



**IN THE MATTER OF AN OFFICER-INVOLVED SHOOTING INVOLVING THE  
CALGARY POLICE SERVICE ON AUGUST 25, 2019**

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

**Executive Director:**

**Michael Ewenson**

**ASIRT File Number:**

**2019-0046(S)**

**Date of Release:**

**September 8, 2023**

## **Introduction**

On August 25, 2019, the Alberta Serious Incident Response Team (ASIRT) was directed pursuant to s. 46.1 of the *Police Act* to investigate a non-fatal Calgary Police Service (CPS) officer-involved shooting. The shooting was reported to have happened during the investigation of a weapons complaint.

## **ASIRT's Investigation**

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols and principles relating to Major Case Management. Evidence from the affected person (AP), the subject officer (SO), and importantly body-worn camera (BWC) recordings provided sufficient information to determine whether the force used by the subject officer during this critical incident was reasonable.

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

Just after 4:00 a.m. on August 25, 2019, CPS received a complaint of a suspicious male threatening the caller with a bat. The incident was happening near a retail shopping area on Shawville Blvd SE. A CPS vehicle driven by SO, accompanied by his partner, witness officer #1 (WO1), arrived at the location shortly thereafter.

SO parked the police vehicle in a spot adjacent to a commercial building and exited the driver's door. AP was approximately 40 feet in front of the police vehicle and walking alongside this building carrying a large machete in his right hand.

AP walked briskly towards SO while carrying the machete. SO back peddled from where he was standing beside his open door, with his service firearm pointed at AP. As AP got near the front of the police vehicle he had the machete raised and continued towards SO who had back peddled to just past the rear bumper of the police vehicle. When AP was about 15 feet away, SO discharged his firearm twice at AP, striking him in the lower body/abdomen area and his left leg. AP fell to the ground, but pushed himself into a seated position. AP maintained possession of the machete, continuing to hold it in his right hand. Both SO and WO1 gave repeated directions for AP to drop the machete. AP refused to do so. AP then displayed a smaller knife in his left hand. He continued to refuse to drop the weapons.

AP remained in this seated position while the officers tried to engage AP in conversation, but he would generally not respond in a coherent fashion. AP continually yelled variations of "you're dead", "dead" or "kill me". The officers explained to AP that they

wanted him to drop the knives so that EMS (who were by now on scene waiting for it to be safe to approach AP) could provide care to him. AP ignored these directions and continued to hold the machete tightly, from time to time raising it above his head, almost as if he was going to throw it. Negotiations continued with AP for an extended period of time to no avail, as AP refused all commands and just kept repeating “dead” and similar phrases.

A decision was made to try and disarm AP by some form of less lethal weapon system. Witness Officer #2 (WO2), who had arrived on scene as backup, discharged his ARWEN (shoots blunt hard plastic projectiles) at AP. Unexpectedly, AP showed little reaction when hit with the first ARWEN round. WO2 ultimately discharged the ARWEN 6 more times. WO2 tried a different area of AP’s body (arm, torso and shoulder) with the goal of getting AP to drop the weapons. AP was struck by the ARWEN rounds but did not appear to display any recognition of pain from them. He maintained possession of the knives.

Witness Officer #3 (WO3) was then tasked with attempting to disarm AP by using a conducted energy weapon (CEW) on him. However, this attempt also failed, as the probes did not connect onto AP. This may have been due to WO3 not being able to get close enough in a safe manner for an effective deployment.

CPS tactical unit and negotiators were called in to assist. It took some time for these individuals to arrive. Throughout, the on-scene officers attempted to talk with AP and to get him to drop the knives. AP just ignored all attempts/directions to drop the knives and would periodically say one of the phrases about “dead” or a version thereof.

Negotiations were attempted until a plan to use tactical officers to safely get AP into custody was developed. Using safety shields, a pepper gun and CEWs tactical officers were able to take AP into custody. AP was then dealt with by EMS and transported to the hospital for treatment of the gunshot injuries.

At the hospital AP was treated for gunshot wounds to the left groin/hip and left femur. A toxicology test showed a presumptive positive for amphetamines. AP, who was previously diagnosed with schizophrenia, was also assessed by a psychiatric doctor.

## **Interviews**

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

AP said that he remembered being shot, feeling pain and being woozy, but not having a clear memory of the incident. He thought he left his home in Claresholm around August

22. He did not remember how he got to Calgary. He usually takes the bus to Calgary, but he had no memory of getting off the bus. He said he "blacked out". AP advised that he has schizophrenia. He was unable to say what his injuries were, other than he was shot.

AP did not remember having a machete or a knife during the incident. He did not remember the police using the CEW or pepper balls on him, but he heard that during the bail hearing while he was at the hospital. AP did not know why the police would shoot him. He had no memory of being suicidal during the incident. He has not had any thoughts of suicide. He woke up in hospital a couple days ago, but did not know why he was there.

### **Subject Officer**

As is his right, the subject officer did not provide a statement to ASIRT

### **Witness Officers**

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

He was partnered with SO and were in a fully marked police vehicle, with SO operating it. They responded to a complaint of a male with a baseball bat near a store in the Shawnessy neighbourhood.

Upon arrival, he observed AP standing near the store with his hands down by his side. He noted that AP's eyes looked odd to him, and it made him think that he may be suffering from some mental health issue. SO parked their police vehicle parallel to AP about 20 to 25 feet away from him. About this time, AP lifted both arms and he saw that AP had a machete in his right hand. The machete was 12 to 14 inches in length, and the blade tapered from handle to tip in a machete style curve.

He stepped out of their vehicle as the contact officer, at the same time that SO stepped out of the driver's door. Everything after that happened really quickly. WO1 said he was just starting to try to speak with AP to see what was going on when he advanced directly towards SO. WO1 said that SO was yelling for AP to drop the knife.

WO1 said he drew his service firearm and went around back of their vehicle to join SO. SO was stepping backwards to create distance between himself and AP. There was approximately 6 feet between SO and AP when SO fired two shots at AP. AP went to the ground but continued to wave the machete.

Prior to being shot, AP advanced towards SO without a falter in his steps. He was moving faster than a walk, but he did not sprint at SO.

While sitting on the ground, AP was loudly yelling at them saying, "Kill me, cops die, you shot me 13 times, just fucking kill me." WO1 and SO backed up to be approximately 10 to 15 feet away from AP. Both officers continued to yell commands to AP to drop the knives, and he continued to swing the machete while sitting on the ground.

WO1 could not see any blood on AP nor the tan coloured pants he was wearing. They were asking AP where he had been hit with the gunshots, but he did not tell them. WO2 eventually fired an ARWEN round at AP and hit him below the right elbow. While AP flinched, he did not drop the machete. WO2 fired more ARWEN rounds, but none of them seemed to have any effect. A CEW was also fired at AP, but it did not connect well and had no apparent effect. Verbal commands were continued to be given, but AP never dropped the machete.

Once tactical unit officers arrived, he was pulled out of the event and subsequently taken to CPS headquarters.

*WO2 was interviewed by ASIRT and provided the following information*

Prior to joining the CPS he was a peace officer with Alberta Health Services (AHS). In a back-up capacity, he attended the location where AP was. SO told WO2 the background of what had happened to that point. WO2 observed AP to be sitting on the ground with a machete in his right hand, and a smaller knife in his left hand. SO had told WO2 that he was sure he fired two shots at AP. However, AP was not showing any signs of having been shot. AP was conscious and breathing. WO2 thought maybe AP was on drugs, having a mental health crisis or both. It was the worst he had seen, including his time with AHS.

Assuming AP had been shot twice, he believed that he needed medical aid. All the officers discussed that it was a good opportunity to use the ARWEN to take AP into custody, by impacting his right arm that was holding the machete. WO2 did three impacts to AP's target arm, but he did not drop the machete. WO2 tried more ARWEN rounds to AP's ribs, right thigh and diaphragm. He fired a total of 7 ARWEN rounds on AP, but he did not drop the machete. WO3 then tried a CEW, but WO2 thinks he was too far away. One probe stuck, the other did not. After this, they were told to hold further actions and wait for tactical unit and negotiators.

## Video Evidence

All involved officers had BWCs. Given this, the actual events in this occurrence are largely captured, not impacted by adrenalin, perception or any other frailties associated with human memory and recall. As the recordings only capture that which is in front of the officer in the direction their body is facing, certain aspects may not have been captured. This said, AP's approach towards SO armed with a machete and his subsequent shooting of AP is fully captured by SO's BWC. WO1's BWC assists as his was already on when he exited the vehicle so he captured the audio aspects for the first 30 seconds or so, that SO's did not. The lack of initial audio on SO's BWC is due to it not having been activated until after the shooting. The BWC used by CPS will capture 30 seconds of video prior to formal activation. It essentially is always recording and will save the previous 30 seconds of video when an officer activates the camera. It will not capture 30 seconds of previous audio however.

SO parked the police vehicle in a spot adjacent to a commercial building and exited the driver's door. AP is approximately 40 feet in front of the police vehicle and is walking alongside this building carrying a large machete in his right hand.

AP, while holding the machete, is noted on the BWC walking briskly towards SO. SO back peddles from where he is standing beside his open door, with his service firearm pointed at AP. As AP gets near the front of the police vehicle he has the machete raised and continues towards SO who has back peddled to just past the rear bumper of the police vehicle. When AP is about 15 feet away, SO discharges his firearm twice at AP, striking him in the lower body/abdomen area and his left leg. AP falls to the ground, but pushes himself into a seated position. AP maintains possession of the machete, continuing to hold it in his right hand. Both SO and WO1 give repeated directions for AP to drop the machete. AP refuses to do so. AP then displays a smaller knife in his left hand. He continues to refuse to drop the weapons.

AP remains in this seated position, and the officers try to engage AP in conversation, but he generally does not respond in a coherent fashion. AP continually yells variations of "you're dead", "dead" or "kill me". The officers explain to AP that they want him to drop the knives so that EMS can provide care to him. AP ignores these directions and continues to hold the machete tightly, from time to time raising it above his head, almost as if he is going to throw it. Negotiations continue with AP for an extended period of time to no avail, as AP refuses all commands and just keeps repeating "dead" and similar phrases.

The combined videos capture the officers making a decision to try and disarm AP by some form of less lethal weapon system. Witness Officer #2 (WO2) discharges his ARWEN at AP. AP shows little reaction when hit with the first ARWEN round. WO2 ultimately discharges the ARWEN 6 more times. WO2 tries a different area of AP's body (arm, torso and shoulder). AP is struck by the ARWEN rounds, and does not appear to display any recognition of pain from them. He maintains possession of the knives.

Witness Officer #3 (WO3) subsequently attempts to disarm AP by using a CEW on him. However, this attempt also fails, as the probes do not fully connect onto AP.

On-scene officers continue to talk with AP to get him to drop the knives. AP just ignores all attempts/directions to drop the knives and periodically says one of the phrases about "dead" or a version thereof.

Negotiations were attempted until a plan to use tactical officers to safely get AP into custody was developed. Using safety shields, a pepper gun and CEWs tactical officers take AP into custody. AP is then dealt with by EMS before being transported away from the scene.

### **Other Evidence**

ASIRT investigators also obtained statements from other witness officers. None of these individuals actually saw the shooting event unfold, or had information that was not available from the BWC's, but their statements are in the investigative file nonetheless.

### **Scene Examination**

The scene examination found beside the open driver's door to the police vehicle a pile of items including clothing, biological material (blood), personal items, pepper balls and seven green ARWEN rounds/batons. Two expended CEW cartridges were located nearby as well (these were from when tactical moved in to take AP into custody). A third expended CEW cartridge (that of WO3) was found further into the parking lot. Two 9mm casings were located on the ground.

A machete was located near a curb away from the pile of items. A smaller knife was located on the ground under the police vehicle.



## Use of Force

### Analysis

The subject officer and WO1 were lawfully placed and acting in the execution of their duties, investigating a complaint of a suspicious male threatening someone with a bat. Thereafter, all the involved officers were presumably dealing with the same person in possession of a machete. Even if the initial caller was referring to a different person with a bat, once the officers arrived on scene and witnessed an individual approaching them with a machete they were duty bound to act.

#### *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 was armed with a large machete, who was advancing towards him in a brisk fashion. There is no doubt that the machete AP was wielding was capable of causing death or grievous bodily harm to SO. As such, SO's response in using his firearm to shoot AP was proportionate to the threat of death or grievous bodily harm that he posed to himself.

#### *Reasonably Necessary*

As set out previously in this report, AP presented as a lethal threat almost immediately upon the officers arriving on scene. AP, while holding the machete walked briskly



towards SO. SO back peddled from where he had been initially standing after exiting his police vehicle. AP had the machete raised and continued towards SO who had back peddled to try and create distance from the advancing AP. 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 incapacitate this threat was reasonably necessary.

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

### **Conclusion**

After a thorough, independent and objective investigation into the conduct of the subject office, it is my opinion that he was lawfully placed and acting properly in the execution of his duties. There is no evidence to support any belief that any officers present engaged in any unlawful or unreasonable conduct that would give rise to an offence. The force used was proportionate, necessary and reasonable in all the circumstances.

*Original signed*

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

**September 8, 2023**

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**Date of Release**