



**IN THE MATTER OF ALLEGATIONS OF IMPROPER CEW USAGE BY ELK POINT
RCMP IN 2019**

**DECISION OF THE ASSISTANT EXECUTIVE DIRECTOR OF THE ALBERTA
SERIOUS INCIDENT RESPONSE TEAM**

Assistant Executive Director:

Matthew Block

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Introduction

On October 30, 2019, pursuant to s. 46.1 of the *Police Act*, the Director of Law Enforcement directed the Alberta Serious Incident Response Team (ASIRT) to investigate potential improper usage of conducted energy weapons (CEWs) by Elk Point Royal Canadian Mounted Police (RCMP) officers in 2019. ASIRT designated two officers as subject officers, with notice to each. ASIRT's investigation is now complete.

ASIRT's Investigation

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols, and in accordance with the principles of major case management. Investigators interviewed all relevant police and civilian witnesses, and secured and analyzed all relevant radio communications.

ASIRT investigators interviewed nine police officers, including the two subject officers, and six civilian RCMP employees, including the affected person (AP).

Circumstances Surrounding the Incident

The AP was a civilian employee at the Elk Point RCMP detachment from early 2018 to late 2019. She said that, during that time, officers had pointed their CEWs at her. She knew they had pointed it at her because she saw the red laser from the CEW, used for targeting, on her. She identified subject officer #1 (SO1) as pointing it at her, and she also thought that subject officer #2 (SO2) may have as well.

The AP was able to describe one incident, which happened in the summer of 2019. The AP had seen the red laser and then turned to see SO1 holding his CEW. She had not seen him point it at her. The civilian witness (CW) was present when this happened.

The AP was unable to provide other dates when the CEW was pointed at her, but said it happened multiple times. She did not recall specific details about these incidents. She did not think the subject officers ever intended to discharge the CEW at her.

Subject Officer #1's (SO1) Statement

SO1 provided ASIRT investigators with a written statement but did not answer follow up questions. As the subject of a criminal investigation, he is entitled to rely on his right to silence like any other person.

SO1 stated that he never pointed his CEW at the AP.

Subject Officer #2's (SO2) Statement

SO2 provided ASIRT investigators with two written statements and answered follow up questions in an interview.

SO2 stated that he never pointed his CEW at the AP. He said that, in the past, he and other officers had pointed their CEWs at each other as a joke at times. There was never a cartridge in the CEW when this was done, so it could not discharge.

The Civilian Witness' (CW) Statement

ASIRT investigators interviewed the CW. She said that it was common for officers in the detachment to point their CEW lasers at her and other civilian staff as a joke. She said that SO1 had done this in the past, but she did not recall SO2 doing this. She said that it was always done as a joke and was never threatening.

Analysis

A CEW is a prohibited weapon. Police officers are permitted to possess or use them only in the course of or for the purpose of their duties. Pointing a CEW at a staff member is not in the course of their duties, whether for a joke or not.

Potential offences include careless use of a prohibited weapon, assault with a weapon, and threats.

A CEW functions in two main ways. It can deliver a stun directly if the CEW is placed on a person. If loaded with a cartridge, it can fire prongs at a person from a distance and then deliver the stun through those prongs. Whether there is a cartridge in a CEW is therefore important to determining if some offences were committed, since pointing a

CEW with no cartridge in it from a distance at someone cannot cause them harm. A person can still be threatened by a CEW without a cartridge, however.

Prosecution Opinion

Based on the AP's statement, there were reasonable grounds to believe that an offence may have been committed by the SO and, as required by the *Police Act*, this matter was referred to the Alberta Crown Prosecution Service (ACPS) for an opinion on whether charges should be laid.

On July 6, 2021, the ACPS recommended no charges.

It is important to note that ASIRT and ACPS are bound by different standards when assessing the viability of charges arising out of an investigation. ASIRT, as the investigative body, applies a *Criminal Code* standard that determines whether reasonable grounds exist to believe that an offence has been committed. ACPS, based on its internal policy regarding criminal prosecutions applies a standard which examines whether there is a reasonable likelihood of conviction arising out of the evidence, and whether it is in the public interest to proceed with a prosecution. As is evident in this case, the application of these two different standards to the same investigation will, in some cases, result in different conclusions regarding the same file. In this case, while ASIRT found reasonable grounds to believe an offence had been committed, for the reasons provided in their opinion, the ACPS did not recommend that charges be laid.

Conclusion

The AP said that SO1 and possibly SO2 had pointed their CEWs at her while she was working in the Elk Point detachment. The CW agreed that there had been CEWs pointed at staff in the detachment in a joking manner, and SO2 said he had been involved in such actions before, although not with the AP.

CEWs are prohibited weapons in Canada and must be treated with care. While the evidence gathered in this investigation was insufficient to support specific criminal

charges, there is evidence of misuse of CEWs in Elk Point detachment. Such matters are outside of the scope of ASIRT and are more properly dealt with by the RCMP internally.

Original signed

Matthew Block

Assistant Executive Director

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