



**IN THE MATTER OF A FATAL EDMONTON POLICE SERVICE OFFICER-  
INVOLVED SHOOTING ON SEPTEMBER 18, 2020**

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

**Executive Director:**

**Michael Ewenson**

**ASIRT File Number:**

**2020-0054(N)**

**Date of Release:**

**June 27, 2024**

## **Introduction**

On September 18, 2020, the Alberta Serious Incident Response Team (ASIRT) was directed pursuant to s. 46.1 of the *Police Act* to investigate a fatal Edmonton Police Service (EPS) officer-involved shooting. The shooting of the affected person (AP) was reported to have happened during a 9-1-1 call respecting a man with gun complaint.

## **ASIRT's Investigation**

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols and principles relating to Major Case Management. Information from several civilian witnesses, the subject officers, a witness officer and a scene examination provided sufficient information to determine whether the force used by the subject officers during this incident was reasonable.

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

On September 18, 2020, EPS received multiple complaints advising a male was armed with a firearm at locations in north Edmonton. One call indicated that a male was in a backyard with a loaded firearm. Another call reported that a male was in an alley near the Eastglen Motor Inn with a sawed-off shotgun wrapped in clothing. This location was close to the first call. As a result of the calls, EPS officers attended the residential address first. Two subject officers (SO#1 and SO#2) went to the back alley leading to the residential address. When they arrived at the backyard to this residence, they observed a male matching the description provided by the callers. This was the affected person (AP). He was seated in a lawn chair in the backyard. He was holding a shot gun across his lap. The subject officers gave verbal direction to AP to drop the gun and to show his hands. AP did not comply, but instead began to raise the firearm in their direction. At that point, both subject officers discharged their respective firearms, hitting the AP. The officers noted the AP was no longer moving and EMS was called, but it was clear that AP was deceased from being shot.

## **Witnesses**

### *Civilian witness #1 (CW1)*

Investigators spoke with CW1 who advised of the following:

She is one of AP's sisters. On the day in question, she woke from sleeping and she came to the main floor of her residence and observed AP consuming alcohol. AP had been self medicating with alcohol since his wife's recent suicide, the month before.

One of their cousins resides near her residence and AP went over there for a period of time before returning. CW1 had gone back to sleep, but when she awoke, AP gave her a set of car keys and told her, "The car is yours now" and "It's time to go play." AP was in possession of a firearm and was holding it down by his leg.

CW1 believed something was up because AP never spoke like that, and had never given a vehicle away. CW1 dozed off for a period of time and woke up when she heard several pops that she described as gunshots. She immediately went outside and observed police all around the area.

In the past, AP had made statements to her indicating he wanted to commit suicide.

### *Civilian witness #2 (CW2)*

An investigator spoke with CW2 who advised of the following:

She lived near CW1 and was a cousin to AP. One month earlier AP's wife had committed suicide.

AP had recently received a new prescription from his doctor and had been acting "fucked up" for the previous three to four days.

AP frequently attended CW2's residence. For the past few days, AP had been venting to her stating that he was institutionalized and that he wanted to go "home". CW2 did not know if AP meant that "going home" was going back to jail, or to die and go to heaven.

On September 18, 2020, AP attended her residence while she was sleeping. CW2 woke up and observed that AP was inside her residence and in possession of a firearm.

AP told her that he was “going to go” (CW2 believed this meant he was going to kill himself). AP then stated he was going to go kill himself.

CW2 was scared and she told AP to leave and to get the gun out of her house. AP did not immediately leave, so CW2 departed her residence, leaving AP alone and she went across the street to a friend’s residence.

CW2 directed her friend to call 9-1-1 and she did not have any further interaction with AP after this.

*Civilian witness #3 (CW3)*

An EPS detective that had assisted with neighbourhood canvassing for witnesses spoke with CW3, who advised as follows:

He lives next door to where the incident occurred. On September 18, 2020, at approximately 4:20 p.m. he was in his garage when he heard a popping sound. He went to investigate and glanced over and observed a male who stated “If the cops show up, I’d shoot them”. CW3 went into his residence and told his wife to call the police.

Police arrived on scene immediately. CW3 observed three police officers with firearms drawn. The police gave several commands for the male to get down. CW3 heard six or seven gunshots. He did not observe the police shooting. EMS showed up very soon afterwards.

*Civilian witness #4 (CW4)*

An investigator spoke with CW4 who advised of the following:

She lives on 118 Ave and 69 Street. At approximately 4:15 p.m. she was inside her residence in a room that faces east towards the alley behind her residence. She heard a man shout very loudly "Get your hands up!" A few seconds later she heard several gunshots. CW4 believed she heard 10 gunshots, and she immediately called 9-1-1. She did not observe the shooting take place.

*Civilian witness #5 (CW5)*

Investigators spoke with CW5 who advised of the following:

On September 18, 2020, at approximately 4 p.m. she heard a lot of arguing and then saw a man [based on the description she provided this was AP] come out of the house just down from hers. AP had a bundle of clothes with him and he walked from the other house to the four-plex at the end of the alley.

A few minutes later CW4 observed AP walking back down the alley. AP was carrying, what appeared to be a large stick with a piece of cloth or clothing covering it. AP walked into the backyard of the house he originally came from.

Not too long after this, CW4 heard police yell loudly several times "Get down!" "Lay down your weapon!" CW4 stated her view was obstructed because she was watching through the glass of a parked vehicle, but she could observe four or five police officers with their guns out.

CW4 stated the police were on scene for approximately one minute yelling commands like "Get down!" and "Put the gun down!", she described there was lots of screaming. She then heard more than eight gunshots in very fast succession.

Multiple other police and ambulance arrived on scene very soon. CW4 did not observe the police shooting itself and did not observe AP with a weapon.

*Civilian witness #6 (CW6)*

Investigators spoke with CW6 who advised of the following:

On September 18, 2020, CW6 was inside his residence when he observed a male [based on the description he provided this was AP] standing on the sidewalk, on the west side of Eastglen Motor Inn. AP had something wrapped in a jacket that looked suspicious.

As AP was walking, the jacket fell off the item in his hands, revealing AP was carrying a firearm. CW6 described the firearm as having a pistol grip and a rifle sight on top. CW6 called 9-1-1 and advised he witnessed a man carrying a firearm behind the Eastglen Motor Inn.

AP tried to wrap the firearm back up in the jacket, but dropped the firearm on the ground. AP picked the firearm up and then kept walking through the alley behind the Eastglen Motor Inn. CW6 tried to parallel AP by walking on the sidewalk out front, however did not see AP again. A short time later, CW6 heard several gunshots. He did not know where the gunshots came from and did not go investigate further.

*Civilian witness #7 (CW7)*

Investigators spoke with CW7 who advised of the following:

On September 18, 2020, at approximately 4:15 p.m., CW7 was sitting in the back yard of his residence with his brother, civilian witness #8. CW7 heard a male's voice yell very loudly "Drop it!" or "Get down!" CW7 then heard approximately six gunshots. Given the height of his fence, CW7 could not see what had happened.

*Civilian witness #8 (CW8)*

Investigators spoke with CW8 who advised of the following:

On September 18, 2020, CW8 and CW7 were sitting in their back yard when they heard loud yelling coming from the alley stating "Put your hands up!" CW8 then heard six or seven gunshots. CW8 did not observe the shooting incident. After the shots were fired, he went into the alley to see what was happening and realized it was the police that had yelled "Put your hands up!" The police advised him to go back to his residence.

*Witness Officer*

An investigator interviewed witness officer #1 (WO1) who provided the following information:

On September 18, 2020, WO1 was on duty with a partner. At approximately 4:12 p.m. they received a high priority weapons complaint, which advised a male was in possession of an automatic gun in the back yard of a nearby residence.

An additional complaint was received regarding a male with a gun wrapped in a jacket, walking at the nearby Eastglen Motor Inn.

At approximately 4:14 p.m., WO1 and his partner arrived at the subject residence. WO1 observed subject officers #1 and #2 (SO1 & SO2) running westbound towards the back of the residence. The subject officers yelled to advise WO1 and his partner to hold the front of the residence, while they held the back.

A very short time later, WO1 heard screaming which was coming from the back of the residence stating "Drop the gun!" WO1 believed the screaming was coming from one of the subject officers.

WO1 was unable to make out exactly what was actually being said, however he heard someone yell "Drop the gun!"

WO1 ran from his position of cover at the front of the residence, towards the back of the residence to provide assistance to the subject officers. Prior to reaching the back yard, WO1 heard approximately 16 loud bangs that sounded like gunfire. WO1 instinctually ducked, but continued running towards the back yard.

When WO1 reached the back yard, he observed a male matching the description of the suspect [AP], sitting in a chair with a shotgun on his lap. He observed AP to have significant head injury. The shotgun was pointed in a west direction towards where the subject officers were positioned. The shotgun was black and had a pistol grip.

WO1 transmitted over the radio that shots had been fired and officers needed assistance. WO1 further requested EMS for AP who was unconscious and not breathing. The subject officers advised WO1 that they were not injured. SO1 told WO1 that AP had pointed the firearm at them. The subject officers and WO1 entered the back yard of the residence and secured a detached garage, ensuring there was no additional persons inside. As WO1 moved closer to AP, he was able to confirm that he was deceased. WO1 observed a half empty bottle of liquor on the ground beside AP. WO1 heard that an EPS Tactical Team was close, so they decided to wait for Tactical to arrive on scene and clear the residence.

### *Subject Officers*

Subject officers, as the subject of a criminal investigation, have the same right to silence as any other person and do not have to submit to an ASIRT interview.

*Subject Officer #1*

SO1 provided consent to ASIRT to use his police report and notes respecting this incident as his statement. These items from SO1 provided a full account of the incident, with the below areas being particularly relevant to ASIRT's investigation:

On September 18, 2020, SO1 was working in a uniform patrol capacity, partnered with SO2, operating an unmarked police vehicle equipped with a patrol carbine. SO1 was trained in the use of the patrol carbine. At approximately 4:06 p.m., a high priority call for service was received. It was reported that a male identified as [AP] was at a residence with a loaded, sawed-off, automatic shotgun. The occurrence address was provided. A very detailed description of AP was provided.

When they arrived near the subject location they parked south of the address. They exited the police vehicle and he took his patrol carbine. WO1 and his partner arrived on scene at the same time and approached the occurrence address from the north. He and SO2 proceeded to the rear of the property, approaching from the south, in the alley. He and SO2 entered into the alleyway on foot and approached the backyard of the subject address. He proceeded to a 5-foot-tall wooden fence to have a view into the backyard. He observed a male matching the description of the suspect. AP was seated in a chair approximately 20 to 25 feet in front of him. SO1 observed a firearm on AP's lap with the barrel pointed towards the rear alleyway. SO1 believed the firearm to be a 12-gauge shotgun. AP was positioned with a view of the back yard and rear gate which was open.

SO1 observed AP to look directly towards his location. SO1 immediately identified himself as a police officer. AP grabbed the shotgun with both of his hands and pointed it towards himself and SO2. SO1 pointed his carbine towards AP and gave verbal challenges to him. SO1 did not recall the exact verbal challenges given, however, he stated it was along the lines of "Stop police, drop the gun." and "Show me your hands." SO1 informed SO2 of the firearm in AP's possession.

AP raised the barrel of the shotgun and aimed it towards both officers. He and SO2 were positioned behind a thin wooden fence that would not stop a shotgun round. AP did not comply with his commands to drop the gun and fearing AP intended to shoot them, he fired several rounds from his carbine at AP's torso while he was seated in the lawn chair. After the shots were fired, SO1 observed the male bend at the waist and the shotgun lowered.



SO1 believed AP had been stuck with bullets, however AP kept the gun pointed at both himself and SO2. Before AP could fire at them, SO1 aimed his carbine in the direction of AP's head and fired a single shot. AP's head immediately dropped to the right along with the shotgun dropping to his lap. SO2 provided an update over the police radio advising they had been involved in a police shooting.

SO1 did not see any signs of movement, breathing or hear any sounds coming from AP. SO1 observed a significant injury to AP's face along with other gunshot wound injuries. SO1 believed AP to be deceased. SO1 saw a bottle of Vodka on the ground beside AP. SO1 observed the firearm in AP's possession and described it as a black semiautomatic 12-gauge shotgun with pistol grip. Emergency Medical Services attended the scene and declared AP deceased.

#### *Subject Officer #2*

Similar to SO1, SO2 provided consent to ASIRT to use his police report and notes respecting this incident as his statement. These items from SO2 provided a full account of the incident, with the below areas being particularly relevant to ASIRT's investigation:

On the day in question he was partnered with SO1, and they were dispatched to a weapons complaint. The location of the subject of the complaint was not completely clear, as the original complaint advised that the location of the man with a gun was a residential address, but another call indicated that the male was walking around the nearby Eastglen Motel. They attended the residential address.

As they arrived at the residential address, WO1 and his partner also arrived. Those officers held the front of the residence, while he and SO1 proceeded up an alley towards the backyard.

In the backyard of the subject address, SO2 observed a male [AP] who matched the description previously provided as the suspect. He was seated in a lawn chair near the southeast corner of the yard and was in possession of a long-barrelled firearm which was pointed towards himself and SO1. SO1 immediately yelled "Gun!" SO1 yelled out to AP, advising they were the police. SO2 observed AP had one hand on the handle / trigger of the firearm and the other hand on the fore-end, holding the firearm in a shooting position and had the firearm pointed towards both officers.

SO2 perceived AP's actions as an immediate threat of grievous bodily harm or death to both himself and SO1. SO2 discharged his service pistol approximately four times at

AP. SO1 discharged his firearm at AP as well. SO2 noted immediately that AP had been hit by the rounds fired. SO2 announced over the radio that shots had been fired and EMS was required immediately.

He and SO1 entered the backyard. SO2 observed that AP had a gunshot injury to the left side of his face and blood was dripping down AP's pant leg. SO2 observed that AP had a pistol grip shotgun laying on his lap. EMS arrived on scene and declared AP deceased.

### Scene evidence

ASIRT investigators attended the scene of the shooting, and found the following:

The AP was deceased, but seated in a lawn chair in the back yard near the back door, facing into the yard in northeast direction.



Figure 1: Overhead view of backyard scene

The AP was wearing the distinct clothing described by the callers to police. There was a red and black jacket on his lap with a black shotgun on top with his left hand on the fore-stock. His left thumb was situated in such a fashion to be consistent with someone who had been gripping the fore-stock with their left hand. AP's right arm was hanging to his right side. The AP was leaning right almost off the chair. Beside the chair AP was in was a partially empty bottle of Vodka. The barrel of the shotgun that was resting on

AP's lap was pointed in a west direction. This direction was where the subject officers were when they engaged AP.



Figure 2: Shotgun recovered from AP's lap

The subject property is split from the neighbouring property by a white aluminum east-west running fence which extends out on the alleys cement garage driveway. The subject officers were positioned at this driveway, overlooking the yard of the occurrence location from the furthest west corner. Along this fence were several holes from rounds when the officers discharged their firearms.

On the garage pad eleven spent carbine casings and four spent 40-calibre casings were seized from the location where the subject officers were standing when their weapons were fired.

An inspection of the shotgun AP possessed showed that it was a semi-automatic 12-gauge shotgun, with one live round loaded backwards in the chamber. A search of AP found 8 live shotgun rounds in his left pocket, a magazine with five rounds inside the right pocket of AP and a loose round was in the same pocket as the loaded magazine.

## **Use of Force**

### **Analysis**

The subject officers were lawfully placed and acting in the execution of their duties having responded to multiple complaints that AP was in possession of a firearm.

#### *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 also has the same protections for self-defence under s. 34 of the *Criminal Code* as any other person.

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.

#### *Proportionate Response*

Proportionality requires balancing a use of force with the action to which it responds. Here, the subject officers were faced with an individual that was armed with a gun and pointing it in the direction of both of them. A gun is certainly capable of causing grievous bodily harm or death. As such, the response by the subject officers in using their respective firearms to shoot AP was proportionate to the threat of death or grievous bodily harm that he reasonably posed to them.

#### *Reasonably Necessary*

As set out previously in this report, AP presented as a lethal threat towards the officers given his actions. Under the circumstances as then faced by the subject officers, no other

use of force options were reasonably available for attempted use. The use by the subject officers of their respective firearms to incapacitate this threat was reasonably necessary.

Given the above, the defence available under s. 25 of the *Criminal Code* would apply to both subject officers.

SO1 indicated that after he first shot at AP, he believed AP had been shot but the shotgun was still directed at them. So, before AP could fire at either of them, SO1 aimed his carbine at AP's head to take another shot. SO1 indicated that he then fired one last shot and noticed that AP's head immediately dropped to the right and the shotgun dropped to AP's lap. None of the civilian witnesses, nor WO1 and SO2, reported that there was a cessation in shots being fired with a single one thereafter. As such, it is possible that SO1 was mistaken and it was all part of the initial shooting, but he perceived/remembered things differently. Regardless, even if SO1 did take a second shot as he described, it does not change the analysis. At that point, SO1 still had reasonable grounds to believe that AP presented a threat of grievous bodily harm or death to both subject officers.

#### *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. In order 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.

In this incident, each Subject Officer was defending both themselves and their partner from AP. For the same reasons as stated above in relation to s.25, this s. 34 defence is also available to the Subject Officers.

### **Conclusion**

Under s. 25 of the *Criminal Code* a police officer is justified in doing what he or she is authorized to do and to use as much force as is reasonably necessary where he or she has reasonable grounds to do so. Force intended to cause death or grievous bodily harm is justified if the officer believes, on reasonable grounds, that the force was necessary to prevent the death or grievous bodily harm of the officer and/or any other person. The analysis under s.34 of the *Criminal Code* leads to a similar finding that subject officers' actions were lawfully permitted.

After a thorough, independent, and objective investigation into the conduct of the subject officers, it is my opinion that they were lawfully placed and acting properly in the execution of their duties.

The force used was proportionate, necessary, and reasonable in all the circumstances. As a result, there are no grounds to believe that an offence was committed.

*Original Signed*

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

**June 27, 2024**

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**Date of Release**