



**IN THE MATTER OF THE DEATH OF AN INDIVIDUAL DURING AN  
INTERACTION WITH AN OFFICER OF THE CALGARY POLICE SERVICE ON  
OCTOBER 28, 2022**

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

**Executive Director:**

**Michael Ewenson**

**ASIRT File Number:**

**2022-0043(S)**

**Date of Release:**

**August 31, 2023**

## **Introduction**

On October 28, 2022, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding the death of a man, hereinafter referred to as the affected person (AP). The death of AP occurred subsequent to an earlier event that involved an officer of the Calgary Police Service (CPS) exchanging gunfire with AP.

## **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. ASIRT interviewed all relevant police witnesses, the subject officer (SO), obtained and reviewed body worn camera (BWC) and police helicopter (HAWCS) video, and considered the autopsy results from the medical examiner.

While ASIRT gathered significant information/evidence as part of this investigation, only that which is germane to ASIRT's mandate will be set out in this report.

## **Circumstances Surrounding the Death of the Affected Person**

On October 28, 2022, at approximately 2:41 A.M. CPS received a complaint that an unknown male was sitting in a green car in the parking lot of the Bentley condominium complex playing loud music. At approximately 2:45 A.M., the subject officer (SO) arrived on scene and parked his marked police car adjacent to the green car with AP sitting in the driver's seat.

SO exited his vehicle and walked towards the passenger's side window and was just starting to verbally engage AP when AP pointed a shotgun at SO. SO quickly retreated towards his police vehicle for cover. AP discharged the shotgun in SO's direction. SO was beside the passenger's side of his police vehicle when AP exited his vehicle still in possession of the shotgun. SO peeked above his vehicle and discharged his 9mm firearm in the direction of AP. AP shot at SO again. SO returned more rounds towards AP. The two exchanged further gun fire. In total, AP discharged the shotgun in SO's direction four times, and SO discharged his firearm at SO eight times. AP was not apparently hit by any of SO's rounds as he ran away towards Fish Creek Park ("Park"). SO received several minor injuries that appeared to be welts to his hand, head and leg likely from the birdshot that was discharged from the shotgun.

SO remained at his vehicle waiting for backup. AP was last seen heading into the Park with a dog following. Numerous police resources attended the area including HAWCS.

HAWCS operators were able to locate AP and the dog as they moved about the Park. They provided updates to the ground units and to the supervisors now managing the incident. AP moved about the Park while holding the shotgun. AP was monitored this way for approximately eight minutes. AP then appears to shoot himself while standing up. He is then noticed to be laying on the ground with the gun close by. Within a few minutes, AP was noticed to still be alive and once again in possession of the shotgun. AP then shot himself in the head with the firearm and remained in the Park at this location until CPS tactical officers attended the scene. AP was found deceased.

An autopsy of AP confirmed that AP died from the self-inflicted gunshot to the head. While numerous pellets (consistent with bird shot) were found in AP's head, there were no 9mm rounds or related injuries to AP's body. The medical examiner determined that the cause of death was as a result of firearm injuries to the head and the manner of death was by suicide.

## **Video Evidence**

### **Body Worn Camera (BWC)**

SO was wearing a BWC during this event. The video starts with SO driving into the parking lot of the condominium complex. He slowly drove to where the green car which was the subject of the complaint was located. He stopped his police vehicle perpendicular to this vehicle and aimed his spotlight at it. SO exited his vehicle and approached the passenger's side of AP's vehicle. As SO approached, AP was rolling down the passenger's side window. SO can be heard to say, "Hi there." Almost immediately thereafter SO turned and ran away from AP's vehicle. A firearm being discharged is then heard. SO is then seen near the rear of his police vehicle with his pistol drawn and he is heard saying over the radio "Code [###], shots fired, shots fired." SO then moved along the passenger side of his police vehicle. As he neared the front of the police vehicle he stood up a bit and shot over his vehicle at AP, followed shortly by a second round from SO at AP. AP who had been starting to exit his vehicle can be seen ducking back inside. SO then shoots two more rounds in succession. SO ducked behind the passenger side for cover and stated over the radio "Get me back up here right away." Followed by, "Male with a shotgun shooting at me." AP presumably fully exited from his vehicle, and sounds like he said, "Cop." AP's head can then be seen through the police vehicle's passenger window and

windshield. AP's direction of travel is towards the front of the police vehicle. SO shot at AP through the passenger side window of his police vehicle. SO then shot two more rounds in quick succession in the direction of where AP was last seen. It sounds like AP once again said, "Cop." SO retreated towards the rear of his vehicle and you can hear AP discharge his shotgun two more times. SO then said "Hurry up, I've been hit." It then sounds like AP and SO each shot one more time. SO is now fully at the rear of his police vehicle and looked down the driver's side of it. He then radioed "Kay, male is running, running." A back-up officer then arrived on scene. While there is more recording on SO's BWC it is not relevant to ASIRT's investigative mandate.

A scene examination was subsequently conducted which confirmed that in total, AP discharged the shotgun in SO's direction four times, and SO discharged his firearm at SO eight times.

#### HAWCS Video

HAWCS is equipped with a camera and recording equipment. ASIRT obtained the recording of this incident. The recording starts as dispatch can be heard providing the address of where SO had been shot at. HAWCS was close by and the video shows as AP exits the lot to the condominium complex and onto a pathway that runs parallel to the Park. A dog can be seen following behind. AP is carrying the shotgun with him. AP continues to follow the path for a distance before he enters into the Park and starts to walk amongst the trees. HAWCS continues to provide updates over the radio as to their observations and location. AP continues walking about for approximately eight minutes before he stops and appears to shoot himself in the head area. The camera is pulled out just as this happens, so the view is not zoomed in as much as previously. From the information being relayed, it seems that the operator relaying the information did not see AP shoot himself. Though he appears to quickly come to that assumption once he zooms in again and now sees AP laying on the ground with the shotgun nearby. AP is laying face down but then can be seen moving his body. He remains face down for several minutes before he retrieved the shotgun. He is then seen to be kneeling with the shotgun pointed upwards. He obviously discharges the firearm again and falls forward to the ground.

## **Analysis**

SO was lawfully placed and acting in the execution of his duties, initially dealing with a suspicious vehicle and noise 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.

### *Proportionate Response*

Proportionality requires balancing a use of force with the action to which it responds. Here, SO was faced with an individual that had shot at him with a shotgun thereby endangering his life. As such, SO's response in using his firearm to shoot at AP was proportionate to the threat of death or grievous bodily harm that he posed to SO.

### *Reasonably Necessary*

AP presented as a lethal threat to SO given his actions. Under the circumstances as then faced by SO, no other use of force options were reasonably available for attempted use. The use by SO of his firearm to try and incapacitate this threat was reasonably necessary.

Given the above, the defence available to SO under s. 25 of the *Criminal Code* would apply to him shooting at AP.

## **Conclusion**

ASIRT was directed to investigate the death of the AP as it occurred subsequent to an earlier event that involved SO exchanging gunfire with AP. ASIRT's mandate was to determine if the actions of SO were possibly criminal in nature.

In this case, it is clear that the AP died as a result of a self-inflicted gunshot wound to the head.

There are no reasonable grounds, nor reasonable suspicion, to believe that SO committed an offence(s). The SO was responding to a noise complaint and without any warning the SO was fired upon by the AP. In addition to the s. 25 analysis above, the SO clearly fired in self-defence. It is fortunate that the SO was not significantly injured or killed in the line of duty. Responsibility for the tragic end to this encounter rests solely with AP.

ASIRT's investigation having been completed and our mandate fulfilled, I have concluded our file.

*Original signed*

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

**August 31, 2023**

**Date of Release**