one in five cases the CEW is not deployed, but deployment is threatened. However, based on the information in the database, it is not possible to determine whether the threatened deployment actually defused the situation.

When used in *probe* mode, it is rare that more than one (1) cartridge is fired and 66% of the time the weapon is cycled only once. Conversely, *push stun* is the mode more apt to be used multiple times. When *push stun* mode alone is used, it is used two or more times on 40% of occasions. This is significant and confirms a concern raised repeatedly by the Commission that *push stun* mode is the most susceptible usage subject to usage creep.

In this report, treatment at a medical facility is taken as a rough proxy for the perception by the member of seriousness of injury. While it is important to recognize that subjects are sometimes taken for medical examinations even though their injuries are not directly related to the use of a CEW, the narratives in the usage forms generally suggest that the medical examinations were related primarily to the CEW.

Three quarters of the reports indicate no injuries to the subject (68.6% in cases where the CEW was actually deployed). Where injuries or physical afflictions are recorded, they are generally described as “punctures” or “marks” produced by probes and “burns” associated with *push stun* mode.

Use of the CEW in *probe* mode, either alone (43.1%) or in conjunction with *push stun* mode (43.9%), brings a much higher likelihood of receiving a medical examination than *push stun* mode alone (16.0%). Furthermore, each successive use of the weapon, in *probe* or *push stun* modes, brings a greater likelihood of a medical examination.

Just as more members increase the likelihood of CEW deployment, so too does it raise the likelihood of receiving medical attention. When six (6) or more members are present, there is a 50/50 chance that the subject will be taken for a medical examination.

Suspected or confirmed substance use by the subject and the involvement of a weapon affect differently the probability that medical treatment is sought. The presence of weapons significantly increases the likelihood of a subject being taken to a medical facility. In contrast, the confirmation or suspicion of substance use serves to reduce the probability that a subject will be examined by a medical professional.

In an attempt to confirm the robustness and accuracy of the RCMP CEW database, the Commission conducted a mini-audit comparing public complaints lodged with the Commission versus the existence of a Form 3996. The purpose of this audit was to confirm whether a Form 3996 existed and could, subsequently, be correlated to all Commission lodged complaints related to CEW deployment and/or threatened deployment. To ensure precision, Commission staff

and RCMP members jointly searched the CEW database at RCMP Headquarters in an attempt to resolve data anomalies. A total of 104 public complaints lodged with the Commission were identified: 76 related to CEW deployments and 28 related to threatened CEW deployments.

The results of the mini-audit were problematic, but aptly highlighted the Commission's concern about inadequate reporting practices. Of the 76 public complaints about CEW deployment, 52 (68%) of the corresponding Forms 3996 could not be located in the RCMP database. Of the 28 complaints where CEW deployment was threatened, none (0%) of the Forms 3996 could be found in the database.

These two findings confirm the Commission's belief that there has historically been extensive underreporting of CEW use, especially in cases where the weapon was threatened but not deployed. Therefore, it is reasonable to conclude that current and past RCMP CEW policies with respect to reporting have not been followed by members.

Drawing from examples of deployment parameters from other police services, the Commission is recommending that members must be faced with a situation that is combative/assaultive before they contemplate the use of the CEW. Until this behaviour category is displayed or threatened, it may be more prudent for the member to utilize other use of force options or, if possible, attempt tactical repositioning and/or engage in further dialogue. It is incumbent on the police officer to fully assess the situational factors and response options before acting. The Commission is not suggesting that members have to be assaulted before they can contemplate deploying the CEW.

While it is true that most police services across Canada tend to classify the CEW as an "intermediate device/weapon" and allow its use in the various forms of what is generally referred to as "resistant" behaviour, there are subtle but significant differences in the various operational policies that actually place caveats surrounding deployment that further restrict use.

The Toronto Police Service provides a good example of operational use and guidance around CEW use, and the Regina Police Service approach is one based on careful consideration of situational factors with efforts to minimize risk and injury to the subject. Similarly, the Edmonton Police Service is quite prescriptive in the situational caveats that allow and limit CEW use.

Canada is uniquely positioned to examine how fellow members of the Commonwealth have approached CEW use by their law enforcement services. Perhaps the best examples are the approaches taken in the U.K. and Northern Ireland, where officers are authorized to deploy CEWs when they are faced with incidents of serious violence or threats. While the U.K. has comprehensive policies governing the use of CEWs, recently police forces throughout the country have begun a field trial in which non-firearms officers have been trained in the use of CEWs with a view towards widening the weapon's use.

In 2003 during the initial field trial to assess the possible adoption of the CEW as a use of force option, U.K. police officers were instructed only to use the weapons when confronted with an armed suspect. Following consultation with various stakeholders and after assessing the results of the field trial, it was decided that CEW deployment would be acceptable on subjects whose behaviour posed a serious risk of violence but who may or may not possess a weapon.

This careful thought process is an example of what the Commission is advocating, adjusting the restriction for use after careful and thorough consultation and fact-based analysis.

No CEW deployment policies examined substantively touched on CEW deployments against at-risk groups. Given the apparently disproportionate number of people with substance or alcohol abuse issues who come into contact with the police and who have an increased statistical likelihood of becoming an in-custody death statistic, RCMP CEW deployment policy should require that a member must seek medical attention for any individual who has been subjected to a CEW deployment.

Taking into consideration the CEW policies of other Canadian and international police forces and the results of the quantitative analysis of the RCMP CEW database, the Commission feels that the RCMP CEW policy should include, at a minimum, the following:

- Clear direction on seeking medical treatment;
- Use restricted to Constables who have a minimum of five (5) years of operational experience;
- An appreciation of the operational realities faced by rural, remote and Northern detachments; and
- A requirement that reporting include clear and concise descriptions of the deployment(s):
  - The circumstances of use;
  - The subject behaviour and if and how that behaviour changed over the course of the interaction; and
  - Situational factors that led to the member choosing the CEW over other force options.

Finally, overall RCMP CEW policy should focus less on the technical aspects of the weapon and more on the contextual issues surrounding deployments. Clearly, operational guidance in this area is needed.

To address the concerns identified throughout this Final Report, the Commission recommends, **for immediate implementation**, the following:

**Recommendation 1:** The RCMP immediately implement all of the Commission’s Interim Report recommendations, in particular:

- Recommendation #1 that the conducted energy weapon be classified as an “impact weapon” and use be allowed only in situations where an individual is “combative” or posing a risk of “death or grievous bodily harm” to the member, the individual or the general public.
- Recommendation #2 that the conducted energy weapon be used on individuals appearing to be experiencing the condition(s) of excited delirium only when the behaviour is “combative” or posing a risk of “death or grievous bodily harm” to the member, the individual or the general public.

**Recommendation 2:** The RCMP immediately instruct its members who deploy a conducted energy weapon on a subject seek immediate medical attention for the subject in all circumstances.

**Recommendation 3:** The RCMP immediately implement clearer operational guidelines around conducted energy weapon use against “at-risk populations”<sup>61</sup> and in particular the role of emergency medical services post-weapon deployment.

**Recommendation 4:** The RCMP immediately direct, through policy and implement operational guidance, that the conducted energy weapon will be used only by the following members:

- Corporals or above in urban<sup>62</sup> settings.
  - All members of specialized response teams<sup>63</sup> are exempt from this criterion.
- Constables with at least five (5) years of operational experience who are posted to detachments in rural<sup>64</sup> settings.
  - All members of specialized response teams are exempt from this criterion.

Any RCMP member who is currently trained and certified to use a conducted energy weapon who does not meet any of these criteria will be prohibited from using the weapon until the criterion is met.

**Recommendation 5:** The RCMP immediately modify reporting Form 3996 to include the capture and search capabilities, at a minimum, of the following information:

- Description of the context surrounding weapon deployment;
- Description of the subject’s behaviour;
- Identification of deployments in rural or urban detachments;
- Specific indications of types of deployment: threatened, *push-stun*, *probe*, or a combination thereof;
- Factors leading to the member’s decision to deploy a CEW;

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<sup>61</sup> At-risk populations include, but are not limited to, people with mental health issues, substance abuse problems, the homeless, and other persons from marginalized groups.

<sup>62</sup> Urban setting is defined as a population of 5000 residents or more.

<sup>63</sup> Specialized response teams include Emergency Response Teams (ERTs), Tactical Troops, Containment Teams and High Risk Entry Teams.

<sup>64</sup> Rural setting is defined as a population less than 5000 residents.

- Electronic linking capabilities to capture related events and reports;
- Member's articulation of factors leading to use of force choice(s);
- Description of whether other use of force tools were utilized;
- Articulation of how member safety was augmented by CEW use; and
- Fulsome description of factors relevant to a multiple or prolonged application of the weapon and the member's rationale in support of such multiple or prolonged applications.

**Recommendation 6:** The RCMP immediately instruct all Divisions to conduct a comprehensive review of conducted energy weapon use, identify all outstanding Form 3996 reports and immediately submit all reports to the national database.

**Recommendation 7:** The RCMP immediately establish Use of Force Coordinators in all Divisions reporting to the National Use of Force Coordinator. All Divisional Use of Force Coordinators will immediately:

- Enforce the requirement that Form 3996 be completed and submitted as per operational requirement by the end of each shift where the conducted energy weapon was used;
- Enforce appropriate administrative disciplinary measures for members who under-report use of the weapon or who do not report use;
- Identify members who have engaged in multiple or prolonged applications of the weapon, and determine the circumstances and reasons for such use and report this to appropriate professional standards units and RCMP Headquarters; and
- Review, verify and approve all Form 3996 submissions in their Division prior to final submission to the national database.

**Recommendation 8:** The National Use of Force Coordinator must hold the rank of a Commissioned Officer in order to ensure national implementation of policies and procedures and to implement institutional behavioural change. Divisional Use of Force Coordinators must report to the National Use of Force Coordinator.

**Recommendation 9:** The RCMP immediately direct through policy that Divisional and national professional standards units and training coordinators receive carbon copies of all Form 3996 submissions sent to the national database.

**Recommendation 10:** The RCMP immediately implement a requirement that the Learning and Development Services group receive all reporting Form 3996 submissions where the subject is considered to be part of an "at risk group", to ensure:

- Relevancy of training and training standards; and
- Proper modification of training programs.

**Recommendation 11:** The RCMP publicly release the requested Quarterly and Annual Reports concerning the RCMP's use of the conducted energy weapon.

**Recommendation 12:** The RCMP provide the Commission unvetted copies of all Forms 3996 on a monthly basis for a period of three years, commencing January 1, 2008, so that the Commission can provide a comprehensive yearly assessment of conducted energy weapon use by the RCMP.

As stated in the Interim Report, the Commission is not calling for an immediate moratorium on CEW use. Having said that, if the RCMP fails to immediately implement all of the recommendations made by the Commission, then it is conceivable that the problems of CEW deployments currently being raised will continue. The recommendations in both reports have been made to hold the RCMP publicly accountable for the use of a weapon that causes the Canadian public apprehension and to control usage creep. The Commission's belief that the CEW has a place in the RCMP's arsenal is conditional on acceptance and implementation of the recommendations contained in this report. Simply put, if the RCMP cannot account for the use of this weapon and properly instruct its members to appropriately deploy the CEW in an operational setting, then such use should be prohibited until proper and strict accountability and training measures can be fully implemented.

## **APPENDIX A: POLICING PRINCIPLES**

### ***The nine principles by Sir Robert Peel:***

1. The basic mission for which the police exist is to prevent crime and disorder.
2. The ability of the police to perform their duties is dependent upon public approval of police actions.
3. Police must secure the willing co-operation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.
4. The degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force.
5. Police seek and preserve public favour not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.
6. Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.
7. Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence
8. Police should always direct their action strictly towards their functions and never appear to usurp the powers of the judiciary.
9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

### ***The nine principles by Sir Richard Mayne:***

1. To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment.
2. To recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public respect.
3. To recognise always that to secure and maintain the respect and approval of the public means also the securing of the willing co-operation of the public in the task of securing observance of laws.

4. To recognise always that the extent to which the co-operation of the public can be secured diminishes proportionately the necessity of the use of physical force and compulsion for achieving police objectives.
5. To seek and preserve public favour, not by pandering to public opinion; but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws, by ready offering of individual service and friendship to all members of the public without regard to their wealth or social standing, by ready exercise of courtesy and friendly good humour; and by ready offering of individual sacrifice in protecting and preserving life.
6. To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public co-operation to an extent necessary to secure observance of law or to restore order, and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.
7. To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police, the police being only members of the public who are paid to give full time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.
8. To recognise always the need for strict adherence to police-executive functions, and to refrain from even seeming to usurp the powers of the judiciary of avenging individuals or the State, and of authoritatively judging guilt and punishing the guilty.
9. To recognise always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

## APPENDIX B: INTERIM RECOMMENDATIONS

To address these concerns and others identified throughout this interim report, the Commission recommends, **for immediate implementation**, the following:

**Recommendation 1:** The RCMP immediately restrict the use of the conducted energy weapon by classifying it as an “impact weapon” in the use of force model and allow its use only in those situations where an individual is behaving in a manner classified as being “combative” or posing a risk of “death or grievous bodily harm” to the officer, themselves or the general public. This includes use of the device in both *push stun* and *probe* modes.

**Recommendation 2:** The RCMP only use the conducted energy weapon in situations where an individual appears to be experiencing the condition(s) of excited delirium when the behaviour is combative or poses a risk of death or grievous bodily harm to the officer, the individual or the general public.

**Recommendation 3:** The RCMP immediately communicate this change in use of force classification to all members.

**Recommendation 4:** The RCMP immediately redesign the conducted energy weapon training members receive to reflect the classification of the device as an “impact weapon”.

**Recommendation 5:** The RCMP immediately amend the conducted energy weapon policy by instituting the requirement that re-certification occur every two years.

**Recommendation 6:** The RCMP immediately appoint a National Use of Force Coordinator responsible at a minimum for the following:

- National direction and coordination of all use of force techniques and equipment;
- Development of national policies, procedures and training for all use of force techniques and equipment;
- Implementation of national policies, procedures and training for all use of force techniques and equipment;
- Monitoring of compliance with national policies, procedures and training for all use of force techniques and equipment;
- Creation, maintenance and population of data bases related to the deployment of use of force techniques and equipment; and
- Analyses of trends in the use of all use of force techniques and equipment.

**Recommendation 7:** The RCMP immediately institute and enforce stricter reporting requirements on conducted energy weapon use to ensure that appropriate records are completed and forwarded to the national data base after every use of the weapon.

**Recommendation 8:** The RCMP produce a Quarterly Report on the use of the conducted energy weapon that will be distributed to the Minister of Public Safety, the Commissioner of the RCMP, the Chair of the Commission for Public Complaints Against the RCMP and all Commanding Officers in each Division that details at a minimum:

- Number and nature of incidents in which the conducted energy weapon is used;
- Type of use (i.e. *push stun, probe*, threat of use, de-holster, etc.);
- Number of instances medical care was required after use;
- Nature of medical concerns or conditions after use;
- Number of members and instructors trained;
- Number of members and instructors that successfully passed training and number that were unsuccessful at training; and
- Number of members and instructors that successfully re-certified and number that were unsuccessful at re-certification.

The Quarterly Report will be produced for a period of three years effective immediately.

**Recommendation 9:** The RCMP produce an Annual Report on the use of the conducted energy weapon that will be distributed to the Minister of Public Safety, the Commissioner of the RCMP, the Chair of the Commission for Public Complaints Against the RCMP and all Commanding Officers in each Division that is comprehensive of all Quarterly Reports for that year, and at a minimum details:

- All data required and analyzed in the Quarterly Report;
- Justifications for suggested or actual changes in policy;
- Justification for suggested or actual changes in training;
- An analysis of trends of use;
- An analysis of the relationship between use and officer/public safety; and
- An analysis of the relationship between use and suggested changes in policy and training.

The Annual Report will continue to be produced after the time period for the Quarterly Report has expired.

**Recommendation 10:** The RCMP continue to be engaged in conducted energy weapon related research looking at medical, legal and social aspects of the weapon's use. This includes focusing at a minimum on:

- CEW use, the infliction of pain and the measurement of such pain;
- Appropriateness of CEW application in contrast to other forms of use of force interventions;
- CEW use against vulnerable or at-risk populations;
- Alternate use of force/intervention options when dealing with people who present with symptoms of excited delirium;
- CEW use, excited delirium and sudden or unexpected death within the context of a rural setting or Northern policing; and
- Connections between CEW use, excited delirium and the possibility of death.

This includes notably collaborative research projects being carried out by the Canadian Police Research Centre (CPRC).

## APPENDIX C: CEW STATISTICAL ANALYSIS

| <b>Table 12: Cartridge Usage Characteristics</b> |                 |      |                                 |                 |      |
|--|-----------------|------|---------------------------------|-----------------|------|
|  | <i>N (1728)</i> | %    |                                 | <i>N (1728)</i> | %    |
| <b>Distance</b>                                  |                 |      | <b>Method of sighting</b>       |                 |      |
| 0  | 1447            | 83.7 | Pointed                         | 868             | 50.2 |
| 1  | 44              | 2.5  | Aimed                           | 840             | 48.6 |
| 2  | 83              | 4.8  | Missing                         | 20              | 1.2  |
| 3  | 94              | 5.4  | <b>Verbal Command Given</b>     |                 |      |
| 4+   | 60              | 3.5  | No                              | 1057            | 61.2 |
| <b>Spread</b>                                    |                 |      | Yes                             | 671             | 38.8 |
| 0-20   | 632             | 36.6 | <b>Clothing Barrier - Upper</b> |                 |      |
| 21-30  | 424             | 24.5 | No                              | 381             | 22.0 |
| 31-40  | 251             | 14.5 | Yes                             | 1347            | 78.0 |
| 41-50  | 133             | 7.7  | <b>Clothing Barrier - Lower</b> |                 |      |
| 51-60  | 76              | 4.4  | No                              | 473             | 27.4 |
| 61+  | 96              | 5.6  | Yes                             | 1255            | 72.6 |
| Missing  | 116             | 6.7  | <b>Skin Penetration - Upper</b> |                 |      |
| <b>Duration</b>                                  |                 |      | No                              | 625             | 36.2 |
| 0  | 73              | 4.2  | Yes, remained embedded          | 805             | 46.6 |
| 1  | 30              | 1.7  | Yes, not remain embedded        | 298             | 17.2 |
| 2  | 36              | 2.1  | <b>Skin Penetration - Lower</b> |                 |      |
| 3  | 90              | 5.2  | No                              | 799             | 46.2 |
| 5  | 1477            | 85.5 | Yes, remained embedded          | 620             | 35.9 |
| Missing  | 22              | 1.3  | Yes, not remain embedded        | 309             | 17.9 |
| <b>Cycled</b>                                    |                 |      | <b>Point of Impact - Upper</b>  |                 |      |
| 0  | 46              | 2.7  | No Impact                       | 192             | 11.1 |
| 1  | 1141            | 66.0 | Chest/Abdomen                   | 796             | 46.1 |
| 2  | 344             | 19.9 | Back                            | 392             | 22.7 |
| 3+   | 184             | 10.6 | Shoulder/Arm                    | 290             | 16.8 |
| Missing  | 13              | 0.8  | Lower Body                      | 42              | 2.4  |
| <b>Point of Aim</b>                              |                 |      | Head                            | 16              | 0.9  |
| Chest/Abdomen                                    | 1066            | 61.7 | <b>Point of Impact - Lower</b>  |                 |      |
| Back   | 462             | 26.7 | No Impact                       | 309             | 17.9 |
| Shoulder/Arm                                     | 63              | 3.6  | Chest/Abdomen                   | 544             | 31.5 |
| Lower Body                                       | 55              | 3.2  | Back                            | 456             | 26.4 |
| Missing  | 82              | 4.7  | Shoulder/Arm                    | 153             | 8.9  |
| <b>Impediments</b>                               |                 |      | Lower Body                      | 264             | 15.3 |
| No Impediment                                    | 607             | 35.1 | Head                            | 2               | 0.1  |
| Clothing   | 517             | 29.9 | <b>Number of Probe Impacts</b>  |                 |      |
| Moving Target                                    | 462             | 26.7 | 0 Probe Impact                  | 157             | 9.1  |
| Other Impediment                                 | 142             | 8.2  | 1 Probe Impact                  | 187             | 10.8 |
|  |                 |      | 2 Probe Impact                  | 1384            | 80.1 |

| <b>Table 13: Whether CEW was Engaged by Weapons Involvement</b> |                       |               |              |
|---|-----------------------|---------------|--------------|
|   | <b>CEW Engagement</b> |               |              |
| <b>Were Weapons Involved</b>                                    | <i>No</i>             | <i>Yes</i>    | <i>Total</i> |
| No  | 574<br>19.9%          | 2317<br>80.1% | 2891         |
| Yes   | 317<br>23.6%          | 1026<br>76.4% | 1343         |
| Total   | 891<br>21.0%          | 3343<br>79.0% | 4234<br>100% |
| $\chi^2 = 7.76, df = 1, p = .006$                               |                       |               |              |

| <b>Table 14: CEW Engagement Characteristics</b> |                 |          |                                  |                 |          |
|---|-----------------|----------|----------------------------------|-----------------|----------|
|   | <i>N (4234)</i> | <i>%</i> |                                  | <i>N (4234)</i> | <i>%</i> |
| <b>Taser Model</b>                              |                 |          | <b># of Cartridges Fired</b>     |                 |          |
| X26 Model 26000                                 | 1056            | 24.9     | 0                                | 2639            | 62.3     |
| M26 Model 44000                                 | 3176            | 75.0     | 1                                | 1474            | 34.8     |
| Missing   | 2               | 0.0      | 2                                | 112             | 2.6      |
| <b>Engagement Mode</b>                          |                 |          | 3                                | 9               | 0.2      |
| Not Engaged                                     | 891             | 21.0     | <b># of Times Push Stun Used</b> |                 |          |
| Probes Only                                     | 1217            | 28.7     | 0                                | 2108            | 49.8     |
| Push Stun Mode Only                             | 1748            | 41.3     | 1                                | 1283            | 30.3     |
| Both Probe and Push Stun Mode                   | 378             | 8.9      | 2                                | 545             | 12.9     |
| <b>Subject aware of CEW</b>                     |                 |          | 3                                | 197             | 4.7      |
| No  | 584             | 13.8     | 4                                | 56              | 1.3      |
| Yes   | 3650            | 86.2     | 5+                               | 45              | 1.1      |

**Table 15: Whether CEW was Engaged by Substance Use**

|                                    | CEW Engagement |               |              |
|------------------------------------|----------------|---------------|--------------|
|                                    | <i>No</i>      | <i>Yes</i>    |              |
| <b>Was Substance Use Involved</b>  | <i>No</i>      | <i>Yes</i>    | <i>Total</i> |
| No                                 | 194<br>32.7%   | 399<br>67.3%  | 593          |
| Yes                                | 697<br>19.1%   | 2944<br>80.9% | 3641         |
| Total                              | 891<br>21.0%   | 3343<br>79.0% | 4234<br>100% |
| $\chi^2 = 56.53, df = 1, p < .000$ |                |               |              |

**Table 16: Whether CEW use Engaged by Subject Sex**

|                                   | CEW Engagement |               |              |
|-----------------------------------|----------------|---------------|--------------|
|                                   | <i>No</i>      | <i>Yes</i>    |              |
| <b>Subject Sex</b>                | <i>No</i>      | <i>Yes</i>    | <i>Total</i> |
| Female                            | 67<br>19.5%    | 276<br>80.5%  | 343          |
| Male                              | 806<br>21.1%   | 3011<br>78.9% | 3817         |
| Total                             | 873<br>21.0%   | 3287<br>79.0% | 4160<br>100% |
| $\chi^2 = 0.48, df = 1, p = .533$ |                |               |              |

| <b>Table 17: Whether CEW was Engaged by Subject Age</b> |                       |               |              |
|---|-----------------------|---------------|--------------|
|   | <b>CEW Engagement</b> |               |              |
| <b>Subject Age</b>                                      | <i>No</i>             | <i>Yes</i>    | <i>Total</i> |
| Under 20  | 127<br>25.6%          | 370<br>74.4%  | 497          |
| 20 - 29   | 319<br>21.4%          | 1172<br>78.6% | 1491         |
| 30 - 39   | 243<br>19.9%          | 979<br>80.1%  | 1222         |
| 40 - 49   | 138<br>19.1%          | 584<br>80.9%  | 722          |
| 50+   | 51<br>20.6%           | 196<br>79.4%  | 247          |
| Total   | 878<br>21.0%          | 3301<br>79.0% | 4179<br>100% |
| $\chi^2 = 8.83, df = 4, p < .065$                       |                       |               |              |

| <b>Table 18: Whether CEW was Engaged by Subject Age - Recoded</b> |                       |               |              |
|---|-----------------------|---------------|--------------|
|   | <b>CEW Engagement</b> |               |              |
| <b>Subject Age</b>  | <i>No</i>             | <i>Yes</i>    | <i>Total</i> |
| Under 20  | 127<br>25.6%          | 370<br>74.4%  | 497          |
| 20 and Over   | 751<br>20.4%          | 2931<br>79.6% | 3682         |
| Total   | 878<br>21.0%          | 3301<br>79.0% | 4179<br>100% |
| $\chi^2 = 7.02, df = 1, p < .008$                                 |                       |               |              |

**Table 19: Whether CEW was Engaged by Division**

| <b>Division</b>                     | <b>CEW Engagement</b> |                      | <i>Total</i>        |
|-------------------------------------|-----------------------|----------------------|---------------------|
|                                     | <i>No</i>             | <i>Yes</i>           |                     |
| Newfoundland and Lbdr (B)           | 27<br>30.7%           | 61<br>69.3%          | 88                  |
| Manitoba (D)                        | 56<br>14.3%           | 335<br>85.7%         | 391                 |
| British Columbia (E)                | 361<br>24.6%          | 1105<br>75.4%        | 1466                |
| Saskatchewan (F)                    | 59<br>11.8%           | 440<br>88.2%         | 499                 |
| Northwest Territories (G)           | 57<br>29.4%           | 137<br>70.6%         | 194                 |
| Nova Scotia (H)                     | 49<br>38.3%           | 79<br>61.7%          | 128                 |
| New Brunswick (J)                   | 40<br>21.1%           | 150<br>78.9%         | 190                 |
| Alberta (K)                         | 192<br>20.0%          | 766<br>80.0%         | 958                 |
| Prince Edward Island (L)            | 8<br>16.3%            | 41<br>83.7%          | 49                  |
| Yukon (M)                           | 18<br>13.7%           | 113<br>86.3%         | 131                 |
| Nunavut (V)                         | 15<br>12.3%           | 107<br>87.7%         | 122                 |
| <b>Total</b>                        | <b>882</b><br>20.9%   | <b>3334</b><br>79.1% | <b>4216</b><br>100% |
| $\chi^2 = 94.83, df = 10, p < .000$ |                       |                      |                     |

| <b>Table 20: Whether CEW was Engaged by Incident Year</b> |                       |               |              |
|---|-----------------------|---------------|--------------|
|   | <b>CEW Engagement</b> |               |              |
| <b>Incident Year</b>                                      | <i>No</i>             | <i>Yes</i>    | <i>Total</i> |
| 2002  | 24<br>28.6%           | 60<br>71.4%   | 84           |
| 2003  | 66<br>11.8%           | 494<br>88.2%  | 560          |
| 2004  | 17<br>7.1%            | 223<br>92.9%  | 240          |
| 2005  | 93<br>15.4%           | 509<br>84.6%  | 602          |
| 2006  | 226<br>20.1%          | 898<br>79.9%  | 1124         |
| 2007  | 434<br>27.9%          | 1123<br>72.1% | 1557         |
| 2008 <sup>65</sup>  | 26<br>44.8%           | 32<br>55.2%   | 58           |
| Total   | 886<br>21.0%          | 3339<br>79.0% | 4225<br>100% |
| $\chi^2 = 135.64, df = 6, p < .000$                       |                       |               |              |

| <b>Table 21: Whether Medical Examination was Performed by Number of Cartridges Fired</b> |                            |              |              |
|--|----------------------------|--------------|--------------|
|  | <b>Medical Examination</b> |              |              |
| <b>Number of Cartridges Fired</b>  | <i>No</i>                  | <i>Yes</i>   | <i>Total</i> |
| 1  | 852<br>57.8%               | 622<br>42.2% | 1474         |
| 2  | 49<br>43.8%                | 63<br>56.3%  | 112          |
| 3  | 3<br>33.3%                 | 6<br>66.7%   | 9            |
| Total  | 904<br>56.7%               | 691<br>43.3% | 1595<br>100% |
| $\chi^2 = 10.38, df = 2, p = .006$   |                            |              |              |

<sup>65</sup> The number indicated includes Forms 3996 up until January 19, 2008.

| <b>Table 22: Whether Medical Examination was Performed by Number of Times <i>Push stun</i> Used</b> |                            |              |              |
|---|----------------------------|--------------|--------------|
|   | <b>Medical Examination</b> |              |              |
| <b>Number of Times Push Stun Mode Used</b>  | <i>No</i>                  | <i>Yes</i>   | <i>Total</i> |
| 1   | 1050<br>81.8%              | 233<br>18.2% | 1283         |
| 2   | 415<br>76.1%               | 130<br>23.9% | 545          |
| 3   | 151<br>76.6%               | 46<br>23.4%  | 197          |
| 4   | 38<br>67.9%                | 18<br>32.1%  | 56           |
| 5+  | 27<br>60.0%                | 18<br>40.0%  | 45           |
| Total   | 1681<br>79.1%              | 445<br>20.9% | 2126<br>100% |
| $\chi^2 = 23.60, df = 4, p < .000$  |                            |              |              |

| <b>Table 23: Whether Medical Examination was Performed by Substance Use</b> |                            |              |              |
|---|----------------------------|--------------|--------------|
|   | <b>Medical Examination</b> |              |              |
| <b>Was Substance Use Involved</b>   | <i>No</i>                  | <i>Yes</i>   | <i>Total</i> |
| No  | 236<br>59.1%               | 163<br>40.9% | 399          |
| Yes   | 2137<br>72.6%              | 807<br>27.4% | 2944         |
| Total   | 2373<br>71.0%              | 970<br>29.0% | 3343<br>100% |
| $\chi^2 = 30.82, df = 1, p < .000$  |                            |              |              |

**Table 24: Whether Medical Examination was Performed by Weapons Involvement**

|                       | Medical Examination |              | Total        |
|-----------------------|---------------------|--------------|--------------|
|                       | No                  | Yes          |              |
| Were Weapons Involved |                     |              |              |
| No                    | 1792<br>77.3%       | 525<br>22.7% | 2317         |
| Yes                   | 581<br>56.6%        | 445<br>43.4% | 1026         |
| Total                 | 2373<br>71.0%       | 970<br>29.0% | 3343<br>100% |

$\chi^2 = 148.13, df = 1, p < .000$

**Table 25: Whether Medical Examination was Performed by Division**

| <b>Division</b>                     | <b>Medical Examination</b> |              | <i>Total</i>   |
|-------------------------------------|----------------------------|--------------|----------------|
|                                     | <i>No</i>                  | <i>Yes</i>   |                |
| Newfoundland and Lbdr (B)           | 38<br>62.3%                | 23<br>37.7%  | 61             |
| Manitoba (D)                        | 262<br>78.2%               | 73<br>21.8%  | 335            |
| British Columbia (E)                | 712<br>64.4%               | 393<br>35.6% | 1105           |
| Saskatchewan (F)                    | 358<br>81.4%               | 82<br>18.6%  | 440            |
| Northwest Territories (G)           | 102<br>74.5%               | 35<br>25.5%  | 137            |
| Nova Scotia (H)                     | 52<br>65.8%                | 27<br>34.2%  | 79             |
| New Brunswick (J)                   | 108<br>72.0%               | 42<br>28.0%  | 150            |
| Alberta (K)                         | 535<br>69.8%               | 231<br>30.2% | 766            |
| Prince Edward Island (L)            | 20<br>48.8%                | 21<br>51.2%  | 41             |
| Yukon (M)                           | 90<br>79.6%                | 23<br>20.4%  | 113            |
| Nunavut (V)                         | 90<br>84.1%                | 17<br>15.9%  | 107            |
| Total                               | 2367<br>71.0%              | 967<br>29.0% | 3334<br>100.0% |
| $\chi^2 = 82.04, df = 10, p < .000$ |                            |              |                |

| <b>Table 26: Whether Medical Examination was Performed by Incident Year</b> |                            |               |              |
|---|----------------------------|---------------|--------------|
|   | <b>Medical Examination</b> |               |              |
| <b>Incident Year</b>  | <i>No</i>                  | <i>Yes</i>    | <i>Total</i> |
| 2002  | 67<br>79.8%                | 17<br>20.2%   | 84           |
| 2003  | 373<br>66.6%               | 187<br>33.4%  | 560          |
| 2004  | 171<br>71.3%               | 69<br>28.8%   | 240          |
| 2005  | 436<br>72.4%               | 166<br>27.6%  | 602          |
| 2006  | 877<br>78.0%               | 247<br>22.0%  | 1124         |
| 2007  | 1222<br>78.5%              | 335<br>21.5%  | 1557         |
| 2008  | 42<br>72.4%                | 16<br>27.6%   | 58           |
| Total   | 3188<br>75.5%              | 1037<br>24.5% | 4225<br>100% |
| $\chi^2 = 41.80, df = 6, p < .000$  |                            |               |              |

| <b>Table 27: Whether Medical Examination was Performed by Taser® Model</b> |                            |              |              |
|--|----------------------------|--------------|--------------|
|  | <b>Medical Examination</b> |              |              |
| <b>Taser® Model</b>  | <i>No</i>                  | <i>Yes</i>   | <i>Total</i> |
| X26 Model 26000  | 575<br>74.1%               | 201<br>25.9% | 776          |
| M26 Model 44000  | 1798<br>70.0%              | 769<br>30.0% | 2567         |
| Total  | 2373<br>71.0%              | 970<br>29.0% | 3343<br>100% |
| $\chi^2 = 4.76, df = 1, p < .030$  |                            |              |              |

**Table 28: Missing Values and Recodes**

| <i>Variable</i>                            | <i>Missing (N)</i> | <i>% of Total</i> | <i>Recode</i> |
|--|--------------------|-------------------|---------------|
| Avoid use of lethal force                  | 14                 | 0.3               | 0 (No)        |
| Avoid injuries                             | 13                 | 0.3               | 0 (No)        |
| Injury description                         | 843                | 19.9              | No Injury     |
| Photos taken                               | 266                | 6.3               | 0 (No)        |
| Medical examination                        | 117                | 2.8               | 0 (No)        |
| Number of cartridges fired                 | 2                  | 0.0               | 0             |
| Number of times <i>push stun</i> mode used | 2                  | 0.0               | 0             |
| Subject aware of CEW                       | 15                 | 0.4               | 0 (No)        |
| Clothing barrier - Upper                   | 116                | 6.7               | 0 (No)        |
| Clothing barrier - Lower                   | 255                | 14.8              | 0 (No)        |
| Skin penetration - Upper                   | 67                 | 3.9               | 0 (No)        |
| Skin penetration - Lower                   | 109                | 6.3               | 0 (No)        |
| Point of impact - Upper                    | 192                | 11.1              | 0 (No Impact) |
| Point of impact - Lower                    | 309                | 17.9              | 0 (No Impact) |

**Table 29: Cross tabulation between Number of Members, Presence of Weapon and CEW Deployment**

| Number of Members |                           |     |                                    | CEW Deployed |              | Total   |
|-------------------|---------------------------|-----|------------------------------------|--------------|--------------|---------|
|                   |                           |     |                                    | No           | Yes          |         |
| 1                 | Were any weapons involved | No  | Count                              | 122          | 333          | 455     |
|                   |                           |     | % within Were any weapons involved | 26.80%       | 73.20%       | 100.00% |
|                   |                           | Yes | Count                              | 63           | 129          | 192     |
|                   |                           |     | % within Were any weapons involved | <b>32.8%</b> | <b>67.2%</b> | 100.0%  |
|                   | Total                     |     | Count                              | 185          | 462          | 647     |
|                   |                           |     | % within Were any weapons involved | 28.60%       | 71.40%       | 100.00% |
| 2                 | Were any weapons involved | No  | Count                              | 242          | 1022         | 1264    |
|                   |                           |     | % within Were any weapons involved | 19.10%       | 80.90%       | 100.00% |
|                   |                           | Yes | Count                              | 141          | 425          | 566     |
|                   |                           |     | % within Were any weapons involved | <b>24.9%</b> | <b>75.1%</b> | 100.0%  |
|                   | Total                     |     | Count                              | 383          | 1447         | 1830    |
|                   |                           |     | % within Were any weapons involved | 20.90%       | 79.10%       | 100.00% |
| 3                 | Were any weapons involved | No  | Count                              | 119          | 504          | 623     |
|                   |                           |     | % within Were any weapons involved | 19.10%       | 80.90%       | 100.00% |
|                   |                           | Yes | Count                              | 58           | 209          | 267     |
|                   |                           |     | % within Were any weapons involved | <b>21.7%</b> | <b>78.3%</b> | 100.0%  |
|                   | Total                     |     | Count                              | 177          | 713          | 890     |
|                   |                           |     | % within Were any weapons involved | 19.90%       | 80.10%       | 100.00% |
| 4                 | Were any weapons involved | No  | Count                              | 50           | 276          | 326     |
|                   |                           |     | % within Were any weapons involved | 15.30%       | 84.70%       | 100.00% |
|                   |                           | Yes | Count                              | 33           | 127          | 160     |
|                   |                           |     | % within Were any weapons involved | <b>20.6%</b> | <b>79.4%</b> | 100.0%  |
|                   | Total                     |     | Count                              | 83           | 403          | 486     |
|                   |                           |     | % within Were any weapons involved | 17.10%       | 82.90%       | 100.00% |
| 5                 | Were any weapons involved | No  | Count                              | 24           | 109          | 133     |
|                   |                           |     | % within Were any weapons involved | 18.00%       | 82.00%       | 100.00% |
|                   |                           | Yes | Count                              | 17           | 67           | 84      |
|                   |                           |     | % within Were any weapons involved | <b>20.2%</b> | <b>79.8%</b> | 100.0%  |
|                   | Total                     |     | Count                              | 41           | 176          | 217     |
|                   |                           |     | % within Were any weapons involved | 18.90%       | 81.10%       | 100.00% |
| 6+                | Were any weapons involved | No  | Count                              | 15           | 73           | 88      |
|                   |                           |     | % within Were any weapons involved | 17.00%       | 83.00%       | 100.00% |
|                   |                           | Yes | Count                              | 5            | 69           | 74      |
|                   |                           |     | % within Were any weapons involved | <b>6.8%</b>  | <b>93.2%</b> | 100.0%  |
|                   | Total                     |     | Count                              | 20           | 142          | 162     |
|                   |                           |     | % within Were any weapons involved | 12.30%       | 87.70%       | 100.00% |

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## GLOSSARY OF TERMS

| <b><u>TERM</u></b>      | <b><u>DESCRIPTION</u></b>  |
|-------------------------|--|
| <b>Form 3996</b>        | Conducted Energy Weapon Usage Form used by the RCMP                            |
| <b>CAPRA</b>            | Clients, Acquiring & Analyzing Information, Partnerships, Response, Assessment |
| <b>CED</b>              | Conducted energy device; also known as a conducted energy weapon (CEW)         |
| <b>CEW</b>              | Conducted energy weapon  |
| <b>Commission</b>       | The Commission for Public Complaints Against the RCMP                          |
| <b>Commissioner</b>     | The Commissioner of the RCMP   |
| <b>CPC</b>              | Acronym for the Commission for Public Complaints Against the RCMP              |
| <b>Excited Delirium</b> | Also known as ED and/or excited delirium syndrome (EDS)                        |
| <b>IM/IM</b>            | Incident Management/Intervention Model   |
| <b>OC spray</b>         | Oleoresin Capsicum spray; also known as pepper spray                           |
| <b>PERF</b>             | Police Executive Research Forum  |
| <b>PSNI</b>             | Police Service of Northern Ireland   |
| <b>RCMP</b>             | Royal Canadian Mounted Police  |
| <b>SB/OR</b>            | Subject Behaviour- Officer Response  |
| <b>Taser®</b>           | Brand name for a conducted energy device                                       |