



**IN THE MATTER OF AN EDMONTON POLICE SERVICE OFFICER-INVOLVED
SHOOTING ON MARCH 2, 2023**

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

Assistant Executive Director:

Matthew Block

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Introduction

On March 2, 2023, the Alberta Serious Incident Response Team (ASIRT) was directed pursuant to s. 46.1 of the *Police Act*, to enter an investigation into the circumstances surrounding a non-fatal Edmonton Police Service (EPS) officer-involved shooting. The shooting was reported to have happened during the attempted apprehension of a male who was in possession of an apparent handgun.

ASIRT's Investigation

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols and principles relating to Major Case Management. Evidence from witnesses, a statement from the subject officer and importantly cellphone video provided sufficient context to determine whether the force used by the subject officer during this incident was reasonable.

Circumstances Surrounding the Officer-Involved Shooting

On March 2, 2023, the EPS received several 911 calls indicating that a male [the affected person (AP)] was in possession of a handgun on the Funicular Promenade Bridge near Grierson Hill. One of the callers reported that AP pushed her to the ground, pointed the gun at her face, and told her to "Get out of here." Initial responding patrol officers attended the location and set up containment of the area as tactical section officers were being dispatched to this event. Initial containment officers yelled at AP to drop the gun he was holding. AP did not comply with these repeated commands.

Once EPS tactical section officers arrived, they formed a line and climbed the stairs that provided access to the lookout platform near the Funicular. AP waited in a kneeling position holding a handgun in his right hand. AP rested the tip of the handgun barrel on the ground as he knelt. AP was facing containment members. AP was given police commands by containment officers and the approaching tactical section officers to "Drop the gun!" but he did not comply. As AP was facing the containment members his back was to the tactical section officers' approach. The subject officer (SO) led the tactical section up the stairs holding a ballistic shield. Between the top of the stairs and where AP was kneeling there was a clear glass elevator shaft. SO reached the top of the stairs and as he turned the second corner, AP pivoted to face him. As AP pivoted he lifted the barrel of the handgun off the ground. At that point, SO fired numerous rounds at AP from his service pistol. AP was transported to hospital and treated for his injuries.

AP subsequently advised ASIRT investigators that he had used methamphetamine earlier in the day. He also advised investigators that while his handgun was only an airgun, he held it in such a fashion that one would not be able to tell this unless it was closely examined. He acknowledged hearing the officers telling him to “Drop the gun!” but he only responded with “Fuck you!” In records that investigators obtained, AP had advised medical officials that he had attended the location with the intent of inciting a “suicide by cop” situation.



Image 1: AP crouched with gun held down to the ground as tactical officers approached up the stairs



Image 2: AP pivoted his position to look back towards where SO and other tactical officers were approaching



Image 3: Airgun that AP possessed

Use of Force

Analysis

The subject officer was lawfully placed and acting in the execution of his duties, having responded to a report of a man threatening people while 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's use of force, in law, is not to be assessed on a standard of perfection nor using the benefit of hindsight and the opportunity to consider alternatives with the luxury of time, recognizing the exigencies of the circumstances and the decisions and reactions that must occur in split seconds.

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 officer was aware that AP was in possession of an apparent gun and had been failing to comply with repeated commands to drop the gun. When AP observed the subject officer turning the corner towards him, he lifted the apparent gun off the ground as he pivoted towards SO. A gun is certainly capable of causing death or grievous bodily harm to a person. As such, SO's response to an apparent gun being held by AP, under the circumstances previously described, in using his firearm to shoot at AP, was proportionate to the threat of death or grievous bodily harm that he appeared to pose to SO.

Reasonably Necessary

As previously noted, AP presented SO as a lethal threat given the apparent gun he possessed and in refusing the direction to drop it. Under the circumstances as then faced by SO, no other use of force options were reasonably available for attempted use. Reliance on using his firearm to incapacitate this threat was reasonably necessary.

While the "gun" AP possessed turned out to be an airgun, there was no reasonable way to determine this at the time that AP first presented it. As noted in the picture included

in this report, this item looks like a real gun, and SO was reasonable in believing that it was a real gun capable of causing death or grievous bodily harm to himself. As such, his response to this reasonably perceived lethal threat was both proportionate and necessary.

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.

After a thorough, independent, and objective investigation into the conduct of the subject officer, 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 he engaged in any unlawful or unreasonable conduct that would give rise to an offence. There are therefore no reasonable grounds to believe that the subject officer committed any offence.

Original signed

Matthew Block

Assistant Executive Director

March 27, 2024

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