



# Duante Wright and Kim Potter—The chilling effect of death and conviction

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In two very different, yet explicitly linked moments, the lives of two innocent people were torn apart. The first from a bullet, fired from a police-issued semi-automatic weapon. The second from an outmoded and shamefully politicized justice system. Both situations are tragic, albeit the latter pales in comparison with the violent loss of an innocent life, and the notion of a parent burying their 20-year-old child. To be clear, however, to the dismay of those who might read too much into this, sending a veteran Minnesota police officer to jail for what is indisputably a tragic mistake serves to further shield those who are ultimately responsible, while putting on ice an already fragile relationship between the public and the police. Free from emotion, we must carefully unpack the circumstances that have led to this tragedy.

On April 11, 2021, Duante Wright was driving a car with expired registration tags and an air freshener hanging from his rear-view mirror. One can appreciate the need to ensure all cars be current in registration, but the air freshener ordinance is beyond logic. Although somewhat moot, early reports suggest this is what officers were first alerted to when noticing Mr. Wright as he drove through town. Officer Kim Potter was not only on patrol that day, she was also coaching a new officer, and she used Mr. Wright and his highway traffic violation as a real-life training scenario. Duante Wright stopped his car as requested and, after he identified himself, the officers discovered there was a warrant for Mr. Wright's arrest. The warrant was for failure to appear in court on charges that he allegedly had a gun without a permit and fled from officers during an encounter with police the year prior. As Mr. Wright was being arrested by Officer Potter and her trainee, he struggled to break free and jumped back into his car where he attempted to flee. Officer Potter grabbed what she thought was her conducted energy weapon, and mistakenly shot Duante Wright with her semi-automatic firearm while he was behind the wheel of his car. It rolled a few feet and stopped abruptly, as did his life.

As a trained police officer, former police chief, and former Deputy Solicitor General, I am saddened and sickened by this in its entirety. Publicly enabled video (PEV), which includes the body-worn video used by police, is both raw and real, and it shows the spontaneous remorse as Officer Potter immediately realizes her mistake. She is overcome with grief.

Ironically the shooting occurred while the trial of Officer Derek Chauvin was underway. He was later convicted of murdering George Floyd. Similarly, Officer Potter was found guilty of first-degree manslaughter in the shooting death of Duante Wright. Both trials took place in the same Minnesota courtroom. After Officer Potter was found guilty, the Attorney General described the verdict as demonstrating “a degree of accountability.” But apportioning accountability to the officer is not the same as taking responsibility for ending the conditions that make such tragedies likely in the first place.

Duante Wright was entitled to a fair trial, whenever that might have occurred. In Canada, we have thousands of “charged persons” failing to show up for court every year. At times they clog our court system, other times they use up valuable police resources as arrest warrants are issued, and very often the charges are dropped once the substantive charges are dealt with. We are working through process changes that will reduce the number of times a person fails to appear in court. There are many underlying reasons, not the least of which are under-employment, homelessness, poverty, racial inequities, and the list goes on. Justice participants (police, courts, lawyers, and judges) all have a stake in modernizing our system. Unfortunately, running from police, or the courts for that matter, occurs with a degree of frequency. There are many alternatives to issuing arrest warrants for people who fail to appear in court, should those with carriage and responsibility so choose. For instance, arrest warrant reduction programs in which social workers ask people to comply with outstanding court obligations and help them do so have been shown to work. There are others. But a one-size-fits-all mentality prevails in our justice system—a system designed at the prerogative of those who work *in* the system, and not necessarily for those who rely *on* the system. Duante Wright, regardless of his choices, was a victim of the system. This is undeniable.

Equally undeniable is that traffic violations can often lead to police officers uncovering much more serious offenses. Their keen observations and timely interventions have saved countless innocent lives. Air fresheners aside, on the surface, Officer Potter was justified in stopping Mr. Wright upon noticing his expired validation tag. Absent of more sensible court practices, Officer Potter was duty-bound to arrest Mr. Wright.

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After all, the courts that are presided over by Minnesota's Attorney General demanded as much. Sadly, both defense and prosecutors presented witnesses that opined on Officer Potter's decision to use her energy weapon to stop Mr. Wright from fleeing. One defence witness even suggested Officer Potter was justified in using deadly force to stop Mr. Wright from trying to escape, even if that had not been her intention. What is required are standardized training scenarios where similar circumstances can be presented and examined. Civilian governance and oversight must play an active role with respect to use of force. Mandatory use-of-force reporting, including race-based data, must follow, with an eye for continuously improving current practices. Who ultimately holds responsibility for reviewing policies and procedures, and ensuring the framework for policing meets with contemporary 21st century policing practices?

This was not a case of wanton and reckless disregard. This was not a case of aggressive, unjust violence. This was not a conscious decision to use a firearm in circumstances where it was not justified. This is a case of using authorized force in a dangerous situation, namely a conducted energy weapon on a person who has care and control of a vehicle. Officer Potter was trained to work in a system that gives rise to such circumstances, within the wider culture of a society that endorses a degree of force and violence.

After the tragic death of Sammy Yatim, killed by Toronto Police Service's Constable James Forcillo, several reviews and inquiries took place that were initiated by those who felt responsible for the system, and a responsibility to affect

change. The message was clear: those suffering and in need of help deserve better, the public expects better, and the police need to be better. The verdict in Minnesota will do nothing to prevent further tragedies from occurring and will do even less to modernize policing, unless those responsible are also held accountable. As noted by the Center for Policing Equity on the conviction in Duante Wright's killing, "should we fail to deliver better systems to communities...we will be forced to hope for accountability without ever glimpsing justice."

In Ontario, and in jurisdictions across Canada, there has been much talk about reforming and improving policing services. In some cases, legislation has been written, in other circumstances reviews and inquiries have been undertaken. The one thing that remains certain is that nothing will change unless the reviews, inquiries, and legislation result in redesigned, re-engineered, and rebuilt policing systems. Regardless of their respective culpability or innocent intentions, we cannot leave it to conveniently labelled lawbreakers to bring this about. This will require those in positions of responsibility to take the necessary decisions. We need lawmakers and police governance bodies to begin restoring justice, and there is no time to wait.

#### CONFLICT OF INTEREST DISCLOSURES

The author has no conflicts of interest to declare.

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