

April 9, 2020

EPS officers acted reasonably during officer-involved shooting

On Oct. 20, 2017, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding an officer-involved shooting that took place that same day in west Edmonton, and resulted in injury to a 37-year-old man.

In the days leading up to the incident, EPS had identified the man as the individual responsible for a series of armed, violent offences, and officers were actively searching for him in order to execute a number of outstanding arrest warrants.

On Oct. 20, EPS received a 911 call from an individual who had just observed a break-and-enter into a neighbouring house in west Edmonton. The caller provided a description of the individual, and indicated that he had gained access to the residence by breaking a window. Several minutes later, EPS received a second 911 call from the man inside the residence, indicating he was the individual police were looking for, warning police to back off, and indicating that he had a person inside the residence with him. The man hung up, but placed additional 911 calls delivering a similar warning.

The EPS Tactical Unit was dispatched to the location and a negotiator began a dialogue with the man, ultimately determining that he was alone inside the residence and in possession of a shotgun. The man was instructed not to exit the residence with the shotgun, as this would be perceived as a lethal threat. The man indicated he understood. As negotiations continued, EPS observed the man removing a screen from a window on the upper floor of the residence, and placing a doll in the window. The doll fell out of the window, and was replaced with a second doll. Shortly after second doll was placed in the window, the man, using the shotgun, shot the doll, which fell to the ground below. Despite the discharge of a firearm, negotiations with the man continued.

Without warning, the man emerged from the residence and began to walk towards the driveway of the neighbouring residence while carrying a shotgun in his right hand. The Tactical Unit's armoured vehicle was repositioned on the driveway, and an officer inside the vehicle used the loudspeaker to order the man to drop the firearm. The man ignored these commands, and continued to hold the firearm with his finger on the trigger, while behaving in a manner that witnesses described as aggressive, unpredictable, and confrontational. The man yelled back at the armoured vehicle, indicating that he would not drop the firearm.

Several officers located outside of the vehicle proceeded to use non-lethal options to separate the man from the shotgun. Several flash bang devices were deployed. At the same time, another member of the Tactical Unit fired on the man using an ARWEN less-lethal launcher. When the man was struck by the first ARWEN round, he turned and the shotgun began to rise as he fell to the ground. Seeing that the man was still in a position to fire the shotgun, when the barrel of the man's shotgun came level with officers, two officers fired a total of three shots from carbine rifles. One of these shots struck the man, who fell to the ground, dropping the gun.

Once the man was on the ground, officers secured his shotgun and removed a replica handgun from his belt. The Tactical Emergency Medical Services (TEMS) paramedic immediately treated the man, who was ultimately conveyed to hospital and treated for a superficial gunshot wound, which was closed with stitches and did not require surgery.

During the man's transport to hospital, and upon arrival, the man made a number of comments suggesting that he had intended to cause police to shoot him as a means of ending his life. While the officers and the paramedic dealing with the man after the incident did not perceive him to be grossly intoxicated, the man admitted to having used methamphetamine in the days leading up to the incident.

The firearm recovered from the man was a loaded, pump-action 12-gauge shotgun, which had been sawed-off, and had the serial number defaced. After the incident, it was discovered that prior to emerging from the residence, the man had made comments on social media seemingly suggesting his own impending death.

Under the *Criminal Code*, a police officer is authorized to use as much force as is reasonably necessary to carry out their duties. In circumstances where an officer believes, on reasonable grounds, that force is necessary to protect themselves or other from death or grievous bodily harm, the force an officer is entitled to use can include potentially lethal force.

In these circumstances, the man's unexpected exit from the residence where he had barricaded himself, while holding a firearm that he had previously demonstrated he was willing to use, created a situation of significant and immediate risk. Despite this risk, the officers initially attempted to address the threat through non-lethal means. When the barrel of the man's firearm rose during the encounter, it created a danger that exposed several police officers to a risk of imminent death or grievous bodily harm. The risk was objectively serious and immediate, and while the man's intentions are unknown, as he declined to provide a voluntary statement, the dangers presented by pointing a loaded firearm are indisputable.

Faced with this danger, both officers were lawfully entitled to act in defence of themselves and the other officers on scene.

In considering all of the circumstances of this matter, it is the opinion of executive director Susan Hughson, Q.C., that the evidence does not provide reasonable grounds, nor even reasonable suspicion, to believe that any officers committed an offence.

While it is unfortunate that the man sustained an injury during his arrest, his actions in rapidly exiting the residence while armed created a situation of significant potential risk. The EPS Tactical Unit exercised restraint, initially turned to other intervention methods before being placed in a position where the use of lethal force became necessary. As that situation unfolded, it presented the involved officers with a reasonable apprehension that their own and other lives were endangered. The force that was used to address that danger was reasonable given all of the circumstances.

ASIRT's mandate is to effectively, independently, and objectively investigate incidents involving Alberta's police that have resulted in serious injury or death to any person, as well as serious or sensitive allegations of police misconduct.

Media inquiries:

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