



CANADA
Province of Alberta

Report to the Minister of Justice and Attorney General Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the Law Courts, 1A Sir Winston Churchill Square
Courtroom 266 (North)

in the City of Edmonton, in the Province of Alberta,
(City, Town or Village) (Name of City, Town, Village)

on the 19th, 20th, & 21st day of January, 2009, (and by adjournment
year)

on the _____ day of _____, _____),
year

before Bruce R. Garriock, a Provincial Court Judge,

into the death of Darren James Cardinal 27
(Name in Full) (Age)

of Unknown and the following findings were made:
(Residence)

Date and Time of Death: June 30, 2006 at 03:23 hours

Place: University of Alberta Hospital, 8440 -112 Street, Edmonton, Alberta, T6G 2B7

Medical Cause of Death:

("cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – The Fatality Inquiries Act, Section 1(d)).

Multiple gunshot wounds

Manner of Death:

("manner of death" means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – The Fatality Inquiries Act, Section 1(h)).

Homicidal

Circumstances under which Death occurred:

Introduction

1. In the early hours of June 30, 2006, in the basement of a duplex unit in Edmonton, Alberta, Darren James Cardinal was involved in an exchange of gunfire with members of the Edmonton Police Service (“EPS”). Shortly thereafter, Mr. Cardinal was admitted to the University of Alberta Hospital at Edmonton, Alberta where he expired due to wounds inflicted by firearms discharged by EPS members.

2. In setting out the circumstances of Mr. Cardinal’s death, I will deal with the following topics:

Preliminary Matters

Exhibits

Events Leading up to the Shooting – Cardinal

Events Leading up to the Shooting – EPS

EPS Confrontation with Cardinal – the Shooting

Post Shooting – Cardinal

Post Shooting – Furman

Treatment of Cardinal at the University of Alberta Hospital

Autopsy of Cardinal

EPS Investigation

EPS Officer Safety / Tactical Assessment of the Incident

EPS Operational Review of the Incident

Ancillary Issues

Submissions

Officer Down Casualty Care Course

Recommendations for the Prevention of Similar Deaths

3. Throughout this Report:

a) all dates are in 2006 unless otherwise indicated;

b) all events and locations referred to in this Report were in Edmonton, Alberta unless

otherwise indicated;

- c) all times are on the 24 hour clock;
- d) “Inquiry” means this Fatality Inquiry;
- e) “Residence” means one-half of the duplex municipally described as 12838 – 68 Street, Edmonton, Alberta, where the incident occurred and
- f) reference may be made to the following persons:
 - i) James Bomersback (“Bomersback”), a civilian who met police and reported a man with a gun at the Residence;
 - ii) Neil Boyle (“Boyle”), Inquiry Counsel
 - iii) Darren James Cardinal (“Cardinal”), the deceased;
 - iv) Constable Terry Cassels (“Cassels”) of the EPS who, on June 29 and 30, 2006, was Temporary Acting Sergeant and an initial responder who used his firearm against Cardinal;
 - v) Cory Christianson (“Christianson”) of the Edmonton Medical Services (“EMS”) who attended to Cardinal;
 - vi) Jodie Currie (“Currie”), Inquiry Counsel
 - vii) Dr. Graeme Dowling (“Dowling”), Chief Medical Examiner for the Province of Alberta;
 - viii) Constable Andria Edge (“Edge”) of the EPS, a secondary responder who directed preservation of the scene and evidence;
 - ix) Constable Clayton Ford (“Ford”) of the EPS, a secondary responder who attended to Furman;
 - x) Christina Foulks (“Foulks”), a friend of Tobin who was in the Residence basement bedroom at the time of the shooting;
 - xi) Constable Dan Furman (“Furman”) of the EPS, an initial responder who deployed his taser at Cardinal and who was shot by Cardinal;
 - xii) Trent Haineault (“Haineault”), a civilian who lived at the Residence;
 - xiii) Sergeant Ray Hogan (“Hogan”), formally of the EPS, who gave evidence as to training and the use of firearms by the EPS and a tactical assessment of this incident;
 - xiv) Detective Dennis McGeady (“McGeady”) of the EPS, the primary

- investigator of this incident;
- xv) Barbara Marcel (“Marcel”), a civilian who lived at the Residence;
 - xvi) Constable Craig Matthewson (“Matthewson”) of the EPS, a secondary responder who attended to Furman;
 - xvii) Constable Jason Mitchell (“Mitchell”) of the EPS, an initial responder who used his firearm against Cardinal;
 - xviii) Inspector Terry Rocchio (“Rocchio”) of the EPS, who gave evidence as to his assessment of training, equipment and policies of the EPS regarding this incident;
 - xix) Wells Siyo (“Siyo”), a civilian who met with Cardinal on the day prior to the shooting;
 - xx) Heather Steinke (“Steinke”), counsel representing the EPS
 - xxi) Angie Tobin (“Tobin”), Cardinal’s girlfriend who was in the Residence basement bedroom at the time of the shooting;
 - xxi) Bruce Wade (“Wade”) of EMS who attended to Furman.
 - xxii) Mr. Ward (“Ward”), father of Cardinal
 - xxiii) Lionel Whittaker (“Whittaker”), Inquiry Counsel; and
 - xxiv) Mark Young (“Young”), counsel representing the City of Edmonton

Preliminary Matters

4. A Pre-Inquiry Conference was held before me on October 7, 2008, at 14:00 hours at the Law Courts, 1A Sir Winston Churchill Square, Edmonton, Alberta. In attendance were Boyle, Currie, Whittaker, Ward, Steinke, and Young. The following preliminary issues were addressed:
- a) on application by Steinke, the Chief of the EPS was granted Interested Party status under section 49(2) of the *Fatality Inquiries Act*;
 - b) Inquiry counsel advised Ward that the next of kin or personal representative of the deceased were entitled to appear at the Inquiry, either personally or through legal counsel, to cross examine witnesses and present arguments and submissions;
 - c) Boyle provided a schedule for calling the witnesses at the Inquiry;
 - d) a copy of the Exhibits was provided by Boyle to Ward on the condition that he return all of the exhibits at the conclusion of the Inquiry; and

- e) Young advised that he did not intend to apply for Interested Party status on behalf of the City of Edmonton under section 49(2) of the *Fatality Inquiries Act* and did not appear at the Inquiry.
5. At the commencement of the Inquiry, and before evidence was heard, I advised those present of the provisions of section 49 of the *Fatality Inquiries Act* and the right of interested persons to apply for standing in the Inquiry. No one at the Inquiry indicated a desire for such standing.

Exhibits

- 6. Exhibit 1 - Binder 1 of 2 - containing documents obtained from the Medical Examiners Office, the EMS and the EPS.
- 7. Exhibit 2 - Binder 2 of 2 - all photographs taken by either the Medical Examiner's Office or the EPS.
- 8. Exhibit 3 - diagram of the basement of the Residence.
- 9. Exhibit 4 - diagram of the bedroom in the basement of the Residence.
- 10. Exhibit 5 – diagram of the furnace room in the basement of the Residence.
- 11. Exhibit 6 – *Curriculum Vitae* of Dowling.
- 12. Exhibit 7 – six page briefing note from Furman dated July 15, 2008 to EPS Acting Superintendent, Garry Meads, regarding the Officer Down Casualty Care Course.
- 13. Exhibit 8 – seven page report prepared by Det. Robertson of the EPS.

Events Leading Up to the Shooting – Cardinal

- 14. Siyo, a friend of Cardinal's, talked to Cardinal by telephone a number of times on June 29, 2006. A friend of Siyo's was selling a bike. Cardinal later met Siyo and his friend and agreed to buy the bike, but he did not take the bike at that point. Siyo called Cardinal back later and was told to meet Cardinal at the Residence.
- 15. Siyo said that Cardinal had been drinking and appeared a little on edge that day.
- 16. Siyo stated that he and his friend parked their van (containing the bike that Cardinal agreed to buy) at the rear of the Residence at around 20:00 to 23:00 hours.
- 17. As Siyo walked up to the side door of the Residence, he noticed two policemen coming out of the Residence (Furman and Mitchell).
- 18. Siyo testified that he knew Cardinal had a weapon that day because he usually carried one. He advised that Cardinal was a diabetic, that he did not take his medicine often, that he would

drink at times and lose his temper and that a lot of people were scared of him because he was unpredictable. Further, Cardinal stated to Siyo many times that if the police showed up they would not take him alive. Siyo said that Cardinal had a beer and a couple of other drinks that day. While Cardinal usually possessed a lot of dope, Siyo did not see Cardinal use dope that day.

19. Marcel, who lived in the Residence with Haineault, said that in the morning on June 29, 2006, Cardinal showed up at the Residence with Tobin, his girlfriend and another girl. After smoking crack, they left in the afternoon and came back to the Residence later that evening. Marcel said that she knew Cardinal because she had purchased drugs from him several times.
20. Neither Marcel nor Haineault recalled how Cardinal was dressed when he came back to the Residence for the second time that evening. Marcel thought that he had a cap on, but does not remember if it was red.
21. Marcel said that Bomersback arrived at the Residence after Cardinal and the two girls came back to smoke drugs. Tobin and Foulks went downstairs and Marcel sensed that Cardinal did not want Bomersback around, so she told Bomersback that he should leave. Marcel did not see Cardinal flash a gun.
22. Later, after Bomersback left the Residence, Marcel went to the front steps and saw EPS members at the other half of the Residence duplex at 12840 – 68 Street. She later answered the door when the police came to the Residence and informed them that it was only her and Haineault there. There was some inconsistency about how the EPS members entered the Residence. Marcel said that when she opened the door to the Residence, “they just pushed their way in sort of, kind - - they pushed the door open and just walked - - walked in” and she did not object. Cassels testified that Marcel invited them in. Mitchell stated that after Marcel opened the door, he asked her if the homeowner was home and “we followed her inside”. She advised that she was initially reluctant to reveal the presence of the other people downstairs because they all had been using drugs. Marcel eventually revealed to the EPS members that a couple were staying downstairs overnight.

Events Leading Up to the Shooting – EPS

23. On June 29, 2006, Furman and Mitchell were working together at EPS North Division Patrol. At the time, Furman had approximately two and a half years of service with the EPS and Mitchell had approximately three years of service. Both Furman and Mitchell were in uniform and in a marked patrol vehicle. Furman was equipped with his service pistol, his conductive energy device (taser), baton, OC spray and handcuffs. Mitchell had all of the same equipment as Furman with the exception of the taser.
24. Shortly after responding to an assault complaint at about 23:20 hours on June 29, 2006, and speaking with a group of kids in the vicinity of 67 Street and 129 Avenue, Furman and Mitchell first noticed Bomersback. At the time, Bomersback had his shirt off and appeared to be holding something wrapped in his shirt.
25. After losing sight of Bomersback, Furman and Mitchell observed him coming out of some bushes at about 23:30 hours on the east side of 66 Street and 129 Avenue. He just had the

shirt and nothing else in his hand and the officers asked him what he previously had wrapped in his shirt. Bomersback went back into the bushes and he came back with a hedging blade.

26. After confiscating the hedging blade and a knife from Bomersback, Furman and Mitchell were told by Bomersback that he was scared as there were some people in the area that were after him. They both testified that Bomersback appeared intoxicated by alcohol. Further, they ran Bomersback's name in the system and discovered he had a criminal record.
27. Thereafter, Furman and Mitchell went back to the initial assault scene. Bomersback approached them again, this time a little before 24:00 hours, concealing a beer in his shirt. Bomersback mentioned that there was someone with a gun in a house with a white picket fence in the area where he had just come from. He said that the person with the gun was black and wore a red hat and grey sweatpants. Furman and Mitchell were suspect of Bomersback's story as he appeared was more intoxicated than when they spoke to him earlier.
28. At approximately 23:45 hours, Furman and Mitchell called Cassels and discussed the situation with him. At 23:55 hours, Cassels met them at 68 Street and 129 Avenue. They developed a plan to try to find the location of the residence where Bomersback said there was someone with a gun.
29. Shortly thereafter, Cassels, Furman and Mitchell located a duplex beside a white picket fence at 12840 – 68 Street, and knocked on the door. A gentleman and his wife answered and told them that there was no trouble there, but that they might want to look at the adjoining unit (the Residence). At that time, Furman and Mitchell noticed a female (Marcel) stick her head out the window in the front door of the Residence and then pull her head back in.
30. After a couple of minutes, the three EPS members walked down a sidewalk that led between the Residence and another detached residence to the back alley where they questioned people standing around a vehicle parked in the rear of the Residence (Siyo and others). While having this conversation, Furman noticed someone from the rear of the Residence look out the window and then move away from the window.
31. The EPS members decided to speak with the people in the Residence (Marcel and Haineault) and knocked on the side door at about 00:15 hours on June 30, 2006. Furman followed Mitchell and Cassels into the side entrance of the Residence where Cassels and Mitchell went up two to three steps from a landing into the kitchen. To their right, stairs led down to the basement. Furman stayed in the landing area.
32. While in the landing area, Furman saw a black individual (later identified as Siyo) running along the sidewalk at the side of the Residence from the rear to the front. Furman went to question him and was satisfied that he was not the person they were looking for. Mitchell came outside and saw Furman at the front of the Residence. Then they both went back into the side entrance to the Residence. Cassels continued talking with Haineault and Marcel on the main floor.
33. Shortly after Furman and Mitchell re-entered the Residence, they heard some voices in the basement and decided that they should go to the basement to investigate. Mitchell led the way down to the basement and Furman followed with his taser deployed. Furman stated that he was not sure when he drew his taser, but because of the type of house it was (nobody seemed

to be able to give them any kind of information, there were windows missing and the house was unkempt), he had his taser at the “ready”. Furman said he did not think it was necessary for Mitchell to draw his service pistol at that time.

34. The basement was messy with a lot of dirty old clothes and articles lying around. There were two rooms in the basement, a bedroom and a furnace room.
35. Furman and Mitchell could see two people lying in the bedroom (later identified as Foulkes and Tobin) which was in the southwest corner of the basement. While Mitchell questioned the two females in the bedroom, Furman noticed a red ball cap on top of two milk crates in the bedroom closet and remembered the earlier conversation with Bomersback regarding the person with the gun allegedly wearing a red ball cap. Furman told Mitchell about seeing the red hat and that he was going to the furnace room.

EPS Confrontation With Cardinal – the Shooting

36. Furman entered the furnace room with his wrists crossed, holding a flashlight in his left hand and the taser in his right hand. He tried to pull on the light chain for a light, but did not know if it worked. Something caught his attention to his right, and he brought over his flashlight and taser and saw Cardinal, still on his feet, but crouching.
37. Furman said that in the light of the flashlight, Cardinal was “bouncing up and down”, smiling and appeared to be impaired by some kind of drug. There was no response from Cardinal when Furman asked who he was, what he was doing there and to show his hands.
38. When Mitchell heard voices in the furnace room, he went into the furnace room. This caused Furman to move further into the furnace room, between the furnace and the hot water tank. Furman and Mitchell said that the furnace room was a very small, constrained area.
39. Mitchell told Cardinal to “show us your hands” and there was no response. Mitchell told Cardinal that a taser beam was pointed at him and again asked to see his hands. Mitchell then tried to grab Cardinal. Cardinal screamed and backed up approximately two steps to the north wall. Mitchell assumed Cardinal’s original position in the furnace room and then saw the upper receiver of a handgun held by Cardinal at his side with the barrel pointing at the ground.
40. Mitchell testified that in training, EPS members were taught that when they encountered a similar situation to the one in the furnace room, distance, shielding and movement are the three things that they should implement. He said that the only thing he could think about was the two females in the bedroom and that he had to get back there to watch over them. Mitchell ran out of the furnace room and told Furman that Cardinal had a gun.
41. As Mitchell departed the furnace room, Furman brought up his taser and pointed it at Cardinal just as he saw Cardinal point the gun at him from the other side of the furnace, two and one-half feet away.
42. Furman fired his taser and, as he did, he heard the first pistol shot from Cardinal’s gun. The bullet hit him in the chest, on his Kevlar vest, knocking him down and fracturing his sternum. Furman heard the clicking of the taser and later found out that the bottom dart bounced off

some of the mechanical equipment and never made a connection with Cardinal.

43. Furman was asked about the possibility of using his taser in push stun mode, when the taser is pushed against the target and activated. Furman said that there was no time to use the push stun mode of the taser after he was told that Cardinal had a gun because, in order to do so, the cartridge had to be taken off of the front to remove the probes.
44. After Furman was knocked down, Cardinal stood over him and shot him two more times, once through the hand and once through the right shoulder, the latter shot breaking two ribs, severing his brachial artery and puncturing his lung.
45. Mitchell heard the three shots fired by Cardinal as he ran to the basement bedroom. As he got to the bedroom, he turned around and lay prone on the floor in the entry to the bedroom pointing his handgun toward the furnace room.
46. Cassels was halfway down the stairs leading to the basement when he heard verbal commands being given. As he reached the basement floor, he heard Mitchell yell “Lookout, he’s got a gun”. He then saw Mitchell run out of the furnace room and then lost sight of him. Cassels then pulled out his handgun and moved to the north wall of the basement when he heard the three shots fired by Cardinal at Furman.
47. As Cardinal left the furnace room, he initially headed toward the bedroom and fired his handgun in that direction. He then turned and headed toward the basement stairs. Both Mitchell and Cassels fired a number of rounds at Cardinal who initially did not appear affected. Both Mitchell and Cassels testified that they thought there was something wrong with their guns. Mitchell had no idea at that time that Cassels was on the other side of the basement or that he had been firing his gun at Cardinal as well. Neither of them knew that they were each in the other’s line of fire with Cardinal between them. After Mitchell and Cassels fired at Cardinal a number of times, Cardinal fell onto the basement floor.

Post Shooting - Cardinal

48. After Cardinal was shot and fell onto the basement floor, Mitchell ran to the furnace room door where Furman told him that he had been shot. Mitchell continued to where Cardinal was lying on his right side and still moving. Mitchell grabbed Cardinal’s left wrist to put his arm behind his back and Cardinal resisted him. Mitchell punched Cardinal on the left cheek and kneed him in the back. This caused Cardinal to roll over onto his stomach and he was handcuffed with both hands behind his back. Mitchell then saw Cardinal’s gun about two feet away from Cardinal’s feet, underneath a black garbage bag with a spent brass case sticking outside of the gun. He retrieved the gun in order to remove the magazine and at that time noticed there was no magazine. He placed the gun back on the floor and went to assist Furman in the furnace room.
49. While Mitchell assisted Furman, Cassels went upstairs in the Residence and called Communications for help. EMS apparently received a call in this regard at 00:32:03 hours on June 30, 2006.
50. As EPS members arrived on scene, Cassels instructed two police officers to observe Cardinal.

When Matthewson arrived at the Residence, he noticed two EPS members standing over Cardinal who was then lying face down on the basement floor. Matthewson stated that he had no idea what the two officers were doing standing over Cardinal.

51. When Edge arrived on scene at approximately 00:38 hours, there were between four to ten EPS members in the basement, all in a state of shock as most of them had less than two years experience on the job.
52. Edge stated that the EPS members looking over Cardinal maintained continuity of him and his condition. This meant that, although Cardinal was in handcuffs, it was a very dynamic situation. The EPS members wanted to maintain continuity of the scene as well as ensure that Cardinal did not sustain further injuries and that further action against him would not be necessary. They were not providing any medical attention to Cardinal.
53. When Wade, from the EMS, arrived at the Residence at 00:36:35, he went down to the basement. He observed Cardinal lying on the floor at the bottom of the stairs and Furman leaning up against a pole with an officer supporting him as well as another officer trying to control his bleeding. It appeared to Wade that there was some emergency first aid treatment being provided to Furman.
54. When asked how he determined who he would treat first when he arrived on scene, Wade stated that one of the EPS members told him that Cardinal had been shot numerous times. When he first saw Cardinal, he was lying motionless in a large pool of blood from central wounds. Wade testified he did not realize that Cardinal was even alive at that point. When he looked at Furman, Wade saw blood spewing out and he implemented the START protocol (Simple Triage And Rapid Treatment) under which patients are evaluated at one of four colour levels (green - minor injury; yellow can be delayed, but not for a lot of time; red - requiring immediate care for life threatening injuries; and black - deceased or the injuries are not viable with sustained life). Triage is a process of prioritizing patients based on severity of condition and deciding, with limited resources, who is going to be treated first.
55. Based on his initial observations and under the START protocol, Wade assessed Cardinal as black and Furman as red.
56. As soon as Furman was carried up the basement stairs, paramedics led by Christianson came downstairs and attended to Cardinal. Christianson was dispatched to the scene at 00:34:18 hours, left on route 00:35:10 hours and arrived at the Residence at 00:45:59 hours.
57. When Christianson got to the basement, he saw two officers standing over Cardinal. They were not providing treatment or assistance.
58. In examining Cardinal, Christianson noticed a large amount of blood around Cardinal and that he was awake and talking. He removed Cardinal's clothing and shifted him around to examine the extent of his injuries. Christianson identified 11 gunshot wounds during this examination.
59. Christianson did not perform a Glasgow Coma Scale Test on Cardinal. This determines the severity of the level of consciousness. Christianson said that on his initial examination of Cardinal, he would have given Cardinal a score of 15 on the Glasgow Coma Scale Test, 0

being someone who is deceased. Further, Christianson said that at the time he assessed Cardinal, Cardinal was a red under the START protocol.

60. Christianson testified that his treatment modalities for Cardinal were to get Cardinal to the trauma centre as soon as possible, administer IV and oxygen, and apply dressings to stop the bleeding.
61. There was no change in Cardinal's condition from the point that Christianson commenced his initial assessment to the point that Cardinal was placed in the back of the ambulance and departed the scene.
62. However, shortly after the ambulance left to take Cardinal to the University of Alberta Hospital, Cardinal's heart rate was lost and he went into cardiac arrest. Christianson initiated CPR and incubation, regaining a heart beat before they arrived at the hospital.
63. Christianson's records show that he was ready to take Cardinal to the hospital at 00:51:07 hours and that he keyed in "we're at the hospital" at 01:04:22 hours. Therefore, the elapsed time from his initial dispatch at 00:34:18 hours on June 30, 2006, to his arrival at the hospital at 01:04:22 hours on June 30, 2006, was 30 minutes and 4 seconds. The time spent dealing with Cardinal at the Residence prior to leaving for the hospital was 5 minutes and 8 seconds.

Post Shooting - Furman

64. Furman said that after Cardinal shot him three times, he looked down to his right shoulder and saw blood pumping out, almost like a water fountain and his extremities became numb. He thought that he would have to control his bleeding until he received help. He remembered from his training that if he was ever in a situation like this, that he needed to regulate his breathing. He attempted to breathe in for a count of four and breathe out for the count of four.
65. Mitchell said that when he attended to Furman, every time he patted Furman's back with his surgical glove, it was full of bright red blood. This indicated a lung shot, so he knew that Furman was losing a lot of blood and was in a bad situation. Mitchell then left the furnace room as he was being distracted by the two females (Tobin and Foulks) in the bedroom. He directed both of them to sit down and be quiet, which they did.
66. Thereafter, Mitchell returned to the furnace room and heard more EPS members coming down the stairs to the basement.
67. Although Furman was in and out of consciousness at that time, he remembered other patrol members arriving on scene, particularly Constables Ford, Sparredoom and Zeldenrust who were "all kind of looking at me". He further remembers Mitchell trying to control the bleeding which he realized was an arterial bleed by the colour of the blood.
68. Mitchell, Ford and two other EPS members picked up Furman and dragged him out of the furnace room. Thereafter, they took off his shirt and Kevlar vest to observe his wounds. Mitchell said Furman was placed in a semi-sitting position because he did not want Furman's good lung being filled up with blood. Mitchell thought that one of Furman's lungs was punctured because of his labored breathing. He was fearful that one lung had collapsed and

that the other lung was going to fill up with blood. Therefore, Mitchell propped himself up behind Furman and applied direct pressure to the wound. Furman stated that this action saved his life.

69. Mitchell testified that when he was in the Canadian Armed Forces, he received advanced first aid training and dealt with wounds resulting from gunshot and explosives. As such, he was not unfamiliar with Furman's condition. Mitchell further stated that when he looked at Furman, he had a grey face, his breathing was shallow, he was not talking much, he was in shock and he appeared to be dying.
70. Cassels then instructed Constables Ewart and Matthewson to try to identify the two females in the bedroom. When Constable Griffith arrived, Cassels instructed her to watch over Cardinal's handgun to maintain continuity.
71. At 00:33:10 hours, Wade and his EMS partner were dispatched to the scene. They arrived on scene at 00:36:35 hours.
72. The EMS Dispatch call that Wade received stated that there were two people that had been shot, an EPS member and a civilian.
73. Wade, together with the EPS members assisting Furman, determined that Furman should be moved from the basement. He was taken outside where he was placed on a stretcher and put into the ambulance. From there, Wade and his partner both got into the ambulance and started oxygen and an intravenous line. The ambulance arrived at the Royal Alexandra Hospital at 00:48:40 hours. Therefore, from the point that Wade and his partner were dispatched at 00:33:10 hours to arrival at the Royal Alexandra Hospital at 00:48:40 hours, the time responding to the call, evaluating what was going on scene, getting Furman into the ambulance, providing treatment and getting Furman to the hospital was 15 minutes and 30 seconds.
74. Wade testified that there were only two hospitals in the City of Edmonton that accepted trauma patients, the Royal Alexandra Hospital and the University of Alberta Hospital. Further, he stated that it is the hospital that determines if the patient can be taken there.
75. At the Royal Alexandra Hospital, Wade was met by a triage nurse who directed him where to take Furman. Wade went with the recording nurse, as well as one of the doctors, and gave them a quick history from what he knew of the incident as well as Furman's vitals, everything that he had done and if there had been deterioration in Furman's condition. Wade stated that, in his assessment, Furman was in critical condition when he was first examined by Wade. However, when he was placed on the stretcher outside the Residence, Furman was quite lucid and talking to the EMS personnel. He started to come down and became a little more lethargic as they neared the Royal Alexandra Hospital. His breathing got shallow, so he had to be manually ventilated. Therefore, there was some deterioration in his condition on route to the hospital. Wade continued bagging him to make sure that he was getting adequate oxygen on the way to the hospital, as well as carrying out intravenous fluid replacement. Further, he tried to stop the bleeding with bandages, but was unsuccessful so he continued with pressure on the wound.
76. Furman remained in Intensive Care for about seven days and was in hospital for a total of 11

days. Thereafter, he was off duty for eight months.

Treatment of Cardinal at the University of Alberta Hospital

77. At the University of Alberta Hospital, surgical intervention on Cardinal commenced at 00:2:00 hours on June 30, 2006. From the operative report prepared by Dr. David Williams, a surgeon, on June 30, 2006, an incision was made in Cardinal's right side and a tube was placed into the cavity to drain blood so that his lung could expand. An incision was also made in the abdominal cavity and all four quadrants (or quarters) of the abdomen were packed. Extensive damage was noted to the liver and blood was present in the abdominal cavity. Cardinal was noted as acidotic, meaning that there was too much acid in the blood. Eventually, Cardinal became bradycardic, meaning that his heart slowed, after which cardiac arrest was called. This meant that the heart was functioning at such a poor level that they had to do everything they could to restart it. As well, bullets were removed from the right lateral flank of Cardinal as well as from his liver.
78. Another operative report dated June 30, 2006 was prepared by Dr. Norman M. Kneteman, a liver surgeon. Dr. Kneteman could not bring Cardinal's bleeding under control and he appeared to have coagulopathy, meaning that his blood would not clot. This commonly arises when so much blood and fluid is given to a patient that the proteins allowing the blood to clot are washed out.
79. Dr. Kneteman described extensive damage to the liver. His plan was to remove a large part of the liver, leaving a portion to regenerate. However, the surgical team was forced to cease their attempts to control the bleeding and repair the liver because the injuries suffered by Cardinal were incompatible with his further life. The time of death was noted at 03:23:00 hours on June 30, 2006.

Autopsy of Cardinal

80. Dowling conducted the autopsy of Cardinal and prepared a Certificate of Medical Examiner on January 25, 2007. The immediate cause of death was listed as "multiple gunshot wounds" and the manner of death was listed as "homicide". Dr. Dowling explained that although the term "homicide" means death at the hands of another, such description is statistical in nature and has nothing to do with intent, culpability and matters of law.
81. Dowling testified that this was a very complex autopsy. Cardinal had either nine or ten penetrating and perforating gunshot wounds, primarily located in his trunk (chest and abdomen area) including his back, his right arm, his left hand and on both legs. There were four entrance wounds and one exit wound on Cardinal's trunk. Internally, within the trunk area, there were four bullets recovered. On the right arm, there were a total of two entrance wounds and a total of four exit wounds. There was an entrance and an exit wound around the knee on the left leg and an entrance and exit wound just below and close to the level of the knee on the right leg. There was no soot, powder or stippling of the skin around any of the entrance wounds; this is consistent with the bullets being fired from greater than two to three feet away. There was also a through and through wound on the left hand.

82. There were a fair number of injuries to the bowel. The surgeons removed several segments of the small bowel as part of their attempt to resuscitate Cardinal. There was further damage to a portion of the right lung and to those structures in the abdominal cavity that hold the bowel in place. Dowling testified that damage to these structures would add to the amount of bleeding as they contained many blood vessels.
83. There were also three graze wounds, where a bullet runs across the skin without entering any tissues. One of these graze wounds was located on the right arm and two others were located on the right leg.
84. Dowling stated that it was very difficult to determine with certainty which gunshot wound produced which internal injury. However, those that injured the lung, the liver and the structures around the small bowel were the most rapidly lethal. In addition, at least one of the injuries to the legs created some problems for the surgeons in terms of blood flow. The total nature of these injuries, and the resultant blood loss, caused the death of Cardinal.
85. Dowling was asked if Cardinal had been able to get to the hospital fifteen to twenty minutes sooner, would that have changed the outcome. He advised that although he was not a surgeon, given the injuries described in the operative reports, he was not certain that this extra time would have made a difference. He further stated that the sooner you can get someone to medical care, including surgery if needed, the better, but that does not always mean that there will be a successful outcome.

EPS Investigation

86. McGeady was the lead EPS homicide investigator in relation to this incident and prepared a report in this regard on January 18, 2007, marked as TAB C-1 of Exhibit 1.
87. Sgt. J.V. Dunn, of the RCMP Major Crimes Unit, was McGeady's counterpart. He oversaw the investigation for its transparency and produced a report dated April 20, 2007, marked as TAB C-33 of Exhibit 1. Sgt. Dunn attended all meetings and gave direction as needed. McGeady testified that Sgt. Dunn did not take exception to any part of the EPS investigation and felt that it was an appropriate and adequate investigation.
88. McGeady referred to the forensic laboratory report from Forensic Laboratory Services in Regina, Saskatchewan dated October 24, 2006, marked as TAB C-21 of Exhibit 1. This report matched bullet casings to the Sig-Sauer 9mm handgun used by Cardinal and the two Glock model 22 pistols, caliber .40 Smith and Wesson, used by Furman and Mitchell. As no one in the basement of the Residence, other than Cardinal and the EPS members, discharged weapons and further, by eliminating the police weapons as the source of Furman's injuries, it was concluded that Furman was shot by Cardinal. The report also concluded that none of the injuries sustained by Cardinal came from his own handgun. The report further stated that Cassels fired eight rounds, Mitchell fired six rounds and Cardinal fired at least six rounds. However, seven casings found from Cardinal's gun implied that there were seven bullets fired. McGeady also testified that a blue duffel bag found in the basement contained a sawed off shotgun, that although not loaded, could be fired. As well, a substance believed to be crack cocaine was found in Cardinal's pockets.

EPS Officer Safety/Tactical Assessment of the Incident

89. Hogan was, before retiring from the EPS, the officer in charge of officer safety and, prior to that, was an instructor within the tactical unit.
90. Hogan testified that he was tasked by the EPS to review what happened and to determine whether the EPS members acted appropriately. In other words, Hogan was to assess the actions and reactions of the EPS members involved in this incident. He prepared a report in this regard, marked as TAB C-32 of Exhibit 1.
91. Hogan described the AACP Use of Force Model that was in force for the EPS as of June 2006. The graphic of this model conceptualizes that any event is an ongoing process without a start or stop point. One can come in and out of the model at any place to deal with the level of resistance or situational behavior encountered. In summary, the outer ring of the circular graphic deals with the type of control, ranging from “officer presence” to “lethal force”. Lethal force is when an officer is faced with a grievous bodily harm or death situation that he needs to confront, either by use of his firearm or something else where he has to use his hands in a manner to cause lethal force. Some of the situations can be so spontaneous that the ability to use a firearm is not ideal. In such case, the officer has to try to confront the lethal threat with whatever he has in hand. The behavioral ring, or the subject behavior category, ranges from co-operative through to someone who is intending to cause grievous bodily harm or death. The communications ring is a full circle as it is generally present all the way through the situation. There is a ring dealing with tactical considerations and perception that outlines other options a police officer might have, such as tactical disengagement. Hogan advised that sometimes tactical disengagement is not appropriate because of the spontaneity of the event, the restrictions of the physical environment or the presence of other people who are in danger. The very centre of the circle describes the situation and is highlighted by “Assess, Plan and Act”. This means that in every situation, there is continual assessment, minute by minute and second by second, as the situation is continually changing.
92. Hogan testified that leading up to and including the exchange of gunfire between EPS members and Cardinal, what each of the EPS members did in the respective situations they encountered with Cardinal was appropriate under the Use of Force Model.
93. By way of summary, Hogan addressed the various situations and respective EPS reactions as follows:
- a) at the time of coming down the steps into the basement of the Residence, Mitchell identified he and Furman as EPS members. Mitchell did not have his firearm out and Furman had his taser at the low ready. This was appropriate given the minimal information that Mitchell and Furman had at that time;
 - b) while Mitchell engaged the one female sitting on the bed in the bedroom, he was faced with information which might be erroneous or true, but it was not inappropriate for Mitchell not to have his handgun drawn;
 - c) as to Furman entering the furnace room with his taser at the low ready position and

his flashlight out, and then seeing Cardinal hiding there, Hogan described this as a tactical nightmare – finding yourself in a confined place where you have unconfirmed information and you are trying to confirm it. From the Use of Force Model, verbal direction was appropriate;

- d) when Mitchell entered into the furnace room, both Mitchell and Furman found themselves behind obstructions dealing with somebody at arms length. They triangled themselves, which was appropriate, one a little further over trying to see if Cardinal had anything in his hands. Up until the point when it was discovered that Cardinal had a handgun, Hogan could not fault Furman for not drawing his firearm;
- e) from the point when Cardinal's firearm was discovered, Furman was in a catch-22 situation; he could either use his taser or try to change it out for his gun. In either case, he was vulnerable to Cardinal using his gun;
- f) once Mitchell disengaged by leaving the furnace room, Furman was severely limited in his options. Furman was then deep into the furnace room and was left in an untenable position; he and Cardinal were both looking at each other, Furman with a taser and Cardinal with a firearm, over the top of a water tank in very close proximity. The likelihood was that Furman could not turn to run out of the furnace room. Time was not on his side, so the only option available to him was to deploy the taser. The events occurred so fast that he was not afforded any other option;
- g) after Cardinal shot Furman and exited the furnace room, Cardinal fired one shot towards Mitchell. At that time, Hogan said that Mitchell's only option was to return fire. Hogan testified that Mitchell used an appropriate level of force in firing his firearm towards Cardinal because, at that time, Mitchell was aware that Cardinal had just fired shots in the furnace room, he had demonstrated his intent to not have anything get in his way and stop him when he fired toward Mitchell and there was another officer in the house who may be confronted by Cardinal. Further, there was the public safety concern of the two women in the bedroom, the two people and Cassels upstairs and other people outside the Residence and in the adjoining duplex;
- h) when Cassels fired at Cardinal, Hogan said that from the Use of Force Model, Cassels' actions were appropriate in that he knew that Furman and Mitchell were in the basement, he observed gun fire going back and forth and rightly believed that he and others in the basement were under threat of grievous bodily harm or death;
- i) as to Mitchell and Cassels shooting at Cardinal so many times, Hogan testified that EPS members are not trained to kill somebody, but to stop the threat. As long as a person is moving and presenting and continuing to present a threat, they have to continue to engage the threat until the threat is stopped. Hogan agreed that EPS members are taught to shoot centre mass and continue shooting until the threat is eliminated; and
- j) as to the EPS members trying to shoot the gun out of Cardinal's hand or to shoot him in the leg so that he falls down, Hogan said that was not practical. He

commented that such accuracy was very difficult in a non-stressful environment. When you add the stress of the shooter or the target or both moving, the probability of hitting a limb is very remote. The threat of serious bodily harm or death further minimizes accuracy. He said that EPS members are trained to shoot centre mass because it is the biggest object.

94. Hogan was asked to comment on the medical aid rendered in this situation. Reference was made to section 11 of the Use of Force Policy entitled “Rendering Medical Aid After Use of Force”. This section states “Medical aid must be a primary consideration after any use of force confrontation. Once the potential threat is controlled and officer safety considerations are satisfied, every effort must be made to attend to the immediate medical needs of the subject. Individuals requiring emergency medical assistance shall be aided with an immediate police request for Emergency Medical Services. Prior to Medical Service arrival, emergency first aid/life-saving treatment may be initiated.”
95. Hogan stated that he felt that section 11 was followed in this situation because medical aid could not be summoned before Cardinal was handcuffed and rendered non-threatening; as soon as that occurred, medical aid was summoned.
96. As to Cardinal being hand-cuffed and left on the floor of the basement with two EPS members standing over him (maintaining continuity) while he was bleeding, he was not sure that their level of first aid would have met the needs of Cardinal at that time.
97. As to medical aid being rendered to Furman and not to Cardinal, Hogan testified that this was a very stressful situation for EPS members, especially where an EPS member had been shot. On one hand, Furman was almost unconscious and excessively bleeding. Mitchell believed that he was going to die. On the other hand, Cardinal was moving and still appeared to have some semblance of verbalization. Therefore, to non-medical people, Hogan thought that Furman’s condition would have appeared more serious than Cardinal’s condition.
98. Hogan concluded his testimony by stating that in an open space or a non-closed environment, Furman and Mitchell may have had further options in dealing with Cardinal. However, in the confined environment of the furnace room, their options were completely in the hands of Cardinal. Cardinal was in a fortified place, with a wall on three sides of him and obstructions on the fourth side. The choices were being driven by Cardinal and not by the EPS members. At any point in this process, the events could have been stopped by Cardinal. The EPS members had no control over Cardinal at any point in this process. Cardinal chose to conceal himself, to not respond to the officers and to use a firearm. He made the choice of continuing to use his firearm. Hogan stated that the EPS members did not enter the basement with the intent to do physical harm, as evidenced by their respective choices of weapons systems when they went down the basement stairs.

EPS Operational Review of the Incident

99. At the time of the incident, Rocchio was a Staff Sergeant assigned to North Division as a Watch Commander. He reviewed this incident for the purpose of identifying issues regarding policy, training or equipment that would affect the EPS.

100. Rocchio concluded that there was no equipment, training, or policy concerns with respect to EPS involvement in this incident.

Ancillary Issues

a.) Notice to Ward of the Incident

101. Edge was asked by Ward how long does it generally take before the parents or the family of the decedent are notified because he said it was not until 14:30 hours on June 30, 2006 (over thirteen and one-half hours after Cardinal arrived at the Royal Alexandra Hospital) that he received notification of this incident. Edge did not have information in this regard.

102. The issue was also brought up when Rocchio testified and, although he did know the particulars about notification in this case, he spoke generally about notification of next of kin. He said that in an incident like this, the first priority would be to make sure that the scene was safe. Then medical care would be obtained for the people involved and witnesses located. The next step would be for the investigator to contact the rest of his team and assign tasks. One of those tasks would be to notify the family of the victim. The EPS would have to know the identity of the injured person and then try to find out who the family members were. Therefore, the family is not notified right away because it may affect part of the investigation. Rocchio testified that he was not sure in this case what went into determining the identity of the deceased and how difficult it was to find the family members.

b.) Determination if Further Witnesses Were Required

103. After all of the testimony was given, Boyle asked me to determine if it was necessary that the two women who were in the basement bedroom at the time of the shooting (Tobin and Foulks) be called as witnesses. The statements taken from Tobin and Foulks were contained in Exhibit 1. I was informed that the police had unsuccessfully exhausted all efforts to locate these individuals.

104. Therefore I had to decide whether to adjourn the Inquiry in hopes of finding one or both of these witnesses or bring the Inquiry to its conclusion.

105. I reviewed the reports of the two witnesses and did not find them particular helpful. Therefore, I held that the Inquiry would proceed without these two witnesses.

c.) Application for Disclosure of Photographs

106. Mr. Min Dhariwal, of CBC TV, applied to allow certain photographs of the basement of the Residence to be videoed for purposes of television news broadcasting.

107. Ward did not take exception to the requested photographs being filmed and broadcast on the news. Accordingly, certain pictures were identified and allowed to be photographed and used by the CBC television solely for broadcast purposes to facilitate the reporting of the Inquiry and for no other purposes whatsoever.

Submissions

No submissions were made to the Court.

Officer Down Casualty Care Course

108. Furman testified that all of the medical personnel who worked on him were surprised that he survived. He was told by the doctors that the main reason he survived was due to Mitchell applying direct pressure to Furman's wound. Mitchell possessed this knowledge because of the medical training he received as a member of the Canadian Armed Forces. Furman testified that as he lay on the basement floor of the Residence that night, he remembered a lot of EPS members were looking at him with blank faces. When he later asked them what they were thinking, they told him that they did not know what to do. This emphasizes the limitations that the basic first aid course affords to EPS members when confronted with medical emergencies.
109. In the summer of 2008, Furman proposed to the EPS that EPS members receive a casualty care course to equip first responders, like police, to provide treatment and care to injured people until the paramedics arrive. He said that this would be a habitual, situational training course. The Mission Statement of this course was described as:
- “To provide all front line police officers with the necessary training and tools to quickly and effectively assess and sustain life of members who receive life threatening trauma.”
110. Furman emphasized that the point of his proposal was to sustain life until medical training arrived by providing EPS members with the requisite knowledge and tools to deal with these exceptional circumstances. This course requires that the EPS members be recertified every two years and allows the possibility of an annual e-learning component to refresh their skills. In addition, there would be an Officer Down Casualty Care pouch and a field dressing for each EPS member. Furman's briefing note dated July 15, 2008, to the EPS Acting Superintendent, Garry Meads, outlining his proposal for the course and training, was introduced as Exhibit 7 to the Inquiry.
111. Furman also stated that he worked with EMS and Dr. Sookram, the Medical Director of EMS who was supportive of these initiatives. A curriculum designer took the initiative forward and Dr. Sookram, in a letter dated November 7, 2007 to EPS Chief Michael Boyd, enclosed a summary of the proposed curriculum (lesson plan) for the course. Furman stated that what was proposed was an eight hour training day, once every two years, with further supplemental refresher online training. Furman testified that the last thing he heard about this proposal from the EPS Officer Safety Unit was that it was put on hold because of budgetary concerns.
112. Furman's research did not disclose enhanced medical training being offered in other policing circles in North America.
113. Hogan testified that EPS should receive a more advanced level of first aid training, especially for a combat first responder.
114. Rocchio stated that he recommended that the EPS examine this proposal with the aim of

developing a pilot project for this program. Further, Rocchio said that he was not aware of the status of the program and had not received any memoranda regarding a pilot project.

Recommendations for the Prevention of Similar Deaths:

115. As mentioned earlier, no submissions were made at the Inquiry.
116. It was obvious from the evidence that the EPS members on scene were in shock and, except for Mitchell, did not have the training to provide any meaningful medical attention to either Furman or Cardinal.
117. As referred to earlier, the Use of Force Policy adhered to by the EPS mandates that every effort must be made to attend to the immediate medical needs of the subject once the threat and officer safety considerations are satisfied. Further, emergency first aid / life saving treatment may be initiated prior to medical service arrival.
118. Without Mitchell's Armed Forces service medical training and his timely intervention, it is questionable whether Furman could have survived. Unfortunately, it does not appear that Cardinal would have survived, even with earlier medical intervention, due to the nature and extent of his injuries.
119. I therefore recommend that the EPS revisit the Officer Down Casualty Care course proposed by Furman with a view to implementing a pilot project for this or a similar course. I believe that this training will enable EPS members, as frontline emergency responders, to more effectively and confidently deal with those in medical need. In support, I refer to the aforesaid letter written by Dr. Sookram to EPS Police Chief Boyd where he states "this training, over and above emergency or standard first aid, can only help prevent further injury and stabilize the officer down until definitive care is reached."
120. A tragic and violent confrontation between Cardinal and EPS members occurred on June 30, 2006, which left Cardinal dead and Furman near death. EPS members will continue to be confronted with emergency medical situations as the first responders. It would be advantageous for EPS members to be able to provide medical assistance until the intervention of medical personnel.

DATED August 13, 2009,

at Edmonton, Alberta.

Original signed by

Bruce R. Garriock
A Judge of the Provincial Court of Alberta