

ASIRT DECISION

**IN THE MATTER OF A CALGARY POLICE SERVICE
SHOOTING ON MARCH 23, 2019**

Acting Executive Director: Matthew Block

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Introduction

On March 13, 2019, pursuant to s. 46.1 of the *Police Act*, the Director of Law Enforcement directed the Alberta Serious Incident Response Team (ASIRT) to investigate a non-fatal Calgary Police Service (CPS) shooting of the affected person (AP). ASIRT designated one officer as a subject officer, with notice to him. ASIRT's investigation is now complete.

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 attempted to obtain statements from AP and civilian witness #1 (CW1), who was in the vehicle with AP. They each declined to provide one, as is their right.

ASIRT investigators interviewed the following civilians:

- Civilian witness #2 (CW2) – called 911 to report a home invasion by multiple people involving a firearm; and

- Civilian witness #3 (CW3) – was in CW2's residence when the home invasion occurred.

ASIRT investigators interviewed the following witness officers:

- Witness officer #1 (WO1) – an officer that was present when the subject officer (SO) shot at the vehicle driven by AP; and

- Witness officer #2 (WO2) – an officer that was present when SO shot at the vehicle driven by AP.

ASIRT investigators reviewed the notes of the following witness officers:

- Witness officer #3 (WO3) – a supervisor who arrived after the shooting had occurred and obtained a public safety statement from SO; and

- Witness officer #4 (WO4) – an officer who attended after the shooting and assisted in clearing CW2's residence.

SO, as is his right, declined to participate in an interview with investigators.

ASIRT investigators reviewed the originating 911 call and all relevant CPS radio transmissions from the incident.

ASIRT investigators also reviewed reports prepared by members of the CPS Forensic Crime Scene Unit, as well as the CPS Traffic Reconstruction Unit.

ASIRT investigators obtained video from multiple sources, including:

- SO's police vehicle;

- Body worn camera (BWC) from WO1;

- BWC from WO2;

- BWC from SO; and

- CPS helicopter (HAWCS).

Circumstances Surrounding the Incident

On March 23, 2019, at approximately 1:30 a.m., CW2 contacted 911 to report an in-progress home invasion by males armed with a firearm. SO responded to the complaint and was first on scene. He parked his unmarked police car out of sight and walked towards CW2's residence. As he approached the residence, a Ford Escape SUV with two occupants drove away from the residence. SO yelled at the driver (AP) to stop, at which point the front passenger (CW1) discharged a shotgun outside the passenger window. SO returned fire, initially discharging four rounds as the vehicle was approaching him and another six as the vehicle was being driven away from him. The Ford Escape crashed into a residence a short distance away very soon after SO had fired his last shot. AP was struck by one bullet in the back and received serious but non-life threatening injuries. CW1 was not hit but a bullet fragment was lodged in his cellphone. A sawed-off shotgun was recovered on the roadway near where the SUV had crashed.

SO's BWC

SO arrived on scene and, at 1:40:04 a.m., got out of his police vehicle while holding his rifle. He walked around the corner of a building and a dark SUV came into view at 1:40:26 a.m. SO began to yell at the occupants, including telling them to "show me your hands!" SO then switched on the flashlight on his rifle, showing AP in the driver's seat and CW1 in the front passenger seat. At 1:40:30 a.m., AP began to drive and, almost immediately after at 1:40:31 a.m., CW1 fired a shotgun out of the passenger window (Figure 1).



Figure 1 - SO's BWC showing AP driving by SO at the time CW1 discharged a shotgun from the passenger's side with the muzzle flash circled in red.

Due to the lighting, it is difficult to determine the angle of the shotgun. The muzzle flash appears to move upwards. SO then fired his rifle at the SUV (Figure 2).



Figure 2 - SO's BWC showing his first shot.

Over the next two to three seconds, SO fired three more shots (Figure 3).



Figure 3 - SO's BWC showing his fourth shot.

AP continued to drive away and started to turn to the right. CW1 was then on the side of the SUV closer

to SO. At 1:40:37 a.m., SO began to shoot again (Figure 4).



Figure 4 - SO's BWC showing his fifth shot.

SO fired six more shots from 1:40:37 a.m. to 1:40: a.m. (Figure 5).



Figure 5 - SO's BWC showing his final shot.

AP then crashed into a building.

SO fired a total of ten shots.

AP's Injuries

AP suffered a single gunshot wound to his mid left back which travelled to his right lower chest. Surgery was required and the bullet was removed from the anterior chest wall. He also underwent treatment for a right hemothorax (accumulation of blood within the pleural cavity) and an injury to his liver. He spent a total of ten days in the hospital but was expected to make a full recovery.

Analysis

Section 25 Generally

Under s. 25 of the *Criminal Code*, police officers are permitted to use as much force as is necessary for 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. The force used here, discharging a firearm repeatedly at a person, was clearly intended or likely to cause death or grievous bodily harm. SO therefore must have believed on reasonable grounds that the force he used was necessary for his self-preservation or the preservation of another person under his protection. Another person can include other police officers. For the defence provided by s. 25 to apply to the actions of an officer, the officer must be required or authorized by law to perform the action in the

administration or enforcement of the law, must have acted on reasonable grounds in performing the action, and must not have used unnecessary force.

All uses of force by police must also be proportionate, necessary, and reasonable.

Proportionality requires balancing a use of force with the action or threat to which it responds. This is codified in the requirement under s. 25(3), which states that where a 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. An action that represents a risk to preservation of life is a serious one, and only in such circumstances can uses of force that are likely to cause death or grievous bodily harm be employed.

Necessity requires that there are not reasonable alternatives to the use of force that also accomplish the same goal, which in this situation is the preservation of the life of the officer or of another person under his protection. These alternatives can include no action at all. An analysis of police actions must recognize the dynamic situations in which officers often find themselves, and such analysis should not expect police officers to weigh alternatives in real time in the same way they can later be scrutinized in a stress-free environment.

Reasonableness looks at the use of force and the situation from an objective viewpoint. Police actions are not to be judged on a standard of perfection, but on a standard of reasonableness.

Section 25 Applied

SO was responding to a home invasion involving a firearm. This engaged a number of his duties including the duty to preserve life, safety, and property. Given the severity of the call, SO was entitled to stop the occupants of a vehicle near the home. When he went to do so, AP drove off and CW1 fired a shotgun. Whether CW1 fired into the air or at SO is immaterial – firing off a shot into the air in this circumstance can only be interpreted as that CW1 was prepared to shoot SO as well.

SO fired ten shots at the SUV. Four were fired over two to three seconds, followed by a two to three second pause, and then six more shots over an additional two to three seconds.

Looking at proportionality, there is no doubt that CW1 was a lethal threat to SO when he fired the shotgun. SO's first four shots were therefore proportionate. As AP drove further away, the threat posed by CW1 decreased.

Necessity is also affected by this distance. There is no doubt that SO had no choice but to fire back at CW1 right after he fired the shotgun. If SO did anything else, he would be exposing himself to another shot from CW1. It was necessary that SO shot at CW1 right after CW1 shot at him. As AP drove further away, other responses to CW1 such as bringing in other police resources became more viable.

There is no doubt that SO's initial actions were reasonable. As AP drove further away, this became less clear.

ACPS Opinion

As a result of the questions regarding SO's later shots at the SUV, the Acting Executive Director was of the opinion that the investigation provided reasonable grounds to believe that an offence had been committed. Accordingly, on September 22, 2025, pursuant to the *Police Act* the file was provided to the Alberta Crown Prosecution Service (ACPS) to provide an opinion whether this incident met the standard for prosecution.

On January 23, 2026, the ACPS recommended no charges.

It is important to note that ASIRT and ACPS are bound by different standards when assessing the viability of charges arising out of an investigation. ASIRT, as the investigative body, applies a *Criminal Code* standard that determines whether reasonable grounds exist to believe that an offence has been committed. ACPS, based on its internal policy regarding criminal prosecutions applies a standard which examines whether there is a reasonable likelihood of conviction arising out of the evidence, and whether it is in the public interest to proceed with a prosecution. As is evident in this case, the application of these two different standards to the same investigation will, in some cases, result in different conclusions regarding the same file. In this case, while ASIRT found reasonable grounds to believe an offence had been committed, for the reasons provided in their opinion, the ACPS did not recommend that charges be laid.

Conclusion

Based on the ACPS recommendation, there will be no charges laid against SO.

Original Signed

Matthew Block

Acting Executive Director

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