

ASIRT DECISION

**IN THE MATTER OF A CALGARY POLICE SERVICE
AND RCMP SHOOTING ON MARCH 14 and 15, 2024**

Acting Executive Director: Matthew Block

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Introduction

On March 15, 2024, 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 Calgary Police Service (CPS) fatal shooting that occurred that evening. The shooting of the affected person (AP) arose in the context of executing a warrant in relation to firearms offences at the AP's home, resulting in an approximately 30-hour standoff with police. Members of the Royal Canadian Mounted Police (RCMP) Emergency Response Team (ERT) were also deployed to assist members of the CPS Tactical Team (TAC) due to the nature and duration of the standoff. ASIRT designated six subject officers and provided them with notice. 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 investigators interviewed or reviewed interviews conducted by CPS officers of five civilian witnesses and seven police witnesses. An additional 32 police witnesses provided their reports and/or notes. The police witnesses included:

Witness officer #1 (WO1) – CPS officer who was positioned directly behind SO2, SO3, and SO6 and beside an armoured vehicle carrying SO4 and SO5 at the time of the shooting.

As the subjects of a criminal investigation, the subject officers were entitled to rely on their right to silence and not speak to ASIRT. In this case, five of the subject officers provided ASIRT investigators with a written statement or their notes and answered questions in an interview.

ASIRT investigators reviewed all available video of the incident, including video from the body worn cameras (BWC) of 16 officers, as well as recordings from a CPS helicopter and a CPS drone.

ASIRT investigators also reviewed all relevant CPS radio transmissions and the recordings of phone calls between the AP and the Crisis Negotiation Unit (CNU).

ASIRT investigators also oversaw scene examinations conducted by members of the CPS Forensic Crime Scene Unit (FCSU).

Circumstances Surrounding the Incident

On March 14, 2024, at approximately 3 p.m., CPS TAC attended the AP's residence to execute a search warrant. Upon seeing police, the AP fled from a detached garage in his backyard into the basement of the single-story residence. Other occupants of the residence exited upon being directed to do so over a loud hailer, but the AP refused.

After approximately 40 minutes, the AP fired gunshots at an armoured police vehicle positioned at the front of his residence. Subject officer #1 (SO1) returned fire.

Over the course of the next 29 hours, police tried a variety of tactics to have the AP surrender peacefully, including deployments of multiple gas canisters into the home. The AP remained inside the basement of the residence, which was partially above ground level, and continued to intermittently shoot at police through the windows.

During ongoing negotiations, the AP exchanged two firearms for food and cigarettes, which were delivered via police robot. He was aware that he was under arrest for possession of a firearm and

continued to express concerns about going to jail, denied any wrongdoing, and claimed to have a valid reason for having a gun, notwithstanding being bound by a firearms prohibition. He admitted to shooting at the armoured vehicle and advised that he had been shot several times by police. He described having been shot in the wrist, chest, and face. He refused medical attention for his injuries. He also admitted to firing rounds inside the residence. He blamed police for the current situation and said he was shooting out of the house because he did not want to go back to jail. On at least one occasion, he threatened to shoot himself in the head. At another point, he referenced having a grenade and commented that he would use it to blow himself, and anyone else near him, up as a last resort. Throughout the negotiations, he vacillated between agreeing that he would surrender on his terms at some future time and advising that he was not going to comply with their directions to exit as he was not going back to jail and that they would have to kill him.

At approximately 8:30 p.m. on March 15, 2024, firehoses were used to flood the basement alongside further gas deployments. The AP became very upset as water filled the basement. The negotiator told him to exit the house without anything in his hands. The AP advised the negotiator that he would "come out shooting." He was then observed making his way towards the stairs leading up from the basement to the back door of the residence, while still armed with a shotgun. He was noted to be wearing body armour. He fired multiple rounds into the backyard as he reached the top of the stairs. Subject officers #2, 3, 4, 5, and 6 (SO2 – SO6) each returned fire.

The AP sustained multiple gunshot wounds and was pronounced deceased at the scene. At the time of his death, he was wearing a tactical vest which had a live grenade affixed to the front. He was also had a loaded black pump-action shotgun along with a bag of additional ammunition.

Autopsy

An Office of the Chief Medical Examiner (OCME) pathologist performed an autopsy on the AP. The AP sustained 12 gunshot wounds, including three to the back left of his head, four to the back left of his neck, one to the left back of his scapula, two to the front of his chest, and two to his left forearm. The pathologist preliminarily concluded that the immediate cause of death was multiple gunshot wounds.

Scene

ASIRT investigators oversaw scene examinations conducted by members of the CPS FCSU. The scene encompassed several locations, including the AP's residence and three police armoured vehicles.

During a subsequent search of the AP's residence, six additional firearms were recovered inside the basement, which included three pump-action shotguns, one semi-automatic shotgun, and two semi-automatic rifles. Firearms analysis confirmed that two of the pump-action shotguns and both semi-automatic rifles were prohibited firearms due to modifications made. All firearms were fully functional. They were also all capable of firing ammunition that was also in the residence.

The CPS armoured vehicle (ARV) parked at the front of the AP's residence at the outset of the police interaction was observed to have seven areas of bullet impact on the driver's side, which was facing the residence. Two of the impacts were on the driver's side door – one on the door panel just above the window and one on the side mirror. The other impacts were on the middle door just beneath the turret.

An RCMP tactical armoured vehicle (TAV1) that had been positioned at both the front and rear of the AP's residence was observed to have three areas of bullet impact on the passenger side, which was

facing the residence. One impact struck the front passenger side window.

A second RCMP tactical armoured vehicle (TAV2) positioned at the back of the residence was observed to have eight areas of possible impact along the passenger side, which was facing the residence.

Civilian Witnesses

ASIRT investigators interviewed or reviewed interviews conducted by CPS officers of five civilian witnesses. Two of these witnesses – the AP's girlfriend (CW1) and her mother (CW2) – had been inside the AP's residence, among others, upon police arrival. They exited the residence upon request.

Both CW1 and CW2 advised that the AP had run into the residence when the police had arrived, and he was hysterical. CW1 went into the basement with the AP and tried to calm him down and convince him to exit the residence with her. He told her that he would "try his best to make it out alive, but it was probably not going to happen" and "I probably won't make it out alive. I will put up a fight. The second they try to come in, you know what's going to happen." CW1 recalled the AP having a bad experience in jail and since his release, he adamantly maintained that he would never go back. CW2 recalled the AP previously telling her, "If I am ever arrested again, I won't go down without a fight."

Once CW1 had exited the residence, she had assisted negotiators in speaking with the AP. She confirmed that the AP had started firing at police approximately 15 minutes after she had exited the residence. She told him that he was endangering the community. On two occasions, he had agreed to surrender but then began firing again.

CW1 maintained that she had never seen any firearms or ammunition in the residence before.

Subject Officers (SOs)

Five of the six subject officers provided their notes or a prepared written statement and submitted to an interview with ASIRT notwithstanding that they are entitled to rely on their right to silence. They provided a full account of the incident, with the below areas being particularly relevant to ASIRT's investigation. The remaining subject officer exercised his right to silence and did not participate in a voluntary interview.

Subject Officer #1 (SO1)

SO1 attended the AP's residence at approximately 3:05 p.m. on March 14, 2024, to exercise a firearms search warrant. The plan was to contain the residence and call out the AP and other occupants. SO1 was aware that other officers had previously made contact with the AP at the rear of the house and that he had run inside. SO1 was stationed in the turret of the ARV, which was parked in front of the residence. He was providing observational cover for his partner, who was making announcements over the long-range acoustic device to have the occupants exit the residence. Shortly afterwards, the other residents came out and he became aware that negotiations with the AP had commenced.

At approximately 3:42 p.m., SO1 observed the AP appear in a basement window and begin sliding the window across to create an opening. The AP then looked in the direction of the ARV and quickly began levelling and pointing what appeared to be a long-barrelled, large-calibre firearm out the window. SO1 was aware that they were in an area where there was a main road, a busy transit terminal, children, civilians – including the other occupants who had recently exited the residence – and other officers. He was concerned that the AP would shoot someone. He noted that although he was in an armoured rescue vehicle, it is not infallible and his firing position in the turret left him exposed. Believing that the

AP was going to shoot, SO1 began aiming his own carbine at the AP's centre mass. As he did so, he heard a deafening "boom" coming from the AP's position, and he fired one round at the AP. He then heard a second "boom" and fired several more rounds until the AP disappeared from view. He fired to stop the threat the AP was presenting.

Upon exiting the ARV, SO1 observed that it had been struck by some of the rounds fired by the AP, including near to where his partner's head would have been positioned in the driver's seat and on the door just beneath the turret where his body was positioned.

SO1 believed he fired about four or five times and observed that his rounds struck and shattered the glass window in front of the AP. He also observed a jerking motion on the part of the AP consistent with likely having been hit before he disappeared from view.

A subsequent round count of SO1's magazines suggests that he may have fired up to eight times.

Subject Officer #2 (SO2)

SO2 attended the AP's residence in TAV1 at approximately 4 p.m. on March 14, 2024, to assist CPS. He was primarily positioned in the turret of TAV1. They drove TAV1 through the backyard fence and deposited some gas canisters into the residence using the vehicle's articulating arm. They also used the arm to breach the back door of the residence. They remained in that position until the early morning of March 15, 2024, and SO2 could hear sporadic gunfire coming from the basement of the residence throughout that time.

At one point, he was outside TAV1 with another officer working to clear debris from a basement window with the articulating arm when he observed a muzzle flash from that window. A CPS robot positioned near that window then captured the AP going into a basement bathroom carrying two firearms, duffle bags, pillows, and wearing body armour before closing the door. TAV1 was subsequently removed from the scene and he also left for the evening.

SO2 returned the following day at 6:30 p.m. He positioned himself at the southwest corner of the rear of the residence with SO3 and SO6 and created a port through a neighbouring fence that allowed him a good view of the back door.

Water was subsequently introduced into the basement and SO3 and SO6 deployed gas into the residence. He heard over the radio that the AP was firing shots at TAV1, at the front of the residence. Negotiators then advised that the AP had indicated he would be coming out shooting, and SO2 heard a door being slammed inside the residence. Within seconds, he observed movement at the top of the stairs leading from the basement and saw a long gun, a muzzle flash and heard a shot fired by the AP. SO2 knew there were officers positioned on all sides of the rear of the residence and so there was a risk to someone no matter which direction the AP shot.

SO2 then continued to see movement at the back door and believed the AP was trying to position himself behind the cement wall beside the doorway and that he was using other wooden debris around the doorway to try to conceal himself and continue shooting at police. The AP's behaviour over the past 30 hours had not changed and it was clear that he had no intention of peacefully surrendering. SO2 was not prepared to allow the AP to continue shooting at them or to use the hand grenade that the AP said he possessed. SO2 fired between six and ten rounds into the debris that he believed the AP was hiding behind. He could also hear shots being fired from TAV2. He stopped firing when he could no longer see movement from behind the debris and cement wall.

Subject Officer #3 (SO3)

SO3 attended the AP's residence at approximately 8 a.m. on March 15, 2024. He was positioned at the southwest side of the rear of the residence with SO2 and SO6. Immediately prior to the introduction of water into the basement, both he and SO6 deployed several gas munitions into the upper floor to try to deny the AP access to that level. Once the water was delivered, he heard over the radio that the AP had begun shooting at TAV1 situated at the front of the residence and that the AP had threatened to "come out shooting."

SO3 continued observing the rear door of the residence and saw movement coming up from the basement. He then saw the barrel of a black firearm emerging from the side of the door jamb, followed by the top half of the AP's body. The AP appeared to be wearing some form of body armour. The AP began to level the barrel and appeared to be pointing it in their direction. He then saw a flash from the muzzle of the AP's firearm. SO3 discharged seven rounds from his service pistol towards the AP and could also hear other officers simultaneously firing. After the AP fell to the ground, his body was obscured by wooden debris at the base of the door, but SO3 could see that the AP was still moving. SO3 feared that the AP was repositioning to continue shooting at police, and a moment later, he heard another shot being fired from TAV2.

Subject Officer #4 (SO4)

SO4 attended the AP's residence at approximately 7 p.m. on March 15, 2024, and was positioned inside TAV2 at the rear of the residence. SO4 expressed similar concerns as SO1 with respect to his exposure through the open gun port of TAV2, along with the exposure of his fellow officers inside and outside the vehicle. He was also concerned that there was information that the AP had a grenade, which if tossed from the rear door of the residence, would have placed him and other officers containing the area within the explosion radius.

At approximately 8:30 p.m., police began delivering water into the basement. Gas munitions were also launched into the residence. Shortly thereafter, it was broadcast over the radio that the AP had advised negotiators that he was going to come out shooting. Multiple shots were then heard from inside the residence, and an update was provided that the AP was shooting at TAV1 in front of the residence.

SO4 observed a black barrel appearing at the side of the back door and a large muzzle flash. The AP appeared to be concealing himself very well so that police could not return effective fire. SO4 believed that it was the AP's intention to kill police officers and noted that the AP was true to his word that he was "not going to come out without a fight." The AP suddenly moved to try to approach the stairs leading to the upstairs of the residence, which would have given him a better vantage point to shoot at police. The AP fired several shots as he did so. When SO4 obtained a clear sight of the AP, he fired his carbine multiple times. He continued to fire until the AP dropped to the ground.

SO4 then observed the AP begin to move, and he believed the AP was getting back up. Given information that the AP was wearing a ballistic vest, SO4 believed his shots may not have been effective. Given the extreme determination that the AP had shown throughout the preceding event and his persistent indiscriminate shooting throughout, he believed that the AP was still an active threat to the community and officers on scene. He therefore fired his carbine again until the AP again dropped out of sight. SO4 continued to point his carbine at the area where the AP was last seen until a drone was able to confirm that the AP was no longer a threat. In total, SO4 estimated that he discharged seven to ten rounds from his carbine.

Subject Officer #5 (SO5)

SO5 drove TAV2 to the AP's residence at approximately midnight on March 15, 2024. Initially, he was positioned at the front of the residence and then re-deployed to the rear of the residence. SO5 heard multiple shots being fired by the AP. Based on the information being provided about where certain bullets had struck – including the passenger window of TAV1 – SO5 believed the AP was taking aimed shots from within the residence at police. They were also aware that the AP was in possession of several guns and possibly a grenade.

At approximately 7 p.m., SO5 assisted with setting up flood lights at the rear of the residence and then took up a position in TAV2 such that he had a clear view of the rear door and two flights of stairs inside – one leading upstairs and one leading to the basement. At approximately 8:30 p.m., water began being inserted into the residence. It was broadcast over the radio that the AP had told negotiators that he would come out shooting at police. Multiple gunshots were heard coming from inside the residence and both TAV1 and ARV provided updates that their vehicles were being shot at. The AP was then observed retreating deeper into the basement and it was believed that he was going to make his way upstairs to the rear door.

SO5 next observed large muzzle flashes and multiple rounds being fired from within the stairway leading up from the basement. The AP was using the cover of the stairs, wall, and debris in front of the rear door as cover and was shooting blindly in the direction of the ground team of officers, which SO5 knew included SO2 and other CPS officers. As the shots continued, SO5 observed the AP, who was wearing body armour, come into view and he appeared to be attempting to get upstairs. SO4 and officers on the ground were returning fire, and the AP fell out of sight.

SO5 trained his carbine on the area where the AP was last seen falling behind cover. SO5 believed the AP was extremely motivated and was in immediate possession of at least one shotgun and possibly a hand grenade. The AP had shown no signs of surrender but instead was actively using tactics of cover and wearing body armour. SO5 was particularly concerned that a hand grenade detonated from the AP's location would place himself and many other officers within the blast radius. Several seconds later, the AP suddenly raised up from behind the debris. SO5 estimated he fired his carbine six times until the AP fell back out of sight.

Witness Officers

ASIRT interviewed seven additional police officers and 32 more provided their reports and notes relating to this incident. Due to the prolonged nature of this event, many of the witness officers' involvement was limited to the timeframe prior to the final shooting. Collectively, the witness officer's reports and statements corroborated the accounts provided by the SOs. They also confirmed the sustained efforts by police to have the AP surrender peacefully in the face of the AP's continued and indiscriminate shooting into the community.

Of note, WO1 confirmed seeing a shot hit above SO2's head after the basement began flooding and after hearing over the radio that the AP was moving towards the stairs at the rear of the residence. WO1 then heard the discharge of multiple firearms and observed muzzle flashes emitting from TAV2.

Video Evidence

ASIRT investigators reviewed all available video of the incident, including video from the body worn

cameras (BWC) of 16 officers, a CPS helicopter, and a CPS drone.

The SOs were either not equipped with, or had not activated, their BWCs at the time of their respective interactions with the AP.

The BWCs of many of the witness officers captured various portions of the event prior to and during the shooting. They recorded the various efforts by police to motivate the AP to surrender, and audio of the gunshots emanating from inside the residence at various times throughout. None of the BWCs record an angle where the AP can be seen.

Of note, the BWC of WO1 captured the actions of SO2, SO3, and SO6 at the time of the shooting, from his position directly behind these officers. The initial shot fired by the AP was seen impacting the garage directly behind SO2, just above his head. SO3 and SO6 were observed returning fire approximately six seconds later during a first volley of shots. SO2, SO3, and SO6 then also fired during a second volley of shots. WO1's BWC also captured muzzle flashes emitting from TAV2 during each of the two separate volleys of shots, believed to have been fired by SO4 and SO5. The two separate volleys of shots were determined to be approximately 30 seconds apart.

Video from the CPS helicopter and CPS drone corroborated the other available evidence about the events that transpired throughout the police incident.

Analysis

ASIRT investigates where serious injury or death is caused by a police officer, in addition to other sensitive investigations of police officers. These are criminal investigations only.

Here, the actions under investigation are the shots fired by the SOs that caused the AP's death.

Section 25 Generally

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 the force used by an officer is intended or is likely to cause death or grievous bodily harm, s. 25(3) applies and 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 at a person – was clearly intended or likely to cause death or grievous bodily harm. The subject officer therefore must believe 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 to which it responds. As noted above, where force is intended or is likely to cause death or grievous bodily harm, s. 25(3) codifies a requirement that 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.

Necessity requires that there are not reasonable alternatives to the use of force that would also accomplish the same goal. These alternatives can include no action at all. 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 as a whole 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

Each of the SOs were lawfully placed and acting in the execution of their duties. Initially, SO1 was part of a team attending the AP's residence to lawfully execute a search warrant for firearms. SO2, SO3, SO4, SO5, and SO6 each attended the location at various points throughout the 30-hour standoff after the AP had clearly demonstrated that he was in possession of firearms by using them to shoot at police. Each of the SOs had grounds to arrest the AP. Under their core duty to protect the public, the officers were additionally required or authorized by law to apprehend the AP. They were each acting on this duty throughout the incident. As the events unfolded, the risk to the public only escalated as the AP made clear to police that he had no intention of surrendering peacefully and warned police that he had many firearms and a grenade at his disposal.

There is no doubt that the SOs responded reasonably by firing at the AP. Each of the officers reasonably believed that they or other officers and civilians in the vicinity were in mortal danger when the AP began to shoot at police from inside the residence. Although efforts were made to clear the area, the AP's residence was in a residential community where the neighbouring houses were close together and the front of the homes faced onto Memorial Drive, which is a major thoroughfare in the city that is often busy with vehicular traffic and pedestrians accessing the nearby transit terminal and buses.

A pointed firearm alone presents an immediate risk to the preservation of life. When the AP began not only pointing but shooting his firearm in the direction of the officers, it engaged their duty to protect themselves and the lives of fellow police officers and members of the public in the vicinity. This applies equally to when the AP first fired at SO1 in the ARV at the outset of the police interaction, and the remaining SOs who were fired upon by the AP many hours later after he told negotiators he would "come out shooting."

Lesser use of force options that were available in these circumstances had been exhausted over the preceding 30 hours. Many police resources, from both CPS and the RCMP, had been expended to contain the AP inside the residence over a prolonged period. A considerable amount of gas had been deployed into the residence to motivate his peaceful surrender. The AP's response to these repeated gas deployments was to start shooting. Police negotiators had maintained communication with the AP, and had allowed him to speak to CW1, but he refused to comply with their requests to exit the residence. Police had officers on scene who were equipped with canines and less lethal weapons to apprehend the AP if he chose to surrender. It was only when police delivered water into the basement to flood the residence and force the AP upstairs, where he had fewer places to hide, that the AP finally moved towards an exit. He did not do so to surrender, but instead he did so to make good on his threat to "come out shooting" at police.

The AP presented as extremely motivated in his efforts to not be arrested. He withstood prolonged and significant gas exposure designed to get him to exit the residence. He was equipped with body armour and was in possession of multiple firearms, large amounts of ammunition, and a grenade, which he threatened to detonate as a "last resort." He continued to shoot out of the residence at police and

struck their armoured vehicles in specific locations where officers were positioned inside, which suggests he deliberately aimed these shots at them. This belies an intention to kill or cause grievous bodily harm to those officers.

The AP repeatedly referenced that he was “not going back to jail,” and that “they [the police] would have to kill him.” This was consistent with what he had told CW1 and CW2 on previous dates and at the time that police made their presence known on this date. The AP had made comments indicating that he expected to die in this incident. When ultimately faced with no alternative but to move upstairs or towards an exit, the AP armed himself with a shotgun, additional ammunition, and a grenade and began indiscriminately shooting. The preponderance of evidence supports that the AP’s actions on this date were designed to provoke deadly force by police, commonly referred to as suicide by police.

The SOs’ use of their firearms to shoot the AP was also proportionate to the threat of death or grievous bodily harm that he reasonably appeared to pose to the SOs or other officers and civilians in the immediate area.

It was necessary for the SOs to fire at the AP when they did. The AP presented the SOs with what they reasonably believed was an immediate and lethal threat. The AP had refused to comply with police directions to exit the house and had barricaded himself inside the residence for many hours. He had already shot at officers when they first attended at the residence and repeatedly throughout the event. When faced with the dilemma of being forced out of the basement by rising waters, the AP chose to arm himself with a gun, despite repeated directions to present himself without anything in his hands. He then began blindly shooting out of the residence where he knew officers to be. He made his intentions to do so clear to police beforehand, which further signalled that he was set on a course of action and had no intention of complying with police.

The SOs were required or authorized by law to act that day and acted on reasonable grounds. Their use of force was reasonable, proportionate, and necessary. As a result, the defence provided by s. 25 of the *Criminal Code* is likely to apply to the SOs.

Section 34 Generally

A police officer also has the same protections for the defence of person under s. 34 of the *Criminal Code* as any other person. This section provides that a person does not commit an offence if they believe on reasonable grounds that force is being used or threatened against them or another person, if they act to defend themselves or another person from this force or threat, and if the act is reasonable in the circumstances. For the act to be reasonable in the circumstances, the relevant circumstances of the individuals involved, and the act must be considered. Section 34(2) provides a non-exhaustive list of factors to be considered to determine if the act was reasonable in the circumstances:

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the person’s role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon;
- (e) the size, age, gender and physical capabilities of the parties to the incident;

- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
- (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to the use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.

The analysis under s. 34 for the actions of a police officer often overlaps considerably with the analysis of the same actions under s. 25.

Section 34 Applied

As noted above, this incident involved a reasonable police action.

Based on the evidence, there is no reasonable interpretation other than that the SOs were acting to defend themselves, their fellow officers, and other civilians in the immediate vicinity when they fired at the AP.

There were no other means available to the SOs to respond to the threat of grievous bodily harm or death presented by the AP. As such, the defence under s. 34 of the *Criminal Code* is likely to apply to the SOs.

Conclusion

The SOs use of force were proportionate, necessary, and reasonable. As a result, there are no reasonable grounds to believe that an offence was committed.

Original signed

Matthew Block

Acting Executive Director

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