

Report to / Rapport au:

**OTTAWA POLICE SERVICES BOARD
LA COMMISSION DE SERVICES POLICIERS D'OTTAWA**

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Submitted by / Soumis par:

Chief of Police, Ottawa Police Service / Chef de police, Service de police d'Ottawa

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SUBJECT: CONDUCTED ENERGY WEAPON REVIEW

OBJET: EXAMEN DES ARMES À IMPULSIONS

REPORT RECOMMENDATIONS

That the Ottawa Police Services Board:

- 1) Direct the Chief to adjust the Use of Force policy to: The Chief is to deploy Conducted Energy Weapons (CEWs) to all sworn frontline officers and other sworn officers based on operational necessity and with the approval of the Chief or designate.**
- 2) Delegate authority to the Chief to purchase 400 CEWs for lifecycle management of the reduced inventory and to purchase CEW cartridges to meet operational needs and Ministry of Community Safety and Correctional Services mandated training requirements up to a limit of \$1,831,200 before tax.**

RECOMMANDATIONS DU RAPPORT

Que la Commission de services policiers d'Ottawa :

- 1) Demande au chef de modifier la politique d'usage de la force pour: Le chef doit déployer des armes à impulsions pour tous les agents assermentés de première ligne et autres agents assermentés en fonction de nécessités opérationnelles et avec l'approbation du chef ou de son suppléant.**

- 2) Délègue au chef le pouvoir d'acheter 400 armes à impulsions pour la gestion de cycle de vie de l'inventaire réduit et d'acheter des cartouches d'armes à impulsions pour répondre aux besoins opérationnels et aux exigences de formation imposées par le ministère jusqu'à concurrence de 1 831 200\$, taxes en sus.**

BACKGROUND

In 2002, the Ottawa Police Services Board (Board) approved the purchase and deployment of Conducted Energy Weapons (CEWs) by the Ottawa Police Service (OPS). The use was limited to the Tactical Unit as per the approval of the Ministry of Community Safety and Correctional Services (Ministry).

In 2009, the Board approved the expansion of the CEW deployment model to include frontline supervisors following the Ministry's approval to have CEW more readily available for frontline response.

In 2014, the Board approved the expansion of the CEW deployment model to include select frontline first-class constables following another Ministry-approved expansion.

The Ministry mandates approved CEW models and cartridges, training, instructor qualifications, threshold of use within Use of Force guidelines, and deployment reporting.

In 2018, the Board approved the expansion of the OPS CEW deployment model to include all sworn members. This included an amendment to Board policy: The Chief will be authorized to issue a CEW to all sworn members.

This expansion included the purchase of 1,050 additional CEWs over a three-year period, along with the phased-in training of all sworn officers beginning with all frontline officers, progressing to non-frontline officers, and then to senior officers in 2020. In 2021 and onward, 30 units were to be purchased annually for growth, in addition to the annual lifecycle management purchase of 200 units.

To date, 870 of the 1,050 CEW units have been purchased. The focus for training and deployment has been on frontline officers. Due to the lack of purchasing, only some non-frontline officers and senior officers have been trained and issued CEWs, prioritized by operational necessity. The OPS is therefore not compliant with the Board policy.

The first 800 units were purchased on schedule over 2018 and 2019. Due to budget pressures, 70 of the approved 250 CEWs were purchased in 2020. No purchases were made in 2021, the request to purchase 200 units for lifecycle management was deferred by the Board.

The following is a breakdown of current CEW inventory:

- CEW inventory prior to 2018: 250
- Approved CEW purchase to complete the 2018 expansion: 1,050
- Total approved inventory level: 1,300
- Current inventory level: 1,120
- Variance: 180

CEW cartridges are necessary for the operational use of CEWs and for training. The Ministry mandates the number of cartridges to be successfully deployed in training, which includes dynamic judgement and de-escalation scenarios.

There are currently two approved CEW models, both are manufactured by Axon.

CEWs have a five-year useful lifespan, as per the manufacturer.

DISCUSSION

The OPS purchase request for 200 CEWs and annual allotment of cartridges presented to the Board in October 2021 was deferred pending the following responses:

Five-year useful lifespan

A legal and liability review has been completed:

- The OPS' Legal Services has been consulted on this matter and has reviewed the question from Board Member L.A. (Sandy) Smallwood regarding using the CEWs beyond the manufacturer's recommended useful lifespan. Legal Services advises against this practice because of the associated legal and liability risks. Legal Services is prepared to provide the Board with a further briefing in-camera on this matter.
- The manufacturer ceases to support devices once they reach the end of their useful lifespan.
- Once a model ends production, the Ministry rescinds approval on the five-year anniversary of the end of production. The manufacturer also ceases to produce the related cartridges and accessories.
- In addition, CEWs are electronic devices that are carried during daily duties. They are subject to extreme heat, cold, moisture, impact, etc. The internal parts cannot be examined as they are sealed devices. They have proven durable, within reason, for the recommended lifespan, however, reliability beyond five years cannot be verified. Experience with the OPS and other services indicate

that CEWs commonly decrease in reliability within a few months when CEWs are transferred from operational to training use.

As a result, it is not recommended that the OPS operationally deploy CEW units that are beyond the manufacturer's recommended useful lifespan.

Donated CEWs

The OPS has donated expired CEWs to the following police services: Cornwall, Deep River and Peterborough. A legal transfer of ownership is completed between Chiefs of Police or designates at the time of the transfer which legally terminates OPS ownership and liability of the transferred units. The donated units are intended to assist other police services to build their CEW capability where otherwise they would not have had that opportunity. These Services have used the donated units for training and operationally based on their own legal and risk analyses.

In Ontario, police services with established CEW programs follow the manufacturer's recommendations. Services that are in the start-up phase, building their operational models, training capacities, policies and procedures may not.

Success of CEWs

CEWs are approved for use by the Ministry without restriction. Any police officer in Ontario may deploy a CEW. CEWs are considered intermediate weapons within the provincial Use of Force guidelines, along with batons and OC spray.

The Ministry applied a higher threshold of use for CEWs; a Chief of Police may permit an officer to use a CEW subject to the following:

- The officer believes a subject is threatening or displaying assaultive behaviour, or,
- Taking into account the totality of the circumstances, the officer believes there is an imminent need for control of a subject.

Ministry approval and subsequent expansions were guided by the Ontario Coroner's inquest recommendations.

There have been 12 Coroner's inquests dating back to 2005 that recommend that CEWs be immediately available to officers responding to emergency calls involving violence. Any delay in the availability of a CEW may result in applications of force and prolonged physical exertion that are likely to result in more serious injury to officers and members of the public.

The Coroner acknowledged three benefits of CEWs:

- A CEW can be considered in certain situations where the only other alternative would be lethal force,
- The mere presence of a CEW often de-escalates violent situations with no further force required; and
- CEW deployments are likely to allow police to control a violent subjects more efficiently to avoid prolonged struggle, physical exertion and pain compliance techniques that are likely to result in injury.

The current Board policy is compliant with all Coroner's recommendations.

A review of the OPS' CEW deployment statistics supports the recognized benefits of CEW availability. In 2020, there were 193 calls for service involving a CEW. 118 (61%) of those encounters, involving violent, assaultive subjects, resulted in compliance from the display of a CEW and no requirement for any application of force.

Of the 193 calls, first-responding officers encountered armed subjects, violent behaviour, attempted suicide-by-cop, and excited delirium. All 193 incidents were resolved with no significant injuries to officers or members of the public. The absence of a CEW, or delay in availability, would likely have resulted in the types of applications of force identified by the Coroner as resulting in a higher likelihood of more serious injury. There were no less than 27 armed subjects included in these incidents, any or all may have resulted in lethal force as per provincial use of force guidelines if a CEW was not immediately available.

CEW inventory and deployment model review

The OPS reviewed its CEW deployment model with the goal of maintaining the optimal amount of CEWs at the lowest cost, while still ensuring public and officer safety.

It is realistic that, through attrition, under a reduced deployment model, the OPS CEW inventory can be reduced to approximately 1,000 units, a reduction of 300 units from the approved inventory level. This reduction, however, will result in the OPS not reaching compliance with the current Board policy on CEW deployment.

Due to the timing of previous purchases, 50 units will expire in Q1 of 2022, 250 units will expire in Q4 and 400 will expire in 2023. The 200 units requested in 2021 were intended to begin to address mass expiry beginning in late 2022.

Pending direction from the Board, the OPS can pause its CEW deployment model at the current level, all frontline officers and some non-frontline officers, based on operational necessity, are equipped with CEWs. The 50 expiring units will not be immediately

replaced. The 650 expiring units (Q4 and into 2023) will be fully reviewed to find further efficiencies.

2022 purchase requirement

In order to maintain the reduced deployment model, it is projected that at least 400 CEWs will have to be purchased in 2022 for lifecycle management. Additional growth units may have to be purchased dependent on the number of new hires in 2022.

Approximately 6,680 cartridges will have to be purchased to support operations and Ministry mandated training.

All CEW products, cartridges and accessories have increased in cost by 5% as of January 1, 2022. The manufacturer has also announced significant delivery delays due to supply chain issues for manufacturing supplies.

CONSULTATION

Consultation with the OPS' Legal Services was completed, resulting in the legal position on the useful lifespan of CEWs.

FINANCIAL IMPLICATIONS

The inventory reduction of 300 units represents a cost avoidance of CEW purchases of \$1,058,400 plus \$207,900 of cartridge costs.

CONCLUSION

It is recommended that the Board direct the Chief to adjust the use of force policy to: The Chief is to deploy CEWs to all sworn frontline officers and other sworn officers based on operational necessity and with the approval of the Chief or designate. This amendment will allow for a reduction in the operational CEW inventory of 300 units and savings in relation to training and cartridges.

That the Board delegate authority to the Chief to purchase 400 CEWs for lifecycle management of the reduced inventory and to purchase CEW cartridges to meet operational needs and Ministry mandated training requirements up to a limit of \$1,831,200 before tax.

Without this purchase, frontline CEW deployment will be impacted by Q4 of 2022.