



**IN THE MATTER OF A FATAL RCMP OFFICER-INVOLVED SHOOTING NEAR
HIGH PRAIRIE ON JUNE 17, 2021**

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

Assistant Executive Director:

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Introduction

On June 17, 2021, pursuant to s. 46.1 of the *Police Act*, the Director of Law Enforcement directed the Alberta Serious Incident Response Team (ASIRT) to investigate an RCMP officer-involved shooting near High Prairie that occurred earlier that day. This incident continued into the next day with additional officer-involved shootings, the last of which was fatal. ASIRT designated eight subject officers, with notice to each. ASIRT's investigation is now complete.

ASIRT's Investigation

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols, and in accordance with the principles of major case management.

There were no civilian witnesses to this incident.

ASIRT investigators interviewed the following police officers:

Subject officer #1 (SO1) – an officer at the first scene;

Subject officer #2 (SO2) – a police dog services officer at the first scene;

Subject officer #3 (SO3) – an officer at the first scene;

Subject officer #4 (SO4) – an officer at the second scene;

Subject officer #5 (SO5) – an officer at the second scene;

Subject officer #6 (SO6) – an officer at the second scene;

Subject officer #7 (SO7) – an officer at the third scene;

Subject officer #8 (SO8) – an officer at the third scene;

Witness officer #1 (WO1) – an officer who went to the third scene after hearing shots;

Witness officer #2 (WO2) – an officer who went to the third scene after hearing shots;

Witness officer #3 (WO3) – an officer at the first scene;

Witness officer #4 (WO4) – a police dog services officer at the second scene; and
Witness officer #5 (WO5) – an officer who went to the third scene after hearing shots.

The subject officers, as the subject of a criminal investigation, were entitled to rely on their right to silence and not speak to ASIRT.

ASIRT investigators obtained video from WO5's police vehicle, which captured the third scene shortly after the officer-involved shooting. Investigators also obtained police radio communications from the incident.

ASIRT investigators obtained the report from the autopsy of the affected person (AP) conducted by the Office of the Chief Medical Examiner and the report from the necropsy of the deceased police service dog from a veterinarian.

ASIRT investigators processed the three scenes from this incident with assistance from RCMP Forensic Identification Section (FIS) officers.

Circumstances Surrounding the Incident

On June 17, 2021, the AP had multiple outstanding arrest warrants. That morning, an RCMP officer attempted to stop him while he was driving a red Cadillac. The AP drove off and other nearby RCMP detachments were notified of the incident at approximately 10:30 a.m. SO1, SO2, SO3, and WO3 began to look for the AP and the red Cadillac. The AP was known to police in the area and was known to be in possession of firearms at times.

Scene One

At approximately 11:00 a.m., SO2 and WO3 located the red Cadillac on a service road off Township Road 770. SO1 and SO3 joined them, and the four officers used their police vehicles to pin in the Cadillac. The Cadillac was empty and had a tarp covering part of it.

The four officers then started to track the AP using SO2's police service dog. SO3 was armed with a carbine rifle and SO1 and WO3 drew their handguns. SO2 carried a handgun but did not draw it initially.

The track initially looped around, and the dog indicated on a black bag near the roadway. Officers searched the bag, which contained items with the AP's name on them and at least three types of ammunition. The track then went into dense forest and swamp which made travel slow. The officers were tracking the AP for approximately two hours over multiple kilometers before SO2 heard a crashing sound approximately 50 yards ahead. Shortly after, the dog began to charge forward and reached the end of his line. SO2 dropped the line and gave the dog the command to find the person. He yelled out commands to stop and told the AP that he was under arrest. He then heard rapid gunfire from a high-powered rifle, and a scream from the dog. Although he could not see him, SO2 thought that the dog had been shot.

SO2 drew his handgun, told the AP to drop the gun, and approached. He saw the AP 30 yards ahead of him with an assault rifle in his hand. He again told the AP to drop the gun. The AP raised his rifle to SO2, and SO2 fired four to six shots at him. The AP started to run away, then stopped and raised his rifle again. SO2 fired two more shots at him, and the AP ran away. SO2 did not think that any of his shots had hit the AP.

The four officers then took defensive positions, believing that the AP had intended to ambush and kill them. A short time later, SO1 and SO3 spotted the AP in a different area from where he had run away. It appeared to them that the AP had circled around and was coming back to shoot them. SO1 said that the AP was approximately five metres away when she noticed him. SO3 said he saw him at 30-40 feet away. SO1 fired nine shots and SO3 fired nine to ten shots at the AP, who moved away and out of sight. A short time later, SO3 saw the AP run away from the area.

ASIRT investigators and RCMP FIS officers later processed the scene. Six .223-calibre casings, consistent with SO3's ammunition, were found together. The deceased police dog was located approximately 10.5 metres south of the casings. Eight metres south of that, there were two 9mm casings. The 9mm casings were consistent with SO1 and SO2's ammunition. Due to the dense forest in the area, some casings were likely not located.

ASIRT investigators seized the firearms and magazines of the involved officers. Based on the round counts, it appears that SO1 fired eight rounds, SO2 fired seven rounds, and SO3 fired 11 rounds.

Scene Two

During the first officer-involved shooting, RCMP emergency response team (ERT) officers were heading to the area to assist. SO4, SO5, SO6, and WO4 assembled near the red Cadillac and began to track the AP using WO4's police service dog in the early morning of June 18. The RCMP critical incident commander had told all involved officers that lethal force was to be used on the AP unless he was in an act of overt surrender. The four officers were aware of what had happened earlier and believed that the AP intended to kill police officers as part of his escape.

The four officers had been travelling in the dense forest for approximately one hour when SO5 spotted the AP 50-75 metres away. SO5 and SO6 called out various commands to the AP. The AP did not respond or follow commands, and SO4, SO5, and SO6 fired at him. SO4 thought he fired six to eight shots, SO5 thought he fired multiple shots at the AP, and SO6 thought he fired five to six shots. The AP disappeared and the officers did not know if he had been hit or not. SO5 called out to the AP multiple times but the AP did not respond. They determined that the AP had left the immediate area. The officers were concerned about the AP's intentions since he was still near the initial contact and did not appear to be trying to escape.

RCMP FIS officers processed this scene and provided the photographs and evidence to ASIRT investigators. Eight casings consistent with the officers' firearms were located. Some casings were likely not located.

Scene Three

While ERT officers had been searching for the AP, other RCMP officers were brought in to contain the AP. One of these officers was SO7, who was positioned approximately 600 metres south of where the AP was last seen.

At 11:30 a.m. on June 18, SO8 picked up SO7 since his shift was ending. SO8 was driving an unmarked police truck and the two travelled north on Range Road 170. Shortly after, SO7 saw the AP sitting in the ditch along the road as they drove by him. SO8 stopped the truck quickly and SO7 exited and pointed his carbine rifle at the AP. SO7 yelled, "stop, police! You're under arrest!" The AP ran into the trees and SO8 saw him holding a rifle similar to an AR-15. He yelled, "gun!" to ensure SO7 knew the AP was armed. SO8 was concerned that the AP was planning to move around them and ambush them, as he had

done with the other officers. SO8 felt that the AP's firearm would give him an advantage over SO8, who had drawn his handgun. SO8 fired four shots at the AP from 10-15 metres away. SO7 heard a loud bang and thought that the AP had shot at them. SO7 fired his carbine at the AP four times and thought he hit him. The AP fell to the ground and said that he had been shot. SO7 yelled for him to show his hands and stop moving.

WO1, WO2, and WO5 were at a nearby containment point and heard the shots. They went to the area in their police vehicles. The officers saw the AP laying in the grass. When told to raise his hands, he would sometimes raise an arm.

ERT officers arrived and approached the AP. Paramedics then assessed the AP, who died on scene.

ASIRT investigators attended this scene and processed it with assistance from RCMP FIS officers. Six 9mm casings consistent with SO8's handgun ammunition and four carbine casings consistent with SO7's rifle were located near SO8's truck.

A loaded semi-automatic Mossberg 22-calibre rifle was found a few feet away from the AP (Figure 1).



Figure 1 - Rifle found near the AP.

The AP had a rangefinder in his rear pocket.

ASIRT investigators seized the firearms and magazines of the involved officers. Based on the round counts, it appears that SO7 fired five rounds and SO8 fired six rounds.

Autopsy of the AP

On June 22, 2021, a pathologist at the Office of the Chief Medical examined conducted an autopsy of the AP. The AP had six gunshot wounds, and “death was due to multiple gunshot wounds.”

The AP had methamphetamine in his system at the time of death.

Analysis

Section 25 Generally

Under s. 25 of the *Criminal Code*, police officers are permitted to use as much force as is necessary for execution of their duties. Where this force is intended or is likely to cause death or grievous bodily harm, the officer must believe on reasonable grounds that the force is necessary for the self-preservation of the officer or preservation of anyone under that officer's protection. The force used here, discharging a firearm repeatedly at a person, was clearly intended or likely to cause death or grievous bodily harm. The subject officers therefore must have believed on reasonable grounds that the force they used was necessary for their self-preservation or the preservation of another person under their protection. Another person can include other police officers. For the defence provided by s. 25 to apply to the actions of an officer, the officer must be required or authorized by law to perform the action in the administration or enforcement of the law, must have acted on reasonable grounds in performing the action, and must not have used unnecessary force.

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

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

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

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

Section 25 Applied – Scene One

On June 17, SO1, SO2, SO3, and WO3 were looking to arrest the AP on warrants. The duty to enforce warrants applies to all police officers. The AP had fled police earlier in the day at a traffic stop. Based on his actions, it appears that he was aware that officers were tracking him into the forest. At the very least, he was aware of this once SO2 told him that he was under arrest, just prior to him shooting the police dog. The officers at scene one were required or authorized by law to arrest the AP. Their actions, before and after the AP started shooting at them, were on reasonable grounds.

There is no doubt that when the AP started shooting in the direction of the officers, he intended to kill or grievously harm them. Their response of gunfire was proportionate. It was also necessary since the AP first waited to ambush them and then attempted to sneak up on them. Any other response would have exposed them to a serious risk of death. Finally, their actions were reasonable in the extreme circumstance they found themselves in.

The defence available to SO1, SO2, and SO3 under s. 25 of the *Criminal Code* is likely to apply.

Section 25 Applied – Scene Two

When SO4, SO5, SO6, and WO4 started the second track of the AP, they were still acting toward their duty to enforce warrants. Their duty to preserve life, safety, and property was also engaged by the AP's actions at scene one since it was clear that the AP was a serious risk to police officers and likely the public as well. They were similarly required or authorized by law to apprehend the AP, and they were acting on reasonable grounds.

The RCMP critical incident commander had said that lethal force was to be used on the AP unless he was in an act of overt surrender. Such directions are not determinative that a use of force is proportionate, necessary, and reasonable, although they are relevant. In the situation that day after the AP had shot at police officers and appeared to be trying to ambush them, however, the commander's direction was justifiable. The AP had already

attempted to kill pursuing officers. If the AP did not surrender immediately and the officers waited to see if he eventually surrendered, the AP could be expected to use that time to fire on the officers. SO4, SO5, and SO6 acted reasonably when they fired at the AP after he did not immediately surrender.

The defence available to SO4, SO5, and SO6 under s. 25 of the *Criminal Code* is likely to apply.

Section 25 Applied – Scene Three

After SO7 saw the AP and SO8 stopped the truck, SO8 told the AP that he was under arrest. As with previous officers, they were required or authorized by law to apprehend the AP and did so on reasonable grounds.

The AP then went into the trees and picked up his rifle. Based on his previous actions, it was reasonable for both SO7 and SO8 to think he was going to try to shoot them. When they responded by firing at him, their uses of force were proportionate to the threat he posed. As with the previous encounter, it was necessary to fire at him once he did not immediately surrender since he had shown that he would shoot at police officers. Their uses of force were reasonable in the circumstances.

The defence available to SO7 and SO8 under s. 25 of the *Criminal Code* is likely to apply.

Section 34 Generally

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

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;

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

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

Section 34 Applied – Scene One

When the AP fired in the direction of SO1, SO2, SO3, and WO3, he was an immediate lethal risk to lawfully placed police officers. When SO1, SO2, and SO3 responded by firing at him, they acted in self-defence and proportionately. Viewing all the above factors, the defence under s. 34 of the *Criminal Code* is also likely to apply.

Section 34 Applied – Scene Two

SO4, SO5, and SO6 fired at the AP but he did not fire at them. However, s. 34 recognizes the history between parties and that could potentially include the AP firing at the subject officers at scene one. The defence under s. 34 of the *Criminal Code* may also apply to these subject officers.

Section 34 Applied – Scene Three

When SO8 told the AP that he was under arrest, he picked up a rifle. In most circumstances and certainly in this one, that was an inherently threatening act. SO7 and

SO8 were justified in responding as they did, and the defence available to them under s. 34 of the *Criminal Code* will also likely apply to them.

Conclusion

On June 17, the AP had warrants out for his arrest. SO1, SO2, SO3, and WO3 tracked him into a forest after he abandoned his vehicle. In the dense forest, the AP shot at the officers in an apparent attempt at an ambush, killing a police dog. SO2 responded by shooting back at the AP. The AP ran away uninjured, and then circled back toward the officers. SO1 and SO3, when they spotted the AP coming back, fired at him.

In the early morning of June 18, SO4, SO5, SO6, and WO4 tracked the AP again. When they found him and he did not immediately surrender, SO4, SO5, and SO6 fired at him. The AP again escaped. Later that day, SO7 and SO8 were driving near the spot the AP was seen last and saw him on the side of the road. When he was told he was under arrest and picked up a rifle, SO7 and SO8 shot him.

As noted above, defences under s. 25 and s. 34 of the *Criminal Code* are likely to apply to the actions of the subject officers. There are therefore no reasonable grounds to believe that the subject officers committed any offences.

Original signed

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