



**IN THE MATTER OF A FATAL EDMONTON POLICE SERVICE OFFICER-  
INVOLVED SHOOTING ON JUNE 6, 2021**

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

**Executive Director:**

**Michael Ewenson**

**ASIRT File Number:**

**2021-0034(N)**

**Date of Release:**

**May 15, 2024**

## **Introduction**

On June 6, 2021, the Alberta Serious Incident Response Team (ASIRT) was directed pursuant to s. 46.1 of the *Police Act* to enter an investigation into the circumstances surrounding a fatal Edmonton Police Service (EPS) officer-involved shooting. The shooting was reported to have happened during the investigation of a suspicious person complaint, with the suspicious person reportedly holding some sort of weapon.

## **ASIRT's Investigation**

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols and principles relating to Major Case Management. Evidence from civilian witnesses, witness officers, the subject officer (SO), police radio recordings, police helicopter (Air-1) video and a scene lighting re-enactment were amongst some of the evidence obtained and considered to determine whether the force used by SO during this critical incident was reasonable.

## **Circumstances Surrounding the Officer-Involved Shooting**

On June 5, 2021, shortly after 11:00 p.m., EPS received a 911 call from a resident near 134 Avenue and 107 Street who reported a suspicious person (the affected person – AP) in the neighbourhood, holding some sort of weapon, like a knife or a screwdriver. A two-officer unit (SO and witness officer #1 – WO1) responded, spoke with the reporter, and then located AP a few houses north of the reporter's address. A confrontation occurred between AP and the officers where SO discharged his service pistol several times, striking AP. First aid was applied but AP was declared deceased at the scene.

At autopsy it was determined that AP had died from multiple gun shot wounds (four bullet wounds were noted) to his body. Wounds were located to AP's left shoulder that penetrated the chest cavity, left side of the abdomen, penis, and right thigh closer to his knee. Toxicology showed that AP had some methamphetamine in his system at the time of this event.

## **Witnesses**

### **Civilian Witnesses**

While several civilian witnesses (CWs) were located and interviewed, only those that had information germane to the issue of whether the force used by SO was reasonable will be

set out. Many reported hearing gunshots but nothing further. The remaining information is contained within the investigative file.

*CW1 was interviewed by ASIRT and provided the following information*

CW1 stated he called 911 to report a suspicious person with a weapon. His front porch motion light activated, which caused him to look out the window where he saw AP on the sidewalk. CW1 went outside and observed AP wearing dark clothing with a backpack, shaking, rocking, or dancing back and forth, holding a bag and something that looked like a knife or an ice pick or a screwdriver. He said something to AP who responded, but he could not understand what AP said back. CW1 went back inside his house to call the police.

CW1 saw AP cross the street toward the school, and then use the object to stab at the top of a fire hydrant. AP then crossed back to his side of the street, heading toward some trees north of his house before he lost sight of AP.

CW1 came outside and spoke with the police when they arrived and pointed out to them AP's last known direction. The police drove ahead and he saw the police get out of their vehicle and start walking toward the area, but he did not see AP.

CW1 saw the interior lights on the police car activate, meaning they opened the door. He went inside his house at that point so he did not see any interactions or hear anything said. CW1 subsequently heard the gunshots but did not see the shooting.

*CW2 was interviewed by ASIRT and provided the following information*

CW2 lived just west of the scene location. It was at about 11:00 p.m. when he and his two children were coming home from a convenience store, walking west along the north side of 134 Ave. He stopped at 107 St., to ensure it was safe to cross. He was on high alert as he has had dealings with "meth heads" in the area before, so he was continuously scanning the area. He looked north on 107 St. and it was "absolute silence". He was staring down the middle of the road, but did not see any police vehicles (or any vehicle lights at all) as they began to cross 107 St. toward the west curb. As they started crossing the street, he heard two gunshots, but no yelling or shouting. He thought it could have been a random or drive-by shooting but he did not see anything or anyone.

CW2 grabbed his two kids and they ran to the northwest corner of 107 St. and 134 Ave. and took cover at the front of a business, where he heard more shots. He believed he

heard six shots in total, but the last one could have been an “echo”. They stayed there for a couple of minutes. He expected to see a vehicle fleeing the area but nothing happened.

CW2 heard what he believed to be the EPS helicopter in the area, and then sirens. He and his children ran home at that point. He stated there was light cloud cover that night.

What disturbed him was that there was zero sound, no “hey put it down”. He did not see any police vehicle. There were not any police “cherries” or even running lights, so obviously they were not parked in the middle of the road. Even if he had seen running lights, he would have been able to say it was a cop car.

While Air-1 video will be covered further in this report it should be noted that the SO and WO1’s vehicle’s position was captured on the Air-1 video, which showed it parked facing north, in the middle of 107 St. with the taillights and license plate lights on. The driver’s door was also wide open and the headlights appear to be on.

*CW3 was interviewed by ASIRT and provided the following information*

CW3 was outside, and observed AP cross the street and observed the police car approach. As the police stopped their car, he entered his residence. CW3 could hear some loud voices outside, then he heard several shots (four or five). He did not see AP with any weapons. He could not hear exactly what was being said, but figured it was the police yelling at AP.

#### Witness Officers

While several witness officers were interviewed only WO1 was present when SO shot AP. As a result, not all of this information will be set out within this decision as it does not assist in deciding whether the force used by SO was reasonable. All of this information is contained within the investigative file though.

*WO1 was interviewed by ASIRT and provided the following information*

WO1 said he and his partner, SO, were dispatched to a call of a weapons complaint, initially about someone in a house with a knife, but there was a language barrier. It was quickly established the man [AP] was not inside the house. By the time they got to the

call location, the information was updated to reflect that AP was outside the house and had walked north. AP was described as having a knife attached to a screwdriver or something like that.

When they first arrived, they were initially driving north on 107 St., then he believes they went east and then south around the park (school) and back to 107 St. north again. It was around 11:00 p.m., quiet and partially lit by streetlights. The area was darker toward the houses to the west, and the sidewalk was lighter by the streetlights. Their police vehicle was an unmarked dark grey Ford Explorer. No emergency lights were turned on, but he and SO were both in full uniforms. The second time around, he saw the reporter [CW1] coming out of a house; he was the passenger and SO was driving so SO talked to CW1 out of his driver's window. There was a bit of a language barrier but CW1 told them AP walked by with a knife, but did not say anything and was not acting aggressively. WO1 updated Dispatch on the radio.

They drove north about 3 or 4 houses and saw a man dressed all in black [AP], wearing a backpack as described, coming out from a front yard of a house just north of them, walking east toward the sidewalk (on the west side of 107 St.). He saw a long blue handle sticking out of a pocket on AP's left side, like a hammer or something. There was no mention of something blue on the initial call. There was enough light to see AP and his clothes, and the colour of the long blue handle, which he could see from inside the police vehicle. He told SO he thought this was the guy they were looking for.

SO parked the vehicle northbound on 107 St. and a few feet from the west sidewalk. There was a white SUV parked against the west sidewalk curb, facing south, about 7-8 feet in front of their police vehicle. By the time they had parked, AP had reached the sidewalk just north of the white SUV and was walking south toward them. WO1 came around the front passenger side of their unmarked police vehicle and SO went directly west to the sidewalk toward AP. WO1 stopped near the white SUV's front driver's side corner, almost directly to SO's right.

AP seemed alarmed at seeing them. By this time, SO was on the sidewalk and AP was coming toward him, also on the sidewalk, facing each other. When AP first approached them he was saying, "What do you want? What do you guys want?" WO1 waved his hands (palms toward AP) and calmly said, "It's the police, we just want to talk...what's going on...we're investigating..." At that point AP started screaming, "Get the fuck away from me..." and was really agitated. WO1's intention was just to get AP to talk with him.

AP suddenly and quickly reached toward his right front pocket in a manner that WO1 thought it looked like he was going for a gun or a weapon. He did not see AP's hand much as it was mostly covered by what he thought was a shiny black garbage bag. At that point, WO1 moved back a bit to take cover behind the front of the white SUV near the A pillar, which is the part of the frame of the vehicle that borders the windshield and front door, while reaching for his firearm. SO discharged his firearm before WO1 could get his pistol out of the holster. SO fired about six shots. SO and the man were quite close when the man started reaching for something, about 6-7 feet from each other.

When AP reached for his pocket, he heard SO yelling something like, "Stop!" but he does not remember hearing anything else; however, SO may have been saying something at the same time WO1 was talking, just prior to the shooting. When AP reached for something, WO1 didn't actually see a firearm, but based on AP's body language (reaching quickly for something), his first instinct was officer safety, creating some distance and shielding, and then the shooting happened.

As WO1 was reaching for his pistol, he heard the gunshots. The gunshots were in very quick succession, without pauses. He could see muzzle flashes and hear the bangs, but could not really see SO in his peripheral vision. From the time AP reached for his pocket to the shooting it took "not even" five seconds. It was about 10-15 seconds from the time he got out of the police vehicle, until the shooting started. The lighting on the sidewalk was sufficient enough for him to see AP, his clothing and hair.

WO1 believed AP started to fall right away as the first shots were being fired; he was not backing up or walking away. After AP fell, WO1 came around the back of the white SUV to the sidewalk, from his position near the driver's side door. SO went to AP directly on the sidewalk and started CPR on top of his clothes. AP was on his back, partly on the sidewalk and partly on the grass, with his head facing toward the houses (west) and his feet toward the park (east). He was conscious with his eyes open, moving around a bit and screaming something in pain when SO was doing CPR. There was bleeding from the mouth and face.

SO started the process of cutting off AP's shirt to check for injuries when WO1 went to get the first aid kit and supplies and bundled up some trauma bandages to use on the wounds. He then updated Dispatch on the radio, "Shots fired, shots fired", and called for emergency medical services (EMS). WO1 assisted in removing AP's shirt. AP had several gunshot wounds to his torso. WO1 held the air bag over AP's nose & mouth from his left side, and SO was kneeling, doing chest compressions from AP's right side. While they

were treating AP, WO1 did not see any weapons. WO1 saw a black cell phone on the grass by the clothing. They did CPR for about thirty seconds before other officers arrived and relieved them, taking over the CPR. Other officers including supervisors began arriving at the scene shortly thereafter. WO1 and SO were told to separate themselves from the scene. Their boss arrived and he and SO were separated. He did not talk with SO and was not sure where he went.

*A follow-up interview was conducted with WO1 where clarification questions were asked about the incident*

After SO and he looped around the block and came back a second time, they spoke with CW1 who told them he thought he saw a guy [AP] with something like a knife. The call said it looked like a knife attached to a screwdriver. SO rolled his window down and CW1 came to the driver's window to talk. The conversation was brief but he believed CW1 understood what was being asked of him. After about twenty seconds, CW1 pointed north and said AP went that way.

They drove forward a bit and encountered AP, SO got out of the car, went to the sidewalk, and called back at CW1 and asked if that was the guy. WO1 was just getting out of the police vehicle when that happened. They first saw AP in the front yard, walking east, then toward the sidewalk south. WO1 saw something blue sticking out of AP's left pocket.

As AP approached, WO1 said something like "Hey what's going on?" and AP started to say something like "Oh hey man I'm just..." then suddenly he became agitated and started yelling "get the fuck back!" and reached for something in something that looked like a black garbage bag, in his front pocket. He was standing on the sidewalk by then.

SO was slightly behind WO1, off to his left near the sidewalk. He did not actually see SO until WO1 was near the A pillar of the white vehicle. He did not remember if SO said anything, but he could have been talking while WO1 was speaking. WO1 first saw SO on the sidewalk and he had his gun out. By this time, WO1 had moved more toward the white vehicle's B pillar, which runs up the center of the vehicle separating the front and back doors, but could see AP's upper body over the top of the white vehicle. He thought AP was about 5'9". WO1 is 6'1" and was on the road surface, while AP was on the sidewalk (raised from the roadway). As WO1 moved north, he could see a bit less of AP because the vehicle's back end was taller toward the rear of the vehicle.

WO1 saw a muzzle flash and heard the bangs of the shots in quick succession (about six shots) and AP went down after about three shots, out of view behind the white vehicle.



AP had been standing on the sidewalk near the back of the white vehicle, about six or seven feet from SO, who was around the middle of the white vehicle. AP fell very quickly after the shooting started, and fell in place (not moving away). WO1 continued around the north end of the white SUV and saw AP on the ground. WO1 heard SO say "Stop" but it happened really quickly. WO1 yelled "Hey" but there was not much time. SO was standing (not walking) during the shooting.

WO1 was shown some crime scene photos for clarity. WO1 indicated AP came from the northeast corner area of the white house. The green arrow was added afterwards by an ASIRT investigator to show where WO1 referenced first seeing AP:



SO & WO1's unmarked police vehicle and area (green arrow) where AP was first observed

WO1 clarified his and SO's positions in relation to the white SUV. He and SO were on opposite sides of the white SUV, in about the same positions (across from each other).

In relation to AP's movements, he immediately got agitated and reached quickly toward a pocket with his right hand, in a manner similar to how WO1 would quickly reach toward his own gun in a hurry if he needed to. WO1 believed AP was looking at SO when he did this. WO1 was at the front of the white SUV when AP reached for his pocket. WO1



moved quickly around to the driver's side (front corner/tire area) for cover when this happened. Although the call indicated the suspect had a knife, the actions of AP lead him to think he might also have a gun. He was not 100% sure, but at that moment he believed AP could have a knife and/or a gun.

WO1 had his hand on his holster/pistol as he was taking cover along side of the SUV. By the time WO1 got to the A pillar area he heard the shots being fired by SO, and by the time he got to the B pillar area, he could then see the muzzle flashes to his left. He could see SO clearly, but was losing sight of AP somewhere between the A and B pillars. He saw AP fall out of view after the first two or three shots were fired. SO was in a shooting stance, with both arms straight out, a bit of a bend in the upper body, using both hands. WO1 had unbuttoned his holster and intended to take out his gun but did not. By that time he would have been in line with the residences (line of fire) and did not have a complete image of AP as he was losing sight of him.

Between the time AP reached for his pocket area and WO1 reached the A pillar area, he yelled "Hey" and then SO said "Stop" in quick succession. From the time they were out of the police vehicle and SO said "Is that the guy?" until the shooting, it took about four or five seconds, it was "very, very short".

WO1 remembered the police helicopter overhead when they were doing CPR. He did not see anyone else outside in the area directly after the shooting. He was focussed on trying to save AP, getting first aid, and doing CPR. He did not see anyone else until other officers were there.

WO1 also submitted a written EPROS report for this incident. It is consistent with the information he provided during his two interviews with ASIRT.

*Witness Officer 2 (WO2) was interviewed by ASIRT and provided the following information*

Around 11:00 p.m. on June 5, WO2 and his partner were dispatched to a call of a suspicious person. A neighbour had called in that there was a person walking around the neighbourhood who had something that they thought was maybe a knife. They described it as being like a screwdriver with a flashlight, but they were not really sure what it was. There was a language barrier.

He and his partner were coming from Yellowhead Trail and 107 St. when the call came in, and there was another car dispatched as well which was SO and WO1. Based on his experience, the call did not sound super urgent. The reporter said it was a suspicious

person and said the person was not approaching anyone or going up to houses. It was more of a suspicious person as far as they were concerned.

As they were getting closer going north on 127 St. he heard over the radio that "shots" were fired. At that point he told his partner to step it up. When they got there, there was another patrol car that was arriving on scene about the same time. He thinks it was witness officers #3 (WO3) and #4 (WO4).

He saw SO and WO1 over on the sidewalk outside of a residence. There was a guy [AP] laying on his back who had some blood on him. SO was doing chest compressions, and AP wasn't moving.

WO2 was the senior officer on the scene so he asked WO1 and SO who was the shooter, and SO identified himself as the shooter. He removed SO from the situation. WO4 was able to fill in and continue chest compressions.

WO2 told SO to come with him, they walked south and he noticed there was some expended cartridge cases on the ground which were 9mm or 40 calibre. It confirmed that SO fired his sidearm not a carbine. He noticed there were houses on the street and was concerned for stray rounds.

As they were moving to the south, SO said something like "No I got to go back and take a picture." WO2 asked him what he was doing, and told SO to come with him. SO said, "No I have to take a picture of what I saw." SO went back and went near to what appeared to be a cell phone on the ground next to the body and WO2 told him again, "let's go." WO2 told SO that he was the subject officer and we need to get you away from here.

As they were walking away SO asked WO2 about writing his notes. WO2 told SO you will get there, and WO2 told SO he just wanted to make sure he was okay. A sergeant supervisor showed up and WO2 handed SO off to him.

When SO went back to take the picture, WO2 saw another object on the ground southeast of the body and it was a BBQ lighter. He only saw SO take a picture of the cell phone. SO did not say anything to him after he took the photograph. They walked away 15-20 feet from AP's body when SO wanted to go back.

SO said he wanted to do his notes and WO2 told him it wasn't a priority at that time, and told him to let things settle down.

WO2 took control of the scene, and had his partner set up scene containment. He assisted EMS by holding a light so he could check AP on the ground. WO4 was still doing chest compressions. The EMS supervisor originally declared the male deceased but when the ambulance showed up they decided they needed to do something else. The ambulance team from St. Albert worked on AP.

WO2 saw injuries consistent with gun shot wounds. The lower left abdomen, upper left shoulder, the face was very bloody in the area of the forehead, and he could not see an exact wound there. WO2 rolled AP onto his left side and thought there was a wound on the back of the head. He rolled the body over for a public safety issue to see how many bullets might have hit the target and if any had hit the houses, and count for rounds. He tasked WO3 to check the houses and nearby vehicles for possible stray bullet strikes. There was a defect in the bottom of light standard about twenty to twenty-five feet from where AP was. He felt it was consistent with a ricochet crease.

WO2 did not have any conversation with WO1. WO2 talked with WO4 about what happened. They both mentioned they saw the lighter and the cell phone.

When WO2 left the area to go downtown he turned the scene over to another member. WO2 did not see anyone come out and say they saw what happened.

*WO3 was interviewed by ASIRT and provided the following information*

WO3 said he and his partner WO4 were at Calder Station doing reports and they were listening to the radio when they heard a "shots fired" transmission over the radio. They immediately went running out to their police vehicle and quickly attended the scene. They arrived on the scene about three minutes later.

WO3 was driving and WO4 was the passenger. They arrived at the scene from the south, and he saw an unmarked police vehicle in the center of the road. The driver's door of the police vehicle was open. He looked past the police vehicle and there was a white SUV parked against the west curb. He saw two police officers kneeling next to a man [AP] on the ground; they were SO and WO1. He could see they were giving AP first aid. One was doing chest compressions and one was using a ventilator.

WO3 stopped his police vehicle behind the unmarked police vehicle. He and WO4 got out of their police vehicle and ran up and to where SO was giving chest compressions to AP. He was not moving. AP was on his back and his shirt was open. WO3 saw what

appeared to be a bullet injury in AP's lower left abdomen and shoulder. AP's face was covered in blood, so he couldn't tell if there were any injuries there.

When they were walking up they asked, "what do you need us to do?" WO3 and WO4 said they would take over first aid and CPR, and you guys are involved so just step back. Both he and WO4 got down on their knees and started doing first aid.

WO3 said he heard SO say something along the line of "he pulled this on me." WO3 did not look up to see what he was referring to. WO4 started doing chest compressions, while he checked for a pulse and checked for wounds. They continued doing first aid, and they swapped out doing the chest compressions. A paramedic arrived in an EMS SUV and came running over with his kit. He told them to stop doing chest compressions so he could hook up the leads to check for vital signs. The paramedic stated AP had no pulse and was deceased; at that point they stopped doing first aid.

WO2 and his partner arrived on scene. WO2, being the senior officer, took over and started giving directions. WO2's partner put up the police tape to mark off the area. The actual ambulance arrived and two or three paramedics arrived on scene and they ran to where AP was. They were running into a crime scene so WO2 had WO3 stand in front of the white SUV and the unmarked patrol car, because there were bullet casings on the ground and he was to make sure the EMS personnel did not walk through the casings.

The paramedics went to the person on the ground and started doing more first aid, but he was not sure what that was about, maybe they had to do their own checks. EMS left so he was no longer needed at his point and WO2 had him check the houses along the west side of the street, looking for defects or stray rounds. WO3 checked all the houses. He found one defect in a lamp post where the electrical box was dented. It looked like a bullet ricochet. Other officers were arriving on scene. WO2 had him set up an outer perimeter. He was then sent to the north point to keep people out of the area. He was there until he was told he was being taken downtown as a witness officer.

WO3 provided the following additional information:

AP's legs were on the sidewalk and his upper body was on the grass. There was stuff scattered all around him. There was first aid stuff, and he remembered seeing a cell phone on the lawn and a BBQ lighter either on the sidewalk or the curb of the road. When SO made the comment "this is what he pulled on me," he did not look because he had his back to him when he said it. He did not look up or turn around. WO3 drew the scene as he recalled it. WO1 and SO walked south away from the area and he and WO4 took over first aid.

WO3 saw the four shell casings on the ground and marked them on his drawing. He also marked the lighter and cell phone on his drawing. He did not have a conversation with WO4 as to why they were told they needed to go downtown by a supervisor. WO3 drove his vehicle downtown and WO4 went with the supervisor.

WO3 did not know who the male was on the ground. It was hard to say if he knew this person from before as his face was covered in blood. WO3 saw two wounds to AP; he had a wound in his lower left abdomen and one in his left shoulder. WO3 was not there when AP was rolled over to look for other wounds. AP did not have a shirt on when he got there. He assumed they opened it up when they were doing first aid on AP.

The unmarked police car was grey, and none of the emergency lights were activated on it. It was running when they got there and he ended up subsequently turning it off.

*WO4 was interviewed by ASIRT and provided the following information*

He was working with WO3 and they were sitting at Calder doing some paperwork. They heard "shots fired" over the radio. They immediately left and headed directly to the scene. When they arrived, they saw the officers over on the west curb so they ran over there. He saw SO doing CPR on a male [AP] on the ground that was bleeding. From training he knew that he should get SO away from the situation as fast as possible. WO4 stepped in and took over CPR, doing compressions. He and WO3 switched out every now and then. EMS got there and checked the pulse. EMS said it was not looking good so WO3 continued doing chest compressions. EMS was going through their protocols to determine if AP was deceased or not.

He was told to continue compressions until EMS could figure everything out with their protocols. Another EMS unit showed up and they declared the male deceased so he stopped doing chest compressions.

WO4 then went looking for shots to the north in case they missed AP, because he only saw three wounds on the body; one on the left side of his face, one on the left shoulder, and one kind of left stomach area. He heard there were more than three casings. WO4 checked outside the tape for any houses or vehicles that may have been hit. He saw a possible bullet ricochet on a light post. He could not tell if it was new or old but it looked new because it was shiny, and that was the only thing he saw.

He and WO2 went back to the body to see if there were any more wounds or if it was just the three. WO2 turned the body over and he looked underneath with his flashlight, but did not see any additional wounds.

On the ground there was a pop bottle and it looked like a gunshot had gone through the bottle. He did not see a wound on either of AP's hands.

He thinks it was WO2 who told SO to leave the area. SO came back within seconds, picked up the phone and said, "this is what he pulled out, this is what he had in his hand". SO took a picture of the cell phone and put it back on the ground. That was the last time he saw SO.

#### Subject Officer

As is his right, SO chose not to be interviewed by ASIRT investigators, but he did provide investigators with his police report, notes, and a diagram as his voluntary statement. A subject officer has the same right to not participate in an investigation as a civilian does. However, just as a civilian may submit documentary evidence when under investigation, a subject officer may do the same. ASIRT will of course accept and review such evidence. It is important to note that when self-serving evidence is submitted by an individual, whether a subject officer or a civilian, but the individual does not also allow themselves to be tested on that evidence during an in-person interview, the submitted evidence may be given less weight during ASIRT's assessment.

SO's report contained the following diagram. The SO added the text boxes. Only the name of his partner has been amended to be WO1.



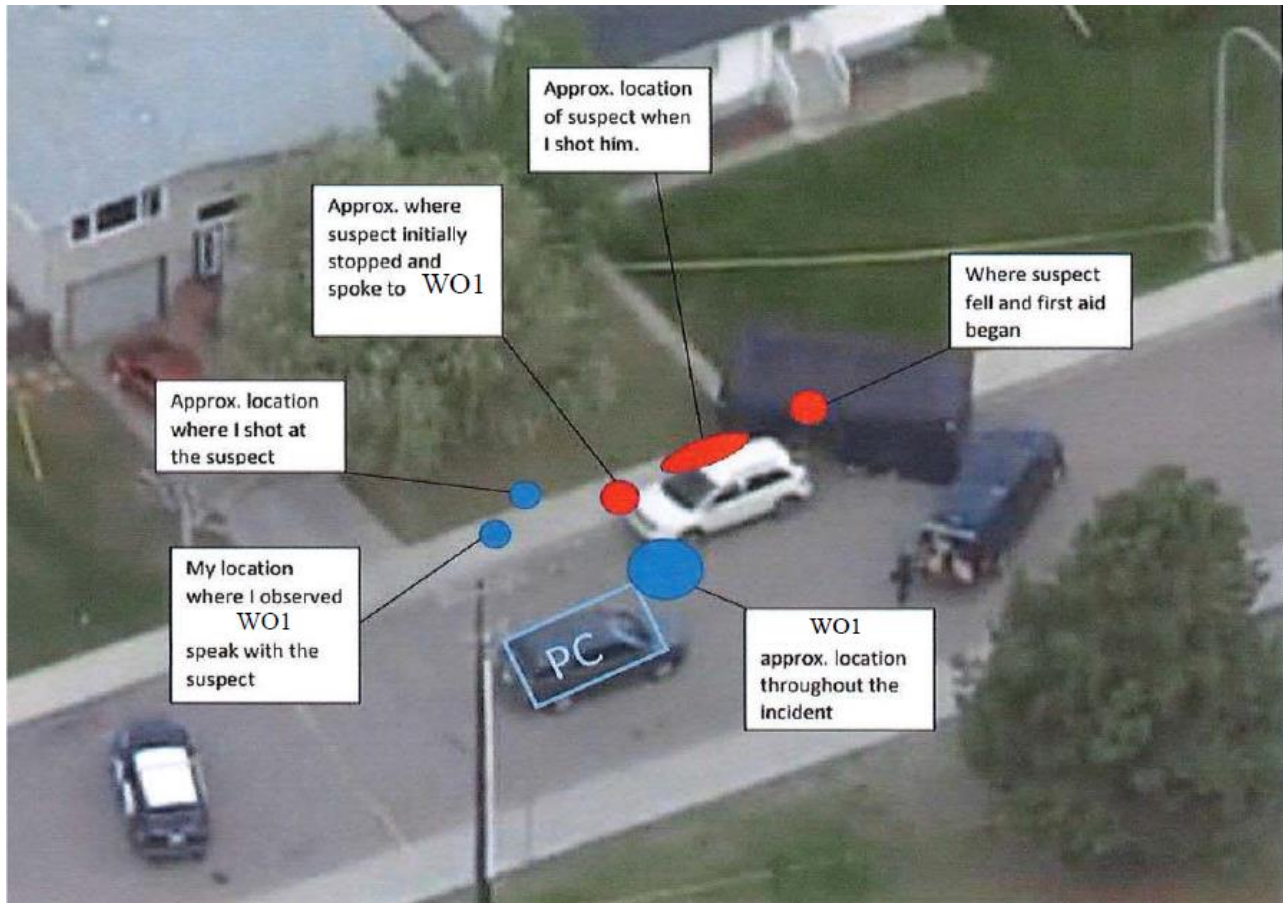


Diagram provided by SO

SO's report stated that on June 5th, 2021, he was partnered with WO1 and they were operating a grey unmarked police vehicle but wearing full uniforms. They were dispatched to a weapons complaint in the area of [residential address around 134 Ave. and 107 St.]. The complainant, CW1, reported a male suspect ["AP" will be used throughout, in place of "suspect" in SO's report and notes] outside of his home with a knife attached to a screwdriver. A description of AP was provided and that CW1 could no longer see AP.

They arrived with no lights or sirens activated. SO drove past WO1's address and did not see AP. He looped around and drove back towards CW1's house but still did not see AP. He turned the police vehicle around to face northbound as WO1 was on the phone with CW1. CW1 came out of his residence and spoke with them. CW1 told them he last saw AP walking northbound and then in a northwest direction between some houses. CW1 said he did not talk to AP, rather he just saw him through the window. CW1 said that AP did not do anything threatening with the knife. He was just holding it and walking

around. He found CW1 to be a reliable and credible witness. SO believed AP was carrying some sort of edged weapon.

SO drove approximately 100 meters and observed a male matching the provided suspect description emerge from the shadows under a large tree and begin to walk southbound on the sidewalk. This occurred very quickly, in approximately three to four seconds. SO had to slam on the brakes of the police vehicle to stop, nearly passing AP.

SO did not have the opportunity to activate his police vehicle lights or siren. SO described his police uniform as dark blue pants with a bright red stripe, a dark shirt with the EPS crest, duty belt and a COVID mask hanging from his microphone secured to the center of his chest.

SO stopped the police vehicle and he and WO1 got out. AP stood on the sidewalk beside the front passenger bumper of a white SUV parked on the road. AP was carrying a black plastic bag containing bottles and cans, and he had something sticking out of a pocket near his left hip. The item had a handle wrapped in blue tape and had some grip like texture on the handle. He believed this could be the knife attached to the screwdriver that CW1 had observed.

WO1 was the first out of the vehicle and began conversing with AP by saying "Hey what's going on?" SO took up a triangulated position of over watch as the cover officer. He and WO1 had not discussed a plan before exiting the police vehicle. WO1 was the one speaking with AP who said, "Not much guys, I'm just picking bottles," and he pulled a bottle from a bag to show them.

WO1 said, "Well we are investigating a weapons complaint and to be honest, you match the person we are looking for." AP reached with his left hand into his pocket containing the blue object while making a comment to effect of "Weapons, no weapons, I'm just picking bottles." SO based on his observations, believed it was clear that AP knew they were the police. SO heard WO1 give a clear firm command to AP, "Get your hand out of your pocket."

AP said something to the effect of "Woah, woah I'm not doing anything." While slowly stepping backwards away from them. AP's speed of talking, volume level and behaviour demonstrated an increased level of excitement and energy. AP continued to have his hand in his pocket and appeared to be moving his hand around in a manner that appeared to SO like he was trying to retrieve something. AP was saying something to the

effect of "I didn't do anything." SO heard WO1 give a clear command "I'm not going to tell you again, get your hand out of your pocket."

SO considered the following:

- He was investigating a trespassing complaint with elements of possible theft and possession of weapons;
- The alleged offences had occurred moments before he arrived on scene;
- AP matched the description provided by CW1;
- He was lawfully placed to detain the male in relation to the investigation;
- CW1 clearly observed AP in possession of a weapon described as a knife attached to a screwdriver;
- AP had an object wrapped in blue tape sticking out of a pocket on the left side of his body;
- He believed this could be the weapon that had been observed;
- AP reached into the same pocket containing the object;
- AP had been given two clear warnings to get his hand out of his pocket;
- AP did not comply and began to back away; and
- AP's behaviour and level of excitement and energy had significantly increased

Based on these factors SO believed AP was a low-level resistor with the possibility of rapidly posing a threat of grievous bodily harm or death with an edged weapon. He unholstered his issued pistol and held it against his chest in a compressed low ready position, muzzle pointing at the ground in front of him. To further triangulate on AP, he stepped to the left off the road and onto the sidewalk.

SO considered the following environmental conditions:

- There were residences to his left and to the front of him;
- To his right there was a parked white SUV;
- Further to the right was the curb of the sidewalk, down onto the street;
- Their position was almost directly in between two lights providing the least light possible;
- There was a large tree to his left which was blocking the majority of the light;
- That dark shadow extended almost the entire front of the house that AP and he were standing in front of;
- He does not recall any lights emanating from the house to his left;
- AP continued to walk backwards and into a very dark shadow putting SO at a disadvantage, and the AP's dark clothing made him not clear to see;

- AP had the advantage to see SO as he was completely illuminated by streetlights;
- He was approximately five to seven meters away from AP;
- He stood directly in front of AP on a sidewalk, providing no cover or concealment;
- He was completely exposed and illuminated in the open;
- The cover the SUV provided would require him to move up and closer to AP;
- The only other cover that he saw was the police vehicle which would have required him to turn around and move backwards to the vehicle taking his eyes off AP; and
- He saw no immediate places to cover that he felt comfortable that would allow him to take cover, create a barrier and de-escalate.

SO considered the following subject and officer factors:

- AP was wearing all black while outside at night which could aid concealment;
- He found AP emerging from the shadows on another property to be highly suspicious;
- AP was observed to possess an edged weapon and he believed this item was sticking out of his pocket and had no legitimate purpose for carrying this item;
- He knows that persons committing criminal acts will often carry weapons to defend themselves, and items or tools to assist in committing crime such as a screwdriver;
- His police training and experience as a police officer has taught him that when one weapon is found you can expect to find another;
- AP appeared to be similarly physically proportioned to him, giving him no advantage in physical size over him;
- He was not in a position to say where WO1 was, but based on the last view of his location he believed WO1 was standing on the road somewhere in the area of front bumper of the white SUV;
- He felt that WO1 had concealment and cover and was unable to have direct view of AP, and it would be unlikely he would have a clear shot of AP should he have chosen to react with lethal or less lethal options;
- He was standing directly in front of AP; and
- He is not trained to use or carry a CEW (commonly referred to as a taser); however, WO1 was carrying a CEW.

SO wrote that the following occurred:

- He observed that as soon as he unholstered his pistol and held it at low ready AP's behaviour, mood and energy very rapidly and immediately escalated to 100 percent;
- AP stopped his backward movement, now fully and completely engulfed in the shadow. AP began to yell at him, something to the effect "No, No, No get away, get back! I'll kill you! Get back! Get away! Get away!";
- With every word he spoke his voice became louder, the pitch of his voice increased, and the speed of his voice increased;
- While he yelled he drove his right hand into his jacket pocket or his pants pocket;
- He observed him remove a black rectangular object;
- AP was not wearing gloves and despite the dark shadow he was in, he could clearly see that the white skin of his fingers were orientated in a manner consistent with holding the grip of a pistol;
- He observed a smaller silver or lighter colored circle on the front of this object and he believed that he was looking at the front of a pistol and this was the silver inside of a barrel;
- AP's stance was bladed and offset with his right foot towards him as if in a boxer's stance.
- AP's hand, holding the firearm, raised towards him with the movement ending with his arm fully outstretched consistent with one handed shooting stance;
- He yelled "Gun! Drop it." AP was approximately eight metres away from him;
- AP's entire body then shifted and rotated to the left, his arm still fully extended to point the firearm in the direction of WO1 while also taking a quick step backwards, almost shuffling his feet like one does when shadow boxing;
- The quick aggressive rotating movement seemed to occur very rapidly, lasting what seemed like a split second;
- AP was still yelling at him "Get back, get away."; and
- AP's demeanor, energy and behaviour had rapidly and suddenly escalated from cooperative to grievous bodily harm/death in a time span he estimated less than twenty seconds.

SO found it hard to comprehend why someone who was just trespassing for the purpose of collecting bottles decided to act in a threatening manner. He felt AP clearly demonstrated that he had an extreme level of motivation and determination to escape, to the degree of presenting a threat of grievous bodily harm or death against him. He believed that AP was holding a gun and pointing it at him and WO1. He believed AP was going to shoot him or his partner and vividly recalls tucking his head down raising his shoulders up and squinting his eyes as he expected to see muzzle flashes of bullets incoming at him. He believed the only way to stop the threat was to shoot AP. He had a



clear image of AP pointing a gun at him and thinking to himself that he was going to die if he didn't act immediately and stop the lethal threat.

Due to his lack of cover and being out in the open, he did not feel safe or comfortable moving closer towards the lethal threat without first attempting to stop the threat. As AP swung his body back towards him, his outstretched arm holding the firearm, he stepped to his left off the line to move from where he last saw him, and raised his pistol at AP and fired approximately six shots at him. SO does not know exactly how many shots he fired.

He observed AP fall down onto his back on the sidewalk. He felt that from the time he unholstered his pistol until the shooting, this all lasted about three seconds. He estimated it took about 30 seconds from the time he exited his police vehicle to the shooting. He paused a second, took a breath and then with his pistol still pointed at AP walked up to him. WO1 approached with him and he said over the radio "Shots fired, shots fired".

SO searched AP for weapons and observed a cell phone with a dark blue case laying on the ground near the right side of the body. He believed that phone was the item the man was pointing at him, and the round silver part he believed was a barrel of a gun could have been the camera on the front of the phone, "shining in what little light was coming through the trees". He grabbed the blue handled thing that was in his pocket and discarded it.

When he rolled AP back, he was making gurgling sounds. He checked for a pulse but there was no pulse, and he was not breathing. They started CPR and lifesaving first aid. He confirmed on the radio that he and WO1 were okay. He stated AP was "Not conscious, not breathing, multiple gunshot wounds." He observed a bullet hole in AP's left shoulder and a bullet hole in his abdomen. He also observed a bullet hole in his penis which did not appear to be bleeding. When other members arrived on scene they took over CPR and first aid.

He took a photograph of the dark blue cell phone on the ground. He was escorted to Headquarters by an officer, and his pistol was seized by Crime Scenes Investigation Unit (CSIU). He completed his notes at police Headquarters while waiting for ASIRT.



SO's notes contained numerous entries including:

- After WO1 told AP "I'm not gonna tell you again...", AP yelled "I didn't do anything. Back the fuck up", and he starts walking backwards";
- SO then noted "I hold my ground, unholster...hold low ready compressed...I told him to stop";
- SO then noted "As I unholstered, he reached R. hand into R. jacket or hoody pocket...pulls out a black rectangular kind object w/ silver or lighter color front on it...I perceive this is a gun and I'm looking at the barrel that is round + lighter color...I yell drop it...he is yelling at me "back the fuck up. get back";
- After the shooting and disengaging from CPR, SO noted "saw item on grass was android or other cell phone w/ dark blue case + large round camera lense (sic)"

### Scene Evidence

ASIRT investigators with assistance from EPS CSIU processed the shooting scene. Seven expended pistol cartridges were located on the street, as shown in the below picture.



Identification markers where SO's seven shell casings were located

Also located at the scene in the gutter near AP's body (feet) was the "blue handled thing" that SO tossed away from AP's body. It is possible that this BBQ lighter is the item that was reported in the initial complaint to police of AP holding some sort of weapon, like a knife or a screwdriver.



"Blue handled thing" from AP's pocket that SO tossed away from AP

On the lawn near AP's head were a: plastic Coca Cola bottle, black plastic bag with other pop bottles inside, a jacket, a blue cell phone and a backpack. This cell phone is what SO, when being escorted out of the area by WO2, went back and took a picture of.





Phone that fell near AP and that SO went back and took a picture of

When WO1 voiced “shots fired” over the radio, Air-1 was nearby and flew overhead. Air-1 captured video of the scene. Still photos were made from some of this video showing the shooting scene very shortly after it had occurred. The first photo is in infrared mode, which shows hot objects as white and cool objects as black, while the second is with infrared mode off. Both show what appears to be a flashlight near the shooting scene although no flashlight was later recovered from the scene:



Infrared mode on showing an apparent flashlight on the roadway near the shooting scene



Infrared mode off showing that flashlight was on

## **Investigation of flashlight and scene lighting**

### **Flashlight Issue**

After the shooting, SO was taken to an EPS facility to await the arrival of ASIRT investigators. After being designated as a subject officer it was discovered that SO had an EPS issued flashlight in his flashlight pouch that was engraved with the badge number of another officer that worked in the same Division as SO. SO's statement (police report and notes) made no mention of him using a flashlight during the incident.

The primary investigator followed up by speaking with WO1, and confirmed he did not remember seeing SO using a flashlight. WO1 did have his flashlight on his duty belt, but he did not take it out or use it. There was enough light with the streetlights and the police vehicle headlights to see okay when he got out of the vehicle. He did not see a flashlight on the ground anywhere afterward.

The primary investigator also followed up by speaking with the officer whose badge number was engraved on the flashlight that SO possessed when first dealt with by ASIRT investigators after the incident. This officer advised that it was very odd that SO had his flashlight, as he checked his pouch while speaking with the investigator and found that it had his own flashlight with his badge number engraved on it. This officer subsequently advised the primary investigator that while not certain, he thinks he may have obtained a second flashlight at some point. He did advise that when he checked with EPS Materials Management they did not have any record of him ordering a second flashlight.

The primary investigator liaised with the senior technician with EPS Materials Management who advised that the flashlight that SO possessed was an EPS issued flashlight, and that the engraving of the badge number was in the correct area and the same font. There was no record that either SO or the officer whose badge number was on the flashlight had reported a lost or missing flashlight, nor a record of either of them re-ordering a new one.

The primary investigator spoke with all the other witness officers that attended the scene and asked about a flashlight being on the ground nearby. All of the officers indicated that they did not see a flashlight, on or off, on the ground in the scene.



The primary investigator asked SO, via his counsel, to describe the following:

1. Any/all possession/use of a police flashlight during this officer involved shooting incident, from the time you exited your police vehicle, until you met with CSIU and ASIRT Inv. [name of investigator] at the EFAS office at Police Headquarters, for photographs, weapon seizure and Subject Officer Designation, and
2. How you came into possession of EPS issued flashlight engraved with [badge number listed], on the night of this shooting incident, and what you did with it after leaving the EFAS office?

SO subsequently provided a response to both questions. For question 1, SO replied:

- From the moment of exiting my police vehicle till the moment I began rendering first aid on the suspect that was shot, I did not use my flashlight. While rendering first aid to the suspect, I cannot say definitively if I used or did not use my flashlight. For the remainder of the incident until receiving my subject officer designation, I don't recall using my flashlight.

For question 2, SO replied:

- EPS currently issues one model of flashlight to patrol. The old EPS Northwest Division station had several communal flashlight chargers grouped together on a desk outside of the parade room that were available for the entire station to use. It was common practice to put your flashlight on the charger before pre-shift parade to top up the charge and grab your flashlight once parade was over. There could be several flashlights sitting on the desk waiting to be charged while the chargers were in use. The flashlights have some markings on them from the manufacturer in addition to possibly engraving their Reg# on them. The Reg# engraving is a similar colour to the manufacturer engraving and doesn't obviously stand out.
- NorthWest Division moved to our new building early in 2021 where BEAT members now have their own separate office. At some point prior to moving to, I must have grabbed the wrong flashlight off the charger and never noticed that it wasn't mine. I was not aware that I had Cst [name of officer] flashlight until I was notified by my counsel on August 19 and I checked my duty belt. I still have his flashlight on my duty belt.



- I carry two flashlights with me in case one dies in the middle of shift and I need to switch it out. I've only had a flashlight completely die on me a few times as I typically would charge and top it up before shift as required. It's entirely possible that I have been in possession of Cst [name of officer] flashlight as a backup inside my duty bag months or years prior to our move and switched it out with a dead flashlight, to have his flashlight now as my main one for some period of time before the shooting incident without ever noticing that it was not mine. The same idea applies to members who engrave their Reg# into their handcuffs - I use handcuffs all the time but unless you make an extra effort to look closely, I might easily miss that these aren't mine.

### Lighting Issue

In reviewing SO's statement and notes, SO commented several times on the lighting at the scene. These comments included (underlining added):

- "Our current position was almost directly in between two streetlights, providing the least light possible. There was a large tree and bush directly to my left which seemed to be blocking a majority of the light from the streetlights. This very dark shadow extended almost the entire front of the house that the suspect and I were standing in front of. Behind the trees, I don't recall seeing any lighting emanating from the house to my left. As the suspect continued walking backwards, he walked into the very dark shadow putting me at a disadvantage in that his all black clothing made him not as clear to see. While the suspect was being engulfed in this shadow, I noticed that I was completely illuminated by the street lights, providing the suspect a distinct advantage of seeing me clearly".
- In relation to the possibility of taking cover behind the police vehicle, SO stated "I believe that from the police vehicle, the suspect's location in the shadows was obscured by the parked white SUV".
- "The suspect stopped his backward movement, now fully and completely engulfed in the shadow." He also stated, "The suspect was not wearing gloves and despite the dark shadow he was in, I could see clearly that the white skin of his fingers were orientated in manner consistent with holding the grip of a pistol".

In contrast to the reporting by SO of the lighting conditions at the time of the shooting, WO1 indicated that there was enough light with the streetlights and the police vehicle headlights, to see okay when he got out of the police vehicle.

On June 29, 2022, the primary investigator conducted a scene lighting re-enactment, to assess the lighting conditions at the time of the shooting (11:11 p.m.). Based on the re-enactment the following was determined relative to the ambient lighting:

- Clear sidewalks (no shadows);
- Clear roadway (no shadows);
- Darker grassy areas, but clearly green colour was visible;
- Large tree in the front yard of [address of residence in near vicinity] was in silhouette against the house and grass, and one could see the outline of the tree to its base, at the grass;
- A shadow of the tree was close to its base and extended from the base outward, but did not extend onto the sidewalk. There was approximately 1-1.5 metres of visible green grass between the shadow and the sidewalk;
- The outline of a grey SUV in the driveway was visible, with some differentiation between the lighter body sides and the darker windows, with visibly highlighted shiny metal rims and clear taillight sections; and
- The north streetlight lit up that area greater than the south streetlight which was farther away. They both cast some shadows when one walked on the sidewalk (north and south), but the north streetlight cast a much harder shadow (southward), which mostly silhouetted a person when looking north. Looking south, objects were well lit.

An EPS CSIU officer assisted the primary investigator with the scene lighting re-enactment. They took some overall photos starting with the porch light of the residence immediately adjacent to the scene off. This was done as it was unknown if this light was on or off on the date of the shooting. They also had the homeowner turn the porch light on, but it had little to no impact on the casting of shadows on the sidewalk where AP and SO were standing before the shooting. The primary investigator even used a flashlight (more powerful/direct than the porch light bulb) from the porch in an attempt to cast a shadow from the tree toward the sidewalk. The flashlight light lit up the grass area around the tree more but did not make a shadow across the sidewalk.

### **Use of Force**

### **Analysis**

The subject officer was lawfully placed and acting in the execution of his duties investigating a suspicious person complaint.

### *The Use of Force*

Under s. 25 of the *Criminal Code*, police officers are permitted to use as much force as is necessary for the 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.

A police officer's use of force is not to be assessed on a standard of perfection nor using the benefit of hindsight.

With the benefit of hindsight, time for detached reflection and knowledge of the ultimate outcome, it is easy to speculate about how things could have been done differently. That is not the standard, however, against which an officer's conduct is measured. The question is, applying principles of proportionality, necessity, and reasonableness, whether the force used falls into a range of possible reasonable responses.

Given that SO used his firearm to shoot AP, to have the protection of s. 25 he had to believe on reasonable grounds that the force was necessary for his self-preservation or that of anyone under his protection (in this case WO1). In this case while SO subjectively believed that it was reasonable to shoot AP, objectively this belief is lacking.

SO's version of events is problematic for a variety of reasons. Firstly, ASIRT's investigation noted that after the shooting SO walked back to the scene to take a photo of a cell phone that had been possessed by AP. This was the item he felt was a firearm. AP's description of what he felt was the firearm may be purposely tailored to fit the description of his photo of the phone. Additionally, AP's description of the lighting is rebutted by the ASIRT investigation and the statement from his partner, WO1.

Furthermore, there is the issue with the missing flashlight. SO claims that he did not use his flashlight during the encounter but the video from Air-1 captures a discarded and operational flashlight on the ground in close proximity to where SO would have been standing when he fired the shots. Notably when SO was photographed after receiving his subject officer notification he has a fellow officer's flashlight on his duty belt and his own flashlight is not accounted for.

Within seconds of an interaction with SO, AP was shot dead. No weapon of any sort was located on AP and SO's justification for shooting is that an item resembling a firearm was pointed at him in poor lighting conditions. This item was a blue cell phone and based on both WO1's description of the lighting; the ASIRT scene examination which focused on lighting conditions; and the presence of the flashlight, the lighting conditions were found to have been markedly better than claimed to by SO.

Given the foregoing, there were therefore reasonable grounds to believe that an offence was 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 a culpable homicide charge should be considered.

### **ACPS Opinion**

ASIRT subsequently received that opinion. ACPS recommended no charges be laid against SO.

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**

On June 6, 2021, ASIRT was directed pursuant to s. 46.1 of the *Police Act* to enter an investigation into the circumstances surrounding a fatal EPS officer-involved shooting. The shooting was reported to have happened during the investigation of a suspicious person complaint, with the suspicious person reportedly holding some sort of weapon.

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols and principles relating to Major Case Management. The investigation resulted in there being reasonable grounds to believe that SO committed an offence, and the file was sent to ACPS for an opinion respecting charges against SO.

Based on the ACPS opinion that charges are not recommended, there will be no charges laid. While this is the conclusion of ASIRT's involvement, it is likely that a fatality inquiry will be held into AP's death by the appropriate agency.

*Original Signed*

**Michael Ewenson**  
**Executive Director**

**May 15, 2024**

**Date of Release**