



**IN THE MATTER OF A RED DEER RCMP OFFICER-INVOLVED SHOOTING ON
AUGUST 24, 2020**

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

Assistant Executive Director:

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Introduction

On August 24, 2020, pursuant to s. 46.1 of the *Police Act*, the Director of Law Enforcement directed the Alberta Serious Incident Response Team (ASIRT) to investigate a Red Deer Royal Canadian Mounted Police (RCMP) officer-involved shooting that happened earlier that day. ASIRT designated one subject officer (SO), with notice to him. 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.

ASIRT investigators interviewed three civilian witnesses including the affected person (AP) and attempted to interview one more. They also interviewed three police officers including the SO. ASIRT and RCMP investigators processed the scene of the incident. ASIRT investigators reviewed all police vehicle video and all police radio communications.

Circumstances Surrounding the Incident

On August 24, 2020, Red Deer RCMP officers including the SO were searching for a stolen white Ford Edge that had fled from police the previous day. At 2:21 a.m., the SO located a white Ford Edge in a driveway at a residence. As he drove up to the residence in his marked police vehicle, the Ford Edge's rear passenger door and rear hatch were open and there were several people around (Figure 1).



Figure 1 - SO's vehicle video showing the white Ford Edge, circled in white.

The SO drove by the residence, turned around at an intersection a few metres away, and returned to the residence. The area next to the driveway included a small patch of grass and a large electrical junction box (Figure 2).



Figure 2 - SO's vehicle video showing the area of the driveway to the right of the frame.

The SO parked near the junction box at 2:22:03 a.m. As seen on the rear-facing camera in his police vehicle, the SO steps out of his vehicle briefly. The flat deck truck, shown parked in front of the residence at the far right in Figure 1, drove away. The SO then

turned around again, came back, and parked directly in front of the white Ford Edge on an angle at 2:22:55 a.m. (Figure 3).



Figure 3 - SO's vehicle video showing his parked position in front of the Ford Edge.

The SO stepped out of his vehicle at 2:23:04 a.m. Three seconds later, the Ford Edge's lights turned on and their reflection could be seen in the black truck's rear side panel. At 2:23:09 a.m., the reflection of the lights moved forward and then disappeared. One second later, the SO's police vehicle rocked, indicating some sort of contact. At 2:23:11 a.m., the rear-facing camera shows the Ford Edge driving away. The SO ran after the Ford Edge for a short distance before returning.

Between the time the SO stepped out of his vehicle and when the Ford Edge was out of sight, the SO fired five shots at the AP. One shot hit the AP in the left calf.

Affected Person (AP)

ASIRT investigators interviewed the AP on September 1, 2020.

The AP told investigators that a friend had asked her to drive the Ford Edge to another friend's residence and unload some tools. The AP suspected that both the Ford Edge and the tools were stolen. She was at the residence unloading the tools when a police vehicle drove up quickly and the driver slammed on the brakes, stopping in front of the residence.

Her friend then ran to the flat deck truck and drove away. The police officer briefly chased the flat deck truck before returning to the residence. The officer parked next to a vehicle on the street and was not blocking the Ford Edge in the driveway.

The AP said she did not want any trouble, so she got into the Ford Edge and started to drive away. The police officer got out of his vehicle and started shooting at her. He was approximately six feet away from her front bumper. He did not say anything to her or indicate she should stop. The AP said she did not have to drive around the officer.

Affected Person's Charges

The AP was charged with assaulting a peace officer with a weapon, dangerous driving, and possession of a stolen motor vehicle. She pled guilty to the dangerous driving charge and received a six-month conditional sentence order, one-year probation order, and a one-year driving suspension.

Other Civilian Witnesses

ASIRT investigators interviewed the owner of the residence, civilian witness #1 (CW1), and a neighbour, civilian witness #2 (CW2).

CW1 was at home when the AP and a male arrived in the middle of night. He was surprised to see them, and they were unloading tools. A police officer arrived and CW1 went inside his residence. He then heard five gunshots immediately. CW1 then exited his residence and saw that the Ford Edge was near a gas station a short distance away, and the SO was trying to regain his balance.

CW1 initially said he did not have surveillance video of this incident because there was no hard drive in the surveillance system. He later said that he had lied about not having it, but now someone else had the hard drive. ASIRT investigators made inquiries about the video but never located it. CW1 said the video showed the SO shoot twice, pause, and

then shoot three more times as the AP was further away. This contradicted his earlier statement.

CW2 provided information about before and after the shooting but did not witness the actual incident.

Subject Officer (SO)

ASIRT investigators interviewed the SO on September 30, 2020. He provided a written statement and answered follow-up questions. As the subject of a criminal investigation, the SO was entitled to rely on his right to silence and not speak to ASIRT.

In the early morning of August 24, 2020, the SO was searching for the white Ford Edge that had fled from police the previous day. When he turned down a street, he spotted a Ford Edge with its doors open. As he drove up, he rolled down his window. He saw two or three males running away and cursing. He heard the flat bed truck start up and drive away.

He parked facing the Ford Edge and got out of his police vehicle. He then saw the AP in the driver's seat, and she was staring at him. He thought there was approximately two to three metres between the two vehicles. He was between the driver's side of his vehicle and the front of the Ford Edge.

The AP then started to drive forward. He thought that he had no way to avoid the vehicle and that he was going to die. He drew his handgun and started to fire at the AP in rapid succession. His objective was to stop the immediate threat to himself.

He stopped firing when he saw the driver's door, which meant the vehicle had not hit him.

ASIRT investigators analyzed the SO's handgun and magazines and found that five rounds were missing.

Scene

ASIRT investigators and RCMP forensic officers operating at ASIRT's direction processed the scene (Figure 4).



Figure 4 - Picture of the scene showing the area around the driveway.

There were five shell casings found on the street. The black truck's bumper was 25 centimeters from the edge of the street. Using the SO's vehicle video, the position of the Ford Edge prior to driving was estimated at 1.8-2.0 metres.

The Ford Edge was processed. There were five bullet holes on the exterior (Figure 5).

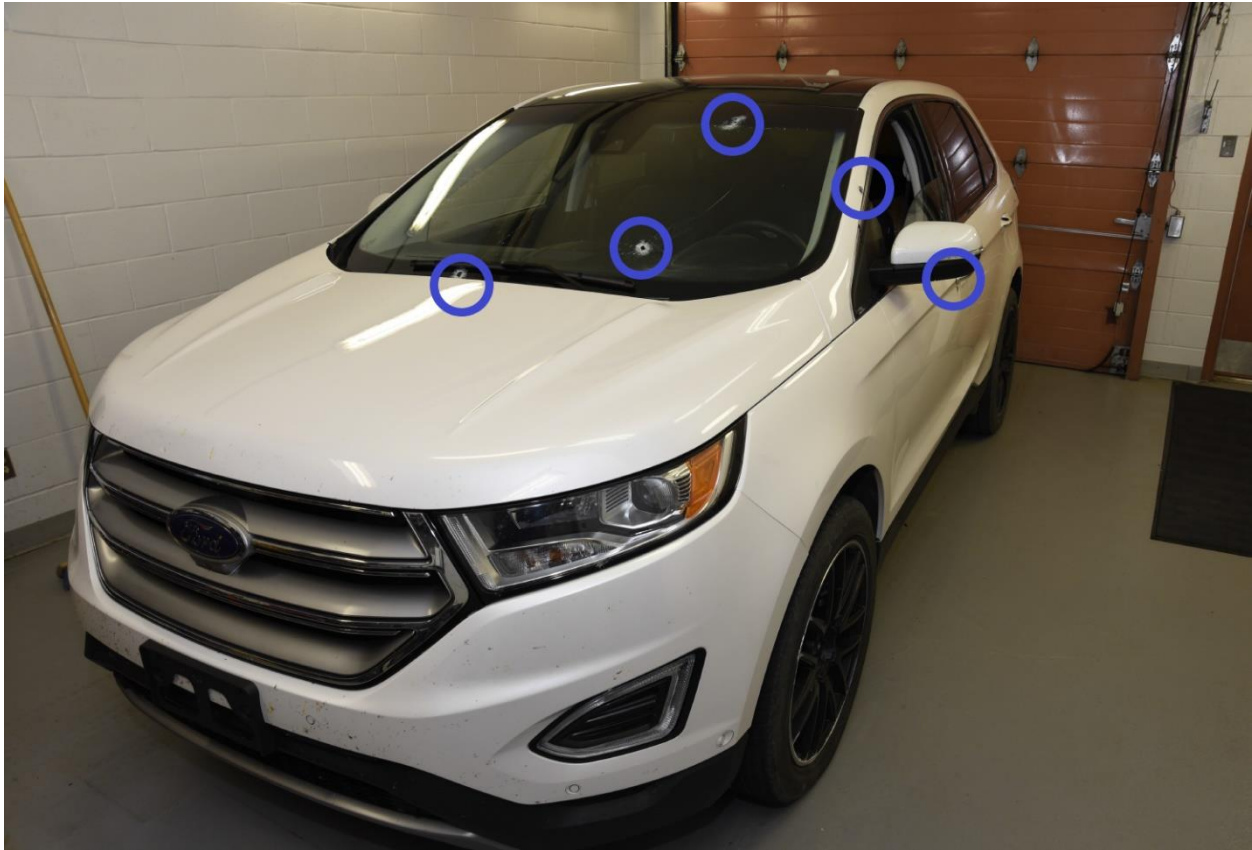


Figure 5 - Ford Edge with bullet holes circled in blue.

Rods were placed in bullet holes where it might be possible to determine trajectory. The four bullet holes on the windshield and front driver's side pillar appeared to show a front-

to-back trajectory. The bullet hole in the driver's door showed a downward and back-to-front trajectory (Figure 6).



Figure 6 - Bullet hole in the Ford Edge's driver's door.

The shot that went through the driver's door is the one that hit the AP in the left leg, given the placement of other shots.

Analysis

Facts

Both the AP and the SO agree that the SO shot at the AP when the Ford Edge was starting to drive away. CW1 also said initially that the SO shot five times immediately. CW1 changed his version later, but there is no evidence to support that the SO shot at the AP after she had driven away.

The trajectory of the five bullet holes provides some evidence about where the SO was as he fired at the AP. He was in front of the Ford Edge for four shots, the ones in the windshield and the front driver's side pillar. The trajectory of the bullet hole on the driver's door indicates that the SO was beside the Ford Edge and shooting toward the front as it started to pass him. Whether the Ford Edge was right next to him or had completely passed him depends on their relative position and cannot be determined from the trajectory alone since he could have been anywhere along the trajectory line.

The SO's vehicle video and scene photographs provide evidence of the position of the vehicles during the incident. There were four vehicles in the driveway. On the right side of the frame, there is a black truck with its bumper 25 centimeters away from the edge of the street. On the left side is the Ford Edge, which is approximately two metres away from the edge of the street. When the SO stopped for the second time, he was parked diagonally in front of the Ford Edge, as shown in Figure 3.

Once the SO stepped out of his vehicle, his motion was limited by the placement of his vehicle, the black truck, and the Ford Edge. He was also very close to the Ford Edge immediately, directly in front of it, and had no cover. Once the AP started driving, the SO was in danger of being run over.

The AP said that she came within six feet of the SO. While it is likely that the AP drove closer than that, even within six feet is very dangerous. When a police officer stops directly in front of a vehicle and exits the vehicle, the driver cannot reasonably think that driving forward and trying to get away is not threatening the officer's life.

Based on the small area that the SO was in while the AP was driving, he would have been very close to the Ford Edge. For the shot that went through the driver's door then, he was likely well within two metres of the Ford Edge when he fired. Based on the trajectory of the bullet hole, he would have been next to the Ford Edge at the time of the shot. There is therefore no issue concerning if the SO shot at the AP after the danger had ended since the vehicle was still next to him.

Section 25 Generally

Under s. 25 of the *Criminal Code*, police officers are permitted to use as much force as is necessary for execution of their duties. Where this force is intended or is likely to cause death or grievous bodily harm, the officer must believe on reasonable grounds that the

force is necessary for the self-preservation of the officer or preservation of anyone under that officer's protection. The force used here, discharging a firearm repeatedly at a person, was clearly intended or likely to cause death or grievous bodily harm. The SO therefore must have believed on reasonable grounds that the force he used was necessary for his self-preservation or the preservation of another person under his protection. Another person can include other police officers. For the defence provided by s. 25 to apply to the actions of an officer, the officer must be required or authorized by law to perform the action in the administration or enforcement of the law, must have acted on reasonable grounds in performing the action, and must not have used unnecessary force.

All uses of force by police must also be proportionate, necessary, and reasonable.

Proportionality requires balancing a use of force with the action or threat to which it responds. This is codified in the requirement under s. 25(3), which states that where a force is intended or is likely to cause death or grievous bodily harm, the officer must believe on reasonable grounds that the force is necessary for the self-preservation of the officer or preservation of anyone under that officer's protection. An action that represents a risk to preservation of life is a serious one, and only in such circumstances can uses of force that are likely to cause death or grievous bodily harm be employed.

Necessity requires that there are not reasonable alternatives to the use of force that also accomplish the same goal, which in this situation is the preservation of the life of the officer or of another person under his protection. These alternatives can include no action at all. An analysis of police actions must recognize the dynamic situations in which officers often find themselves, and such analysis should not expect police officers to weigh alternatives in real time in the same way they can later be scrutinized in a stress-free environment.

Reasonableness looks at the use of force and the situation from an objective viewpoint. Police actions are not to be judged on a standard of perfection, but on a standard of reasonableness.

Section 25 Applied

The SO was following his duty to investigate offences when he located the Ford Edge that morning, which he suspected was a stolen vehicle that had fled from police. When the

AP started driving toward him in the small space, the SO's duty to preserve life and safety was engaged for his own life and safety.

The AP, by driving toward the SO in a confined space, risked running him over and killing or seriously harming him. The SO, by firing his handgun at the AP, intended to cause death or grievous bodily harm. These two were proportionate.

In the small space where the SO found himself, there were no reasonable alternatives to the use of force. Trying to escape in any direction would have put him closer to the AP's vehicle or in its path. There was no time to wait due to the small distance. This was a very short encounter, with the time from the SO stepping out of his vehicle to the Ford Edge driving out of the area being eight seconds. The SO's use of force was necessary.

The SO's use of force overall was reasonable. As noted above, the AP was acting dangerously and there was no other logical conclusion than that she intended to run him over.

Based on the above, the defence provided to the SO under s. 25 of the *Criminal Code* is likely to apply.

Section 34 Generally

A police officer also has the same protections for the defence of person under s. 34 of the *Criminal Code* as any other person. This section provides that a person does not commit an offence if they believe on reasonable grounds that force is being used or threatened against them or another person, if they act to defend themselves or another person from this force or threat, and if the act is reasonable in the circumstances. For the act to be reasonable in the circumstances, the relevant circumstances of the individuals involved and the act must be considered. Section 34(2) provides a non-exhaustive list of factors to be considered to determine if the act was reasonable in the circumstances:

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the person's role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon;

- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
- (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to the use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.

The analysis under s. 34 for the actions of a police officer often overlaps considerably with the analysis of the same actions under s. 25.

Section 34 Applied

It was reasonable for the SO to believe that the AP was about to run him over, and he acted reasonably in firing his handgun to defend himself from this. For these reasons and those above related to s. 25, the defence under s. 34 will also likely apply.

Tactical Considerations

There have been many ASIRT investigations of officer-involved shootings where a police officer parks near a vehicle, the vehicle starts to move, and the officer fires at the fleeing vehicle. While the officer is justified in their use of force in most of these situations including this one, this scenario puts the public and everyone involved at an increased risk of harm. A police officer firing at someone in public, even when justified, creates a risk that a bystander will be struck. The police officer, as noted above, can be run over and injured or killed. The driver, while the author of their own misfortune, can also be killed.

The danger of the situation is created when the police officer exits their vehicle while close to a vehicle that is not immobilized. When the officer exits, they can start a chain of events that leads to a very dangerous situation and an officer-involved shooting.

This danger can be reduced in many ways including increasing the distance between the vehicles, positioning the police vehicle to provide cover, waiting for backup, and, where

appropriate, intentional vehicle contact to prevent the other vehicle from moving. If such tactics are used, the police officer will often be in less danger of injury or death and an officer-involved shooting may be avoided. To be clear, however, this incident was caused by the AP's actions and not the SO's actions.

Conclusion

On August 24, 2020, the SO found a vehicle matching a potential stolen vehicle that had fled police earlier. When he stopped and got out of his vehicle to investigate, the AP started driving toward him. The SO fired his handgun five times at the AP, striking her leg. Given the small space that the SO was in and that the AP was driving at him, his use of force was justified. As a result, there are no reasonable grounds to believe that an offence was committed.

Original Signed

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