

Canada: Court ruling finds that Taser stun guns can kill

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The British Columbia Supreme Court handed down a ruling Tuesday vindicating the findings of a provincial public inquiry that tasers can cause serious injury or death.

Last year, retired justice Thomas Braidwood issued the first part of a report on the police killing of Polish immigrant Robert Dziekanski that set out 19 recommendations for the use of stun guns by police. Dziekanski died shortly after four Royal Canadian Mounted Police (RCMP) officers fired five Taser shots into the hapless immigrant who had become lost and disoriented after arriving at the Vancouver International Airport in October 2007.

Braidwood's findings had been challenged by Taser International. The company is the leading manufacturer of "electrical control devices" (stun guns) in the world. Its weapons are used by most of the police forces in Canada and the United States. Over the course of the Braidwood Inquiry, Taser submitted 174 documents and sent to the stand numerous company-supplied "expert" witnesses, including its cofounder, to argue that its product does not pose a serious health risk when deployed against the human body.

But when Braidwood ruled that Taser's studies and statistics did not support its claim that its stun gun does not affect the heart and ruled, instead, that a shock from a Taser weapon has the capacity to kill its victim by causing heart arrhythmia—especially if it is fired multiple times—company lawyers went into overdrive in an attempt to quash the findings.

Appealing to the British Columbia Supreme Court, company attorneys brashly argued that Braidwood, by failing to directly refer in his report to all 174 documents filed by Taser, had failed to properly weigh all the evidence. They further argued that Braidwood had ridden roughshod over the company when he did not release his findings directly to Taser International prior to making his

report public. Company lawyers also insisted that the judge erred by not granting Taser official standing at the inquiry into the Dziekanski killing. Finally, they complained that due to the Inquiry's findings the company has suffered an "economic backlash" that has led to the loss of important contract opportunities in the international marketplace, including a multimillion-dollar deal in South Africa.

This was not the first time that Taser has deployed considerable legal resources in order to overturn or prevent findings against its lethal product. Since 2002 when Taser launched its more powerful 26-watt model, there have been at least 400 deaths worldwide attributed to the deployment of the stun gun.

The device, shaped like a pistol, fires two darts attached to 21-foot wires. When both darts hit, an electrical circuit is completed and the weapon automatically discharges an excruciatingly painful five-second cycle, which contracts the skeletal muscles, causing the person targeted to become rigid and collapse.

The trigger can subsequently be pulled over and over, delivering additional five-second cycles, and it can be held down, discharging a continuous flow of electricity until released. Each weapon has a computer chip, called the data-port, which records the number of trigger pulls.

Taser has mounted an aggressive legal campaign against all those who have launched liability lawsuits for wrongful death after a stun gun attack. Last month, the company celebrated its one hundredth "successful" defense. In one case, the company managed to convince an Ohio judge that any suggestion that the taser death of three men in the state had anything to do with taser deployment should be removed from the official autopsy reports!

But as evidence mounts as to the deadly consequences of taser deployment, particularly in multiple bursts, the company's legal footing has been increasingly

diminished. Swine studies performed by the United States Air Force in 2007 after the device had been on the market for several years established that repeated cycles cause dangerous increases in the amount of lactic acid discharged by muscles into the bloodstream, “sufficient to induce cardiac arrest.”

In 2008, a federal jury in San Jose, California, found Taser International, Inc. responsible for the February 20, 2005 death of 40-year-old Robert C. Heston in nearby Salinas, the first trial to establish that the company’s weapon can kill a human being. While assessing Heston with 85 percent of the fault for the incident, the jury awarded over \$1 million in compensatory damages and an additional \$5.2 million in punitive damages based on the manufacturer’s failure to warn police agencies that repeated Taser shocks can cause cardiac arrest.

In Tuesday’s B.C. Supreme Court ruling, all of Taser’s arguments were dismissed outright. The company, insisted Justice Robert Sewell, “was given ample opportunity to appear before the (Braidwood) commission and make submissions” regarding the weapon’s safety. Because the company was well aware of the evidence given at the Braidwood Inquiry regarding the safety risks of taser deployment, there was no need for the company to be privately given the report prior to its public release.

Indeed, as attorneys for the British Columbia government argued before Judge Sewell, Taser has already tacitly accepted the Braidwood findings. It incorporated into the “fine print” of a company-training bulletin issued last September an admission that a shock from a Taser gun can adversely affect the heart. Taser’s admission, argued the BC government, is “virtually identical to what commissioner Braidwood said. The difference is that commissioner Braidwood said it in plain language and broadcast it more loudly”.

The proliferation of stun gun use throughout the United States and Canada, without due regard for the safety of the devices, represents an attack on the democratic rights of the population. Amnesty International has called for a moratorium on taser usage until more is learned about its lethality, and the United Nations has condemned the devices as “a form of torture that can kill.”

Contrary to police claims, the weapon is generally not used in lieu of deadly force. Instead, it is used to inflict pain and undeserved punishment, as in the case of Robert Dziekanski and hundreds of others who have met their death at the hands of the police.

The Braidwood Inquiry was presented with chilling evidence of premeditated police brutality. Police emails

surfaced indicating that the four RCMP officers who had responded the night of Dziekanski’s death had discussed and agreed on a taser response even prior to arriving at the Vancouver airport. Dziekanski, although distraught, did not pose any threat, nor offer any resistance, when police arrived. Yet within 24 seconds of the cops’ arrival, they tasered the immigrant, repeating their shocks even as he lay helpless on the ground. As he was turning blue, they failed to monitor his vital signs. When paramedics arrived, the police initially refused to release the unconscious man from a hog-tied position so medics could administer first aid.

Following the killing, the attending officers filed false reports on the events surrounding their response and stuck to their lies throughout the Braidwood Inquiry. For its part, the RCMP’s high command, in league with Taser International, launched a campaign in the press to falsely portray Dziekanski as a violent, unstable alcoholic.

Robert Dziekanski’s death would have been consigned to the closed-case files long before any commission of inquiry had it not been for the entry into the public domain of a video recording of the entire incident taken by bystander Paul Pritchard.

The RCMP confiscated Pritchard’s video camera and when it was later returned, the video of the incident was no longer on the device’s memory card. Pritchard, rightly fearing a police cover-up, then went to the British Columbia Supreme Court to get his video recording returned. When it was, he posted the evidence of the police killing on the Internet. Ultimately the video was broadcast by media outlets around the world.

The evidence of Dziekanski’s cold-blooded killing by the police was now there for all to see. Under pressure from an outraged public, British Columbia’s Liberal government was forced to call for the inquiry by Braidwood that led to the findings on taser lethality.



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