

AFFIDAVIT OF LARRY P. DANAHER

Personally appeared before the undersigned notary public, duly authorized to administer oaths, Larry P Danaher who on oath states as follows:

(1)

My name is Larry P Danaher. I am a competent to testify and have personal knowledge about the matters herein.

(2)

I am presently the Safety and Security Director for the municipality of Lafayette, Indiana. Prior to being appointed Safety and Security Director, I was a police Commander for 20 years for the city of Lafayette, Indiana. During my 20 year career I have had to handle large political and civil protest demonstrations as a supervisor on the scene as well as the head commander in central command. In that position, I was responsible for the development of policies and procedures and for ensuring that those policies and procedures were carried out properly. In order to ensure officers would meet those standards, I had to educate and train the rank and file of the Lafayette Police Department, as well other assisting jurisdictions. I am familiar with the incidents that occurred in the fall of 1997, in Humboldt County, I have faced similar situation in my career where non-violent protestors were requested to be removed from private property.

(3)

I am a police trainer and consultant. I have trained police officers, state and federal officers throughout the United States. My training programs have been seen in all 50 states. I have met the President of the United States, and was invited to demonstrate for

him both use of force techniques as well as discuss with him the concept of reasonable force as it relates to law enforcement. A considerable portion of my professional and academic life involves the study and analysis of the conduct of police officers, police departments, and their customs and practices to include police deviance, excessive force, police procedures, and disciplinary procedures, among other subjects. My main area of focus as a trainer and consultant is police use of force. I have conducted research with the Department of Justice on what officers consider should be reasonable force. In that research the use of OC was analyzed. I am an OC instructor, and when I teach on the topic of police liability I discuss the proper use of OC .

(4)

I have been qualified on numerous occasions throughout my professional career as an expert on use of force, training and police procedures by federal and state courts throughout the nation. I have been called upon both by the plaintiffs and defendants in civil actions, and prosecution and defense in criminal matters, to examine the conduct of law enforcement personnel for purpose of determining their conformity to nationally accepted standards and procedures of law enforcement profession. For further information on my qualifications my CV is attached to this affidavit.

(5)

As a professional police trainer and consultant, it is very important that I study police incidents throughout the United States, as well as court decisions that affect how police officers and their departments must conduct themselves. By studying these events and court decisions I can provide advise to law enforcement officers and their departments on what the trends are, and how to conduct themselves in a proper and professional manner.

One such case which received nationwide attention was the use of OC on protesters occurring in the fall of 1997 in Humboldt County. When I conduct Use of Force seminars or Police Liability seminars, I show video footage of the OC being used against the non-violent restrained individuals in Humboldt County. This video footage has a profound effect on my students. The video footage clearly demonstrates what an officer should not do when trying to affect arrest on peaceful demonstrators, and when the ninth circuit decision and then jury verdict in this case came out, it validated the lessons I have been teaching in my workshops. Prior to these court decisions I was telling my students that the way the officers were using OC on the peaceful demonstrators was likely going to expose themselves and their departments to civil liability. The way the officers used OC in this case has never been taught to my knowledge. OC is an extremely useful tool for law enforcement and should be used in a defensive manner. This case also demonstrates how important it is to control your line officers, and to provide them with proper training to handle such incidents. This incident also illustrated how important it is not to push the envelope as law enforcement officers and that a plan should be in place so officers or supervisors are not required to proceed without guidance, leading to the type of improvisations demonstrated in this case. Never before in my career have I seen anyone use OC in such a fashion. The ninth circuit decision and the jury verdict in this case now establish clearly how officers and their departments should act and how they expose themselves liability-wise if they act differently. Due to the results of this case, as an OC instructor and advisor to law enforcement officers and agencies across the nation, I am now able to provide a clear definition and example of use of OC which will result in a finding of excessive force. I am able to meaningfully educate police as to how to avoid such

situations through proper use and training, especially in connection with non-violent civil protest scenarios or other non-defensive situations, where no threat is presented to officers or public safety.

FURTHER. AFFIANT SAYETH NOT.

Larry P Danaher

Sworn to and subscribed before me
this 29th day of June, 2005 in Tippecanoe
County, Lafayette, Indiana