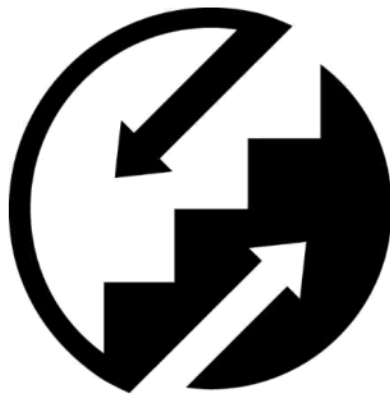


**PERSONAL PROTECTIVE EQUIPMENT
WITHIN THE MINISTRY OF FORESTS, LANDS
& NATURAL RESOURCES
COMPLIANCE & ENFORCEMENT BRANCH**



A Subject Matter Expert's
Recommendations

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Introduction

Since 2010, the Ministry of Forests, Lands and Natural Resources – Compliance and Enforcement Branch (CEB) has ostensibly evolved into a fully-uniformed compliance and enforcement agency that educates, encourages compliance and enforces some 52 pieces of relevant legislation (Land Act, Wildfire Act, Water Sustainability Act, Forests and Range Practices Act, Forest Act, Off-Road Vehicle Act, etc.). NROs interact with the public frequently, conducting approximately 8,000 inspections and engaging in approximately 2,000 compliance actions annually.ⁱ BC Natural Resource Officers (NROs) wear a two-tone green uniform with a provincial shoulder flash/crest, a duty belt, portable radio and remote speaker microphone. As part of their issued personal protective equipment (PPE), in many cases NROs wear a black external soft body armour carrier with “NATURAL RESOURCE OFFICER” emblazoned in white print (or internal soft body armour). NROs drive marked “Enforcement” vehicles. NROs look like law enforcement officers and are generally perceived as such by members of the public. Currently CEB has fallen short of the mark in terms of properly equipping NROs with the appropriate complement of personal protective equipment (PPE) commensurate with the risks they face. Equipment that would enhance their safety, public safety, and the safety of their colleagues and co-workers.

Executive Summary

This report specifically identifies an existing gap within CEB in the area of Occupational Health and Safety – a gap in personal protective equipment (PPE) – in the forms of a baton and OC spray – that might afford an NRO, who may otherwise be unable to safely disengage from a violent situation, the opportunity to preserve their safety, their life, or that of a co-worker in a trained fashion.

This report summarizes risk faced by NROs in the field as identified by internal and external risk assessments, by a subject matter expert, and by NROs themselves.

This report demonstrates that parallel problems have existed across similar agencies in the past with tragic results that could have been averted, and where recent Canadian case law now exists requiring employers to act on foreseeable risk with solutions that are realistic and as comprehensive as possible.

This report will offer a clear recommendation and rationale for remedying the identified problem, and will outline how the identified recommendation could be diligently, effectively and expeditiously implemented within CEB.

This report will also offer two less-desirable options along with the accompanying rationale for why these options are not recommended.

Risk:

NROs, on occasion engage in, and sometimes without warning become engaged in high-risk enforcement activity. This risk has been identified at many levels including through recent internal and independent external risk assessments. In 2007 a federal ruling under the Canada Labour Code regarding the safety of National Park Wardens (a similar occupation to provincial NROs), the Court agreed that: “inherent risk associated with law enforcement is related to the nature of the work, which involves the unpredictability of human behavior connected with individuals who may have violent tendencies, dislike authority, be mentally unstable and/or be under the influence of alcohol or drugs.”ⁱⁱ

A recent random sampling of NROs surveyed indicated that all who responded agree that they face danger in dealing with unpredictable human behaviour in challenging circumstances on a regular basis.ⁱⁱⁱ As a subject matter expert who has trained CEB personnel (NROs) for the past six years, I am fully cognizant of the risks that NROs face in dealing with the public in a compliance and enforcement capacity. Enforcement personnel with other agencies have faced the same issues with tragic results. The Courts in Canada have made it clear that lessons that have already been learned mustn't be repeated.^{iv}

In September of 2017 – twelve years after the RCMP Mayerthorpe tragedy, the RCMP were criminally convicted of Canada Labour Code violations for failing to ensure the health and safety of its members by failing to provide adequate use of force equipment and related user training. Judge Leslie Jackson wrote in his decision **"Front-line officers were left exposed to potential grievous bodily harm and/or death while responding to active shooter events for years, while the carbine rollout limped along, apparently on the assumption that, as the likelihood of such an event was relatively rare, a timely implementation was not required. Almost all members of RCMP management who testified at trial said that safety of their members was a priority of theirs. While they paid lip service to that ideal, their actions, or in this case inactions, belie that concern."**^v

A recent Alberta Fatality Inquiry (June, 2017 – publicly released March 27, 2018) has made as the primary recommendation that all Community Peace Officers (including all officers who deal with the public) be trained and authorized to carry batons and OC spray. Alberta Judge Bruce Fraser said **"... any officer dealing with public enforcement, in my view, should be properly trained for officer safety and weapons training as well as defensive tactics. Officer Lazenby should have had that training and been allowed to carry weapons (batons, pepper spray, handcuffs and body armour) as did level 1 officers. They both deal with an unknown public as demonstrated by this incident that resulted in his death."**^{vi}

Almost all NROs have faced confrontational behaviour during the course of their careers. Verbal abuse, veiled and direct threats, aggressive posturing, group dynamics – being surrounded/circled, lawful requests ignored, fail to stop for inspection, fail to comply with lawful requests, etc. have all been related by multiple officers.^{vii}

NROs are primarily focused on enforcing legislation specific to resource protection, but they have also been empowered with enforcing other provincial legislation. The very nature of CEB work coupled with the changing nature of norms, values and recreational pursuits brings NROs into contact with members of the public (often with more than one person at a time) in a variety of settings – often alone, often in remote locations and hazardous environments, often with limited information, often where real-time communications are compromised or non-existent, often when back-up or support is not available, often with people who are under the influence of drugs and/or alcohol and/or mental instability, and often with people who are armed with a variety of outdoor-related weapons (edged weapons – knives, hatchets, axes, machetes, and sometimes firearms). The very nature of many CEB duties would be classified as high-risk in most law enforcement circles (remote off-road vehicle checks, enforcing fire bans, enforcement of legislation on private property, etc.). NROs also come across more traditional offences, (i.e. drug, alcohol and weapons offences) in the course of conducting their duties which might not normally come to the attention of traditional law enforcement officers. If they suddenly come into contact with a violent offender – regardless of the offence committed, no one including the offender cares what shoulder flash that officer is wearing when behaviour escalates without warning and violence begins. These situations, albeit fairly rare can and do happen.

CEB has prudently enacted policies and procedures to mitigate risk associated with the higher-risk aspects of NRO work. The reality is quite simply that disengagement from every situation isn't always possible for a variety of reasons (human behaviour escalates rapidly without provocation or warning; officer becomes physically constrained by environment or position; officer's partner compromised; officer working with another agency member who may be compromised; officer working with private contractor who may be compromised; officer falls down; officer becomes injured; etc.). The inability to safely disengage from a situation is a foreseeable risk for which existing risk mitigation policy will never be the answer. More can and, in accordance with law, must be done.

The issuance of PPE to compliance and enforcement officers in Canada is not uncharted territory. PPE in the form of soft body armour (SBA), expandable batons, and OC spray have been issued to a variety of enforcement agencies across BC and Canada. Many of these agencies do not engage in duties that involve the kinds of risks that BC NROs face.

The issuance of PPE to BC NROs has been on the table for more than 5 years.

The implementation of the appropriate PPE within CEB would be a relatively seamless process – including the delivery of certification training, policy and procedures which are already in a pre-developed state.

It is recommended that additional PPE be issued to all NROs as soon as practicable.

- Issue current, state of the art expandable batons along with retention/security holsters (tension spring; cover/hood; snaps/Velcro®; etc.) to all NROs.
- Issue current, state of the art oleoresin capsicum personal defense spray (vs. "Bear Spray" – which is essentially the same product and works on the same control/defense principle – the only difference is the product's formulation and packaging) along with retention/security holsters (tension spring; snaps; cover/hood; etc.) to all NROs.
- Develop and deliver comprehensive training, evaluation, certification and re-certification standards in the context of use, carrying, retaining, displaying, actual use and follow-up measures of the expandable baton and OCS – for defensive purposes only (in accordance with the Criminal Code of Canada the National Use of Force Framework and CEB Policy). These are in a pre-developed state and easily modified to suit the needs of CEB.
- Develop and implement restrictive policy and procedures around the carry, display – for defensive purposes only, use – for defensive purposes only, and follow-up measures of expandable batons and OCS personal defense spray. These are in a pre-developed state and easily modified to suit the needs of CEB.
- Develop and implement policy around comprehensive reporting on the display, use, and follow-up measures of expandable batons and OCS personal defense spray.

This recommendation is prudent, achievable and harmonious with risk mitigation steps already in place in the areas of policies and procedures. This recommendation represents a more comprehensive risk mitigation strategy. It is incumbent upon the employer to ensure that they have implemented comprehensive – not partial risk mitigation strategies. The Courts have made this clear.

