

ASIRT DECISION

**IN THE MATTER OF AN RCMP SHOOTING CAUSING
INJURY NEAR BONNYVILLE ON FEBRUARY 9, 2024**

Acting Executive Director: Matthew Block

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Introduction

On February 9, 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 Royal Canadian Mounted Police (RCMP) non-fatal shooting that occurred that evening. The shooting of the affected person (AP) arose in the context of a call for service that the AP was intoxicated inside a rural residence, damaging property, and threatening other occupants of the residence who had barricaded themselves in a room. ASIRT designated one subject officer and provided him 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 eight civilian witnesses, including the AP, and two police witnesses. Two additional police witnesses provided their reports and notes.

As the subject of a criminal investigation, the subject officer (SO) was entitled to rely on his right to silence and not speak to ASIRT. In this case, the SO provided ASIRT investigators with a written statement and answered questions in an interview.

ASIRT investigators reviewed all available video of the incident, including video from the body worn cameras (BWC) of four officers and video from seven police vehicles (WatchGuard system is equipped with forward-facing and rear-facing cameras).

ASIRT investigators also reviewed 911 calls and all relevant RCMP radio transmissions.

ASIRT investigators also oversaw a scene examination conducted by members of the RCMP Forensic Identification Service unit.

Circumstances Surrounding the Incident

On February 9, 2024, at approximately 9:45 p.m., police were dispatched to a family dispute where the AP was reportedly damaging property and trying to break into a bedroom where four of the home's occupants had barricaded themselves. Police arrived on scene at approximately 10:21 p.m. and learned that the AP had retreated to an upstairs bedroom.

Officers made efforts to speak to the AP and convince him to come downstairs. The AP was standing at the top of the stairs and was observed to be holding a firearm. He threatened to shoot officers if they came upstairs. Officers gave him repeated commands to drop the gun and come downstairs. After several minutes, the AP began coming downstairs while still holding the gun. He was given further directions to drop the gun, but he refused to comply. As he walked towards officers, he began pointing the gun directly at the SO. The SO pointed and discharged his carbine at the AP three times. The AP is believed to have sustained injuries to his left wrist, upper chest and neck region.

The AP's gun was subsequently determined to be an unloaded single action revolver.

911 Recordings

The AP's father, civilian witness #1 (CW1), placed a call to 911 at 9:45 p.m. He reported that the AP was "smashing the place up" and that they needed police to attend as soon as possible. He indicated that the AP had been consuming alcohol. He provided further updates that the AP was trying to break

into the bedroom where four of them had barricaded themselves by holding a mattress up against the door. He also advised that his elderly father was still elsewhere in the residence. The AP could be heard yelling and banging on the door in the background, and the occupants of the bedroom were crying, asking the AP to stop, and requesting help.

CW1 placed a second call to 911 at 10:06 p.m. enquiring if police were almost there. The dispatcher advised that police were still en route and remained on the line until CW1 confirmed that police had arrived.

Scene

ASIRT investigators oversaw a scene examination conducted by members of the RCMP Forensic Identification Service unit.

The residence was located on a rural property in the Bonnyville area. It appeared to be a modified double wide manufactured home, with a second story addition on the north side and an entrance and deck on the west side (Figure 1).



Figure 1 - Diagram of the main floor of the residence (not to scale). Yellow boxes numbered one through four identify locations of three firearms and ammunition located within the residence. Stairs to the upper level were located on the northwest side of the residence. The main entrance and deck were located on the west side of the residence (outlined in brown).

A box spring was observed to be standing on end beside the door of a main floor bedroom (labelled Room 4 in Figure 1), which was consistent with the statements of the civilian witnesses and the 911 recordings related to this event.

Two additional revolvers, a pellet rifle, and three .45 calibre bullets were also located in another main floor bedroom ordinarily occupied by the AP's grandfather (labelled Room 1 in Figure 1).

The AP's firearm was also seized, which was determined to be an unloaded Colt 45 single action

revolver (Figure 2).



Figure 2 - The AP's firearm.

Firearm analysis confirmed the AP's gun was a restricted firearm, which was capable of firing the ammunition located in the residence.

Civilian Witnesses

ASIRT investigators interviewed seven civilian witnesses, six of whom were present inside the residence on February 9, 2024.

Each of the witnesses who were present at the residence provided substantially the same information about what led to them calling the police. They advised that the AP had become enraged when his sister and her fiancée refused to allow him to use their "weed pen." He began threatening them, saying that he would "knock [them] the fuck out," kicking and punching walls, and trying to rip doors off their hinges. The AP chased his sister and her fiancée who retreated into his parent's bedroom. His sister, her fiancée, and his parents then barricaded themselves in the bedroom as he continued to punch the door and threaten them. They held a mattress up against the door to act as an additional barrier. The AP's grandfather and a family friend were elsewhere in the residence. The AP then proceeded to move through the house and could be heard smashing property. CW1 called police.

When the family observed police arriving, they exited the bedroom and opened the front door. They all agreed that the officers were readily identifiable as police. Police directed them outside the residence. Some of them observed the SO exit the residence and retrieve a large rifle before returning inside. CW1 recalled telling the officers, "Don't shoot him!" and to instead "taser him." They then heard three "pops" in relatively quick succession, which they attributed to gunshots. None of the witnesses had any knowledge of the AP accessing a firearm prior to police arrival and knew only that he had access to a pellet gun. Thereafter, they observed one officer exiting the residence holding a firearm, which most described as looking like an old cowboy-style gun. They acknowledged the AP's grandfather owned that gun and that it was usually unloaded.

None of the witnesses observed what transpired between the AP and police inside the residence. A family friend had remained inside the residence and described that from his vantage point at the kitchen table, he could hear police officers giving the AP directions to come downstairs. He noted that immediately prior to hearing the shots being fired, he observed the officers start backing up and heard one of them saying, "gun."

The seventh civilian witness was a recent ex-girlfriend of the AP. She advised that the AP consumes a lot of alcohol almost every day and that he has been violent and abusive while drinking in the past. She had briefly spoken to the AP on the phone at approximately 10:00 p.m. on February 9, 2024, and noted that he was drunk and being mean.

She recalled an incident a couple of months earlier where she had threatened to call the police on the AP. He had told her to "go ahead," and that he would do "death by cops," meaning he would get the police to shoot him. She also recalled a separate incident in October 2023, where she was at the AP's family residence, and the AP had found his grandfather's handgun and threatened to shoot himself. She recalled that she and other family members had to wrestle the gun away from him. She did not believe the gun was loaded at the time and was not aware of whether there was any ammunition in the house.

Affected Person (AP)

ASIRT investigators interviewed the AP.

The AP could not recall anything about the night in question. He recalled hanging out with everyone in the house throughout the day and consuming some alcohol. He described himself as sober that day. The next thing he remembered was waking up in the hospital and remaining there until March 16, 2024. He does not recall having any knowledge that there were any guns in the residence.

During his interview on May 15, 2024, the AP showed the ASIRT investigator his injuries. He was observed to have a bandaged hole on the front of his neck, which was where a trachea tube had been removed the day prior. A feeding tube remained attached to the centre of his abdomen. He also had surgical scars extending from the left side of his neck and collarbone towards his left chest and across his throat. A large, rounded scar was observed near the centre of the left side of his chest, which was believed to be from a gunshot. He was also observed to have large, jagged scars on the outside of his left forearm, and he indicated that one of the bones in his forearm had been broken. The AP described numbness in his left hand, left collarbone, and left shoulder and chest region.

The AP did not provide his written consent to access his medical records relating to his hospital stay as a result of being shot. Therefore, the precise nature and extent of his injuries could not be ascertained.

Police Communications

ASIRT investigators reviewed all police communications relating to this event. The communications reveal a sequence of events and what was known to officers responding to the dispatched address. A summary of the relevant information is outlined below.

The initial call for service was dispatched at 9:48 p.m. The information on the call was that the AP was intoxicated and damaging the residence. CW1 advised that he, his wife, and daughter were locked in a bedroom. No weapons were known to be involved. The dispatcher subsequently supplied additional information that the AP was on conditions not to be near his sister or her fiancée.

Several officers, including the SO, WO1, and WO2 began coordinating who would be attending the residence. The SO and WO2 confirmed that they both recalled having attended at the address previously. Subsequent updates were provided by the dispatcher and WO2, who had contacted CW1 directly, confirming that the AP was still in the house and breaking things, and that the AP was intoxicated and may have also consumed drugs.

WO2 provided an update over the radio that they had arrived on scene just before 10:21 p.m.

At 10:29 p.m. WO1 advised that the AP had said there was a firearm in the house. He added that he had been trying to talk with the AP and that he came out with a revolver, which he was grabbing by the muzzle facing towards himself. WO1 advised he told the AP he was under arrest for possession of a weapon and the AP then went back upstairs. Distant screaming and yelling could be heard in the background of this radio transmission. One minute later, WO1 confirmed that the AP had put the revolver on the steps, but that he could not see the AP. A further minute later, the SO confirmed he was going to retrieve his shotgun.

At 10:32 p.m., WO1 provided a further update that the AP might be trying to barricade himself upstairs. He confirmed that there was only one way upstairs and that he believed there were windows upstairs. He reiterated that the AP was in possession of a revolver. Approximately three minutes later, WO1 confirmed that the AP was at the top of the stairs but due to the closed bannisters, he could not see the AP's hands from his own position of cover.

At 10:35:41 p.m., WO1 appeared to activate his radio and began to speak, then immediately seemed to begin speaking to the SO in the background. The SO was heard stating, "he's pointing it!" and WO1 repeated, "he's pointing it!" At 10:36:09 p.m., WO1 stated, "shots fired, shots fired."

WO1 then confirmed that the AP was down, and that EMS was required. He continued to provide updates on the AP, confirmed that medical aid was being rendered, and requested additional members to assist with controlling the other occupants of the residence.

At 10:45 p.m., WO2 confirmed that there were at least six people still in the residence that were getting in the way. Approximately four minutes later, additional members began arriving on scene to assist.

Subject Officer (SO)

The SO provided a written statement and submitted to an interview with ASIRT notwithstanding his entitlement to rely on his right to silence. He provided a full account of the incident, with the below areas being particularly relevant to ASIRT's investigation.

The SO advised that he was dispatched to a call involving the AP, who was intoxicated and breaking stuff. He had learned that there were lots of residents in the house who feared the AP. The 911 caller

wanted police there right away, and so he activated his emergency lights to drive to the scene as quickly as possible. The SO recalled having previously attended at this residence on two prior occasions within the preceding six months, where the AP was the subject of the complaint. Both prior calls involved a similar situation where the AP was reportedly intoxicated and scaring the other residents.

The SO confirmed that he arrived in the area first, and waited for WO1 and WO2 to arrive so they could attend the residence together. They approached the front door and a male, who he believed to be the initial reporter, met them at the front door and advised that the AP was inside the house. The officers all stood inside the front door and observed that there were five or six people standing on the right side of the entrance who appeared to be in distress, as they were crying, scared, and telling them to "go get him." WO1 enquired where the AP was, and they were told that he was upstairs. They pointed down a dark hallway. The stairs were not visible because they were just beyond an archway at the end of the hall, which had a blanket completely covering the opening.

WO1 then proceeded down the hall and WO2 followed directly behind. Both officers were shouting, "RCMP" and "come down." They stopped at the left side of the archway and WO1 peeked behind the blanket but could not see anyone. WO1 then pulled the blanket down so that they could have a full view of the staircase. They both stepped beyond the archway to the bottom of the staircase. The AP then said, "don't come up, I will shoot you," and presented himself at the top of the stairs with a revolver in his left hand. He described the revolver as having a brown handle with a silver revolver and that the AP was holding it by the grip and it was pointed down towards the floor. He noted that although the hallway was dark, the AP was illuminated by a light fixture at the top of the stairs. Both the SO and WO1 backed up and took cover behind a wall, and announced, "gun." They both also drew their service pistols and held them in a low ready position, which means they were pointed down to the floor.

WO2, who had been dealing with the other residents behind them, then began trying to usher them out of the house. He noted that the other residents were very intoxicated and not listening to her.

The SO next heard noises coming from upstairs, which sounded like breaking glass and furniture being dragged across the floor. The SO believed that the AP was starting to barricade himself upstairs. WO1 continued trying to peek around the corner of the wall and was telling the AP to, "come down with your hands clear," and telling the AP he had seen the gun. The AP either did not provide a response or repeated his threat to shoot them if they came upstairs. WO1 then told him to retrieve his carbine.

The SO proceeded to exit the residence. He observed that WO2 was dealing with the other people, who were still not listening to her. He retrieved his carbine from his police vehicle, loaded it, and re-entered the residence. As he stepped through the front door, he observed that WO1 had moved back further in the hallway and was standing on the right side near a couch and coffee table. WO2 was still standing by the front door, and she had managed to get two of the other occupants outside. He went and stood across from the front door, by a fridge. The SO indicated that as he was crossing the hallway to the fridge, he heard footsteps on the stairs. From his position at the fridge, he estimated that he was approximately 20 feet from the bottom of the stairs, and he had a direct line of sight of them. He knew that from where WO1 was standing, which was approximately six to eight feet away from his position, that WO1 would not be able to see the top of the stairs.

As the AP got about halfway down the stairs, the SO saw his feet and yelled out, "he's coming down!" As he took a few more steps, the SO could see the AP was holding the revolver in his left hand. He was

holding it by its grip, and it was pointed downward. He yelled out, "he has a gun and is coming down!" Both the SO and WO1 began shouting at the AP to "put the gun down" and telling him that he was "under arrest;" however, he did not comply and kept walking towards them. As the AP got to the bottom of the stairs and began approaching the archway, the SO could tell that the AP was not steady on his feet, and he appeared to be intoxicated. He held his carbine at the low ready position. At this point, the SO noted that the AP was approximately six feet away from WO1's position, eight to ten feet away from his position, and that WO2 was exposed as she was standing straight ahead by the front door.

The SO noted that the hallway was all dark and was only backlit by the light on the stairs and a glare from the fireplace beside the front door, but he could still see the AP's movements. As the AP continued to approach, he shouted at the AP to "put the gun down!" At this point, the AP was almost standing beside WO1's position, and he noted that WO1 had tucked himself behind a wall. The AP was approximately six to eight feet from him and looked toward the fridge he was using as cover and made eye contact with him. The AP then raised his left hand, pointed the revolver straight at him, and made a comment to the effect of "I'm going to kill you or I'm going to shoot you." The SO immediately raised and fired his carbine at the AP.

The SO advised he was aiming for the AP's gun, as he hoped if he dropped the gun, they could grab it. He believed that his first shot struck the AP's left wrist as his left arm went back. He paused to see if the AP would now comply. He then saw the AP's hand swinging back around toward him with the gun still in his hand, and he was once again looking directly at him. As the AP's gun was coming around to a level position, he then fired two additional shots, aiming towards the AP's centre body mass. He observed the AP begin falling down, and the gun dropped from his hand. Recognizing that the threat was now over, he stopped shooting. He then called out, "he's down" and it was voiced over the radio that shots were fired.

The SO immediately went and seized the AP's revolver from the ground. He turned the revolver and his carbine over to WO2. He then proceeded to assist WO1 with providing first aid. The space where the AP had fallen was very narrow and dark, so they decided to slowly pull him over to an area with more space, so they could have better access to provide him with aid. The SO observed that he had shot the AP in the left wrist, and he could see other wounds on the AP's left bicep and left chest.

The SO noted that at the time of the shooting, there were still residents in the house along with three officers. He indicated that he thought he was going to die that day.

The SO drew several small rough sketches of the scene during his interview. They accurately reflected what was depicted in the more polished scene diagram in Figure 1. Accordingly, for ease of reference, Figure 1 will be duplicated, and it will be marked to indicate where the SO noted he, WO1, WO2, and the

AP were positioned at the time of the shooting (Figure 3).

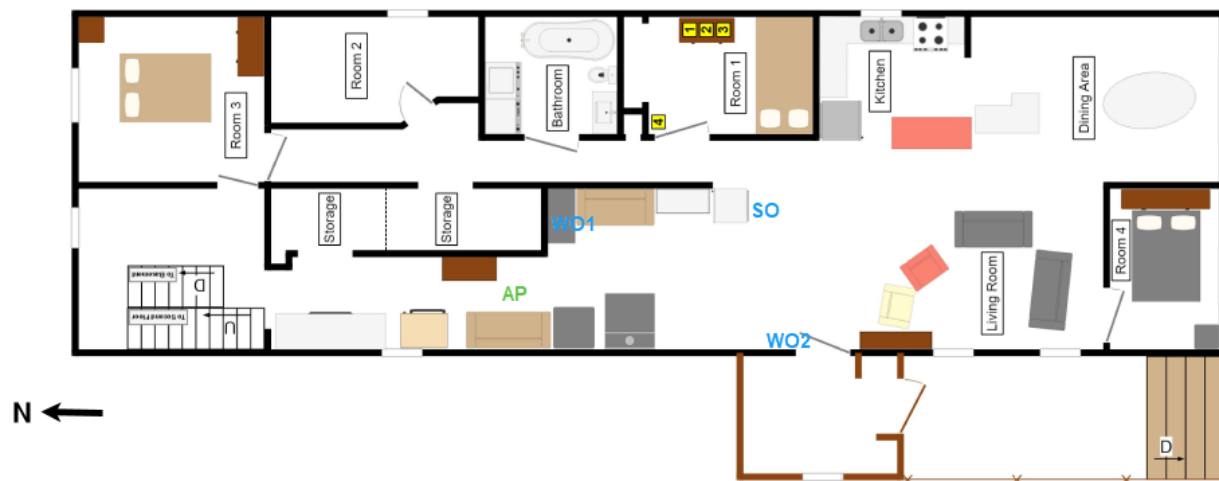


Figure 3 - Scene diagram (same as Figure 1) with positions of the SO, WO1, WO2 (marked in blue), and the AP (marked in green) noted at the time of the shooting as described by the SO. WO2 also confirmed these positions during her interview.

Witness Officers

Two additional police officers were interviewed by ASIRT investigators and two more provided their reports and notes relating to this incident. The two officers who only provided their reports and notes arrived on scene after the shooting and their roles were limited to assisting with managing the other civilians on scene and seizing exhibits.

Witness Officer #1 (WO1)

ASIRT investigators interviewed WO1. WO1 also provided his written report relating to the incident.

WO1 provided substantially the same information as the SO. WO1 indicated that when they first entered the residence, he confirmed with CW1 that there was only one point of access upstairs. He also enquired about whether the AP had any weapons, and CW1 advised he “didn’t think so.” He pulled down a blanket that was hanging from an archway at the end of the hall, so that he could see the stairs. He stood under the archway and observed the AP on the landing of the closed steps and began speaking with him. He could not recall exactly what was said but advised that his body worn microphone would have captured the conversation. He observed that the AP was holding a revolver by the muzzle. He advised the AP that he was under arrest and then hid himself behind the wall of the archway. He called out “gun,” drew his own pistol, and provided a radio update that the AP had a gun. He began issuing commands to the AP. The AP then set the gun on the ground.

WO1 asked the AP to come down, but he would only crouch on the landing. The AP then grabbed the gun and went back upstairs. He could hear what sounded like metal clinking together and objects hitting the ground. He yelled to WO2 to clear everyone out as he could hear a commotion behind him

as the other people were resisting leaving. He could hear them yelling "don't shoot him, he doesn't have a gun," and "it's just a pellet gun." WO1 recalled hearing those comments and thinking that what he saw didn't look like a pellet gun. He told the SO to go and get his carbine. He was worried that the other family members still weren't leaving the residence.

The SO returned with his carbine. The AP then began coming down the stairs. The AP did not speak to him. WO1 began backing up down the hallway. He noted that there was lots of clutter, and he was worried about tripping. He could also still hear people yelling, "don't shoot him." He next observed the AP pointing the revolver straight at him. The AP had both hands on the gun, with his arms straight out in front of him at about shoulder height. WO1 ducked down and stepped on a couch or table on the right side of the hall and pushed his upper body against the wall. Approximately five seconds later, he heard the SO saying, "drop it." He then saw a cloud and heard a "boom," followed by two more. He then heard the SO saying, "he's down." WO1 recalled experiencing this as a surreal moment and everything seemed to move in slow motion. He did not see the AP getting shot.

WO1 then peeked around the corner of the wall and saw the AP lying on his back. He had a gash on his left wrist and was bleeding from the neck. The SO conveyed over the radio that the AP was down and that shots had been fired. WO1 then requested EMS and additional members to attend the scene. The SO retrieved the AP's revolver, and WO1 immediately began administering first aid. He observed what appeared to be a deep hole in the left front side of the AP's neck, which he plugged. He also observed two holes in the AP's upper left chest, and he applied a chest seal. Overall, he recalled having to drag the AP twice to get him to an area where he could get better access to render aid.

Witness Officer #2 (WO2)

ASIRT investigators interviewed WO2. WO2 also provided her written report and notes relating to the incident.

WO2 provided substantially the same information as the SO and WO1. WO2 was primarily dealing with the other occupants of the residence during this event, while the SO and WO1 approached the stairs. She heard the AP say, "if you guys come up here, I'm going to shoot you." WO1 then directed everyone to move back, and the other residents began saying, "he doesn't have a gun" and claiming there were no weapons in the house.

The AP's grandfather was intoxicated and worried. CW1 was trying to get him out of the way. WO2 obtained an account of what had occurred from "two girls," believed to be the AP's sister and her fiancée. She could hear WO1 talking to the AP and trying to de-escalate the situation. The SO advised her that the AP had something in his hands and asked her to get the others out as he went outside to retrieve his carbine. She eventually managed to get CW1, the AP's mother, and the two girls out onto the front deck. The AP's grandfather and another male remained inside, on the opposite side of the residence. The people outside kept trying to get back inside. They kept yelling, "don't shoot him" and denying that the AP had a gun.

WO2 remained standing in the front entrance, with the front doorway providing her partial cover. She observed the AP coming down the stairs with both hands raised in front of him to about shoulder height. It was not until he got closer to the bottom of the stairs that she could see that he was holding a revolver in his hands. She began pointing her pistol and observed WO1 and the SO doing the same with their pistol and carbine, respectively. Both the SO and WO1 were giving the AP commands to drop the gun while she was trying to make sure the family stayed back.

As the AP got closer, she observed WO1 take cover behind the wall near a couch, and the SO was standing across from her and using a fridge for cover. She heard directions being given to “stop” and then three gunshots. She believed there was a bit of a pause before the third shot was fired. The family began yelling, and she closed the door on them. She observed the AP on the ground and heard WO1 on the radio requesting EMS.

The AP’s mother, who she also noted was intoxicated, made her way back inside and WO2 had to try to keep her back. She took custody of the SO’s carbine and maintained continuity of the AP’s gun, which was seized by the SO. Once other members arrived on scene and assisted with taking control over the other family members, she took some photos of the scene.

Video Evidence

ASIRT investigators obtained video from the SO, WO1, and WO2’s WatchGuard cameras and body worn microphones, which captured audio of the police interaction with the AP and other occupants in the residence. The radio transmissions could also simultaneously be heard from inside the police vehicles. The SO, WO1, and WO2 were not equipped with BWCs. Only the four additional officers who responded to the scene after the shooting were equipped with both BWCs and WatchGuard cameras.

The WatchGuard cameras and body worn microphones of WO1, WO2, and the SO confirmed that upon their arrival at the residence, they approached the front door together and knocked while loudly announcing, “RCMP.” When the door was opened, CW1 advised that the AP was upstairs and confirmed to WO1 that there was only one way upstairs. Callouts were made by the officers announcing their presence and the AP’s family members were calling out the AP’s name and telling him to come down. The AP was heard swearing and yelling in the background. The AP said, “stop at the fucking stairs, right fucking now or I will shoot you” and repeated it a second time. WO1 asked family members if the AP had any weapons upstairs and was told that he did not. The AP repeated, “don’t fucking come up.” This was followed by lots of yelling amongst the family members.

WO1 called out to the AP by name and asked to talk to him. He asked him to at least come to the top of the stairs to speak to him because he couldn’t hear him. The AP’s responses were muffled and could not be clearly heard over the loud yelling of other family members in the background. WO1 told the AP that they wanted to figure things out and declined to go upstairs because he couldn’t see the AP’s hands.

After approximately one minute of communication, WO1 said, “okay, put the gun down on the ground right now” and announced, “he’s got a gun.” WO1 told the AP to “put it down” and a sound, which could be consistent with something dropping on the ground, was heard. WO1 then told the AP he was under arrest for possession of a weapon and repeated several times for him to put his hands in the air and step forward. The AP replied, “ya right – you come on the steps.” WO1 told the AP that he was “not coming on the steps, you’ve got a revolver.” He made several further requests for the AP to come down, at least a couple steps.

WO1 then twice repeated, “no, don’t touch it,” followed by “I’m going to shoot you.” WO2 told other people to get out. WO1 provided an update over the radio at 10:29 p.m., advising that he made contact with the AP and that he came out holding a revolver with the muzzle faced towards himself and had now gone back upstairs. As this radio update was being broadcast, family members could be seen exiting the house and were observed to be yelling and swearing at each other. This was approximately five minutes after police arrived.

Approximately one minute later, WO1 began yelling at the AP, "don't touch it, put it back down on the ground, do it now!" He was also yelling at the people remaining inside the house to "get out". CW1 began arguing with WO2 saying, "he doesn't have a gun, we have no guns" and commenting "it's my house, if there was a gun, I'd know." Other family members also kept repeating that he didn't have a gun. It was reiterated that the police don't plan on shooting the AP, and that they are trying to talk to him, but he has a gun. CW1 replied, "it's a pellet gun," which other family members then echoed. WO2 could be heard having to repeatedly tell family members to get out of the house and threatening to arrest them for obstruction if they didn't comply. WO2 kept telling the family members to be quiet so that they could try to communicate with the AP, but they kept yelling and screaming at each other and at officers. The volume of their continued commentary often drowned out the audio of officers' interactions with the AP.

WO1 subsequently provided an update over the radio at 10:32 p.m. that it sounded like the AP was beginning to barricade himself upstairs. Loud noises could be heard in the background. Over the next two minutes, WO1 continued to make efforts to talk to the AP. The AP denied that the gun he had was real but refused to leave it upstairs and come downstairs without anything in his hands. The AP was heard responding to the suggestion by saying, "I doubt that man, you will shoot me," to which WO1 replied that he didn't want to shoot him, he just wanted to talk but since he had presented a firearm, WO1 had to protect his own life. The AP continued to refuse to show WO1 his hands or to come down some stairs.

WO1 commented, "I don't know if he's loading" and asked the SO to retrieve his carbine. As the SO was returning inside the residence with his carbine approximately one minute later, the family members who were outside on the deck could be observed getting agitated and holding each other back. The SO had to again tell them to "get out." CW1 was heard commenting several times, "don't shoot him" and "there's no guns in my house." All family members continued to shout out similar comments, denying that the AP had a gun and telling officers not to shoot him.

Within 10 seconds of the SO returning into the residence, WO1 is heard yelling, "drop it," twice. A further 10 seconds later, WO1 said "move back, get out" and again "drop it!" The first shot was fired three seconds later. A second shot followed two seconds later. A third shot was heard eight seconds later. Overall, three shots were fired across 10 seconds. WO1 announced "shots fired" over the radio between the second and third shots, approximately 30 seconds after the AP was initially told to "drop it." Family members could be heard continuing to deny that the AP had a gun and refusing to comply with WO2's directions to stay back. Several minutes later, while the AP's gun was being handed off by the SO to WO2, multiple family members commented, "it's not loaded."

Approximately 13 minutes later, additional police officers began arriving on the scene. Their BWCs primarily capture the seizure of evidence and clearing of the AP's gun. They also captured the extra attention that officers had to expend on dealing with the AP's family members who were all noticeably intoxicated – slurred speech, unsteady on their feet – and not readily compliant with any police directions.

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 action under investigation is the shots fired by the SO that resulted in serious injury to the AP.

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 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 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

The SO, WO1, and WO2 were lawfully placed and acting in the execution of their duties in responding to a call for service related to the AP. While initially on scene gathering information about what had precipitated the 911 call, the AP threatened to shoot officers and brandished a firearm. This gave the responding officers 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.

The evidence of each of the SO, WO1, and WO2 corroborate each others' accounts that the AP was advancing towards their positions and began pointing and levelling a firearm in their direction immediately prior to being shot. They each referenced having heightened concerns relating to the safety of the other civilian occupants in the residence. These concerns stemmed from the AP's family members who refused to follow police directions to exit the residence and who were in an exposed position by the front door. Not only did this create a distraction for all officers but their failure to leave upon request contributed to an elevated threat assessment as their position by the front door was directly ahead of the stairs and in the line of any potential gunfire.

The AP was not able to contradict the evidence of the officers as he has no recollection of the event.

The limited information that he was able to provide was unreliable at best. He denied having knowledge that there were any guns in the residence, which stands in contrast to his possession of one on this date and the evidence of his ex-girlfriend who described an incident involving the AP and one of his grandfather's guns within the preceding few months. The AP also described himself as sober. It is certainly possible that the AP's reference to himself as having been sober is a relative term that he is using to suggest that he was less intoxicated than he otherwise has been. The available audio and video evidence along with the evidence of all civilian and police witnesses, established that he was indeed intoxicated. In addition to the behaviour that precipitated the 911 call, the AP was noted to be slurring his words and unsteady on his feet, though he was able to understand and respond appropriately to WO1 when he chose to do so. The same could be said for most of the family members who were present in the residence.

There is no doubt that the SO responded reasonably by firing at the AP. A pointed firearm presents an immediate risk to the preservation of life. When the AP began pointing the firearm in the direction of the officers, the SO's duty to protect himself and the lives of fellow police officers and members of the public in the vicinity was engaged.

The fact that the AP denied that the gun was real and that other family members insisted that any gun he had was only a pellet gun does not alter the analysis. Upon police arrival, the AP had brandished and threatened to shoot the officers. This suggests that the AP intended for the officers to believe that the gun was real and that he had the means to shoot them. The officers' own observations of the gun the AP was holding suggested to them that it was a real revolver, and indeed, their assessment proved to be accurate. The officers would have had no way of knowing whether the gun was loaded. The fact that family members were repeatedly telling officers that the AP did not have a gun and that there were no guns in the residence highlights why officers cannot simply accept what is being told to them when it stands in sharp contrast to what their own senses are telling them. Reliance on misleading or erroneous information could prove deadly for officers in such a situation. Both assertions by the family were contradicted by officers' direct observations of the AP holding a gun and the additional guns found during the subsequent search of the residence.

The AP's comments and actions on this date were designed to make the officers believe he had possession of and the present ability to use a gun. He had already been warned once by WO1 that he would be shot, when he reached for the gun that he had temporarily placed on the ground. His subsequent refusal to put it down despite repeated direction to do so, and the fact that he continued to advance towards the front door which was in the direction of the officers and other occupants, while raising and pointing the gun, were deliberate actions on the part of the AP. The AP had initially refused to come downstairs to speak to police, which meant that he was contained upstairs. The AP escalated matters when he suddenly chose to come downstairs, while still armed with the gun in contravention of clear directions to drop it. It is noteworthy that this decision came at a time when the calls from his family to not shoot him were at their loudest, which may have signalled to the AP that police were readying themselves to do so, if needed. The information provided by the AP's ex-girlfriend about the AP's recent suicide attempts and threats to commit "death by cop" also raise the possibility that the AP's actions on this date were designed to elicit this exact response by police.

The SO was the only person who witnessed the entirety of the shooting. WO1 and WO2 had taken cover in their respective positions and all civilians were either outside or out of view. Only the SO reported hearing the AP make a threat to shoot or kill him immediately prior to the shooting. The body

worn microphones of the officers did not capture this being said, but it is also noted that much of the audio is drowned out by family members yelling and multiple officers giving directions to the AP. Irrespective of whether a verbal threat accompanied the act of pointing the firearm, it was reasonable for the SO to interpret the AP's actions as a threat to shoot or kill him. The SO advised that he had deliberately aimed his first shot at the AP's gun to disarm him, which is consistent with the AP's injury to his left wrist – the hand he was using to hold the gun. The SO noted that he continued to shoot until such time as he observed the AP had lost possession of the gun and the threat had abated.

It was necessary for the SO to fire at the AP when he did. The AP presented the SO with what he reasonably believed was an immediate and lethal threat. The AP had refused to comply with police directions to "stop" and to "drop the gun." He had already threatened to shoot the officers when they first attended at the residence. He had also chosen to suddenly escalate the situation by advancing towards officers armed with the gun, despite repeated directions to leave it upstairs and for him to come down without anything in his hands. It was reasonable for the SO to infer that the AP had no intention of complying with police directions.

A lesser use of force was not available. The officers were in a dark, cluttered environment with a narrow passageway from the front door to the stairs. They had each taken up the limited available cover positions within the residence. The AP's family members persisted in causing a distraction and continued to position themselves near the front door, which placed them in the direct line of sight from the stairs. There was nowhere for officers to safely retreat, and doing so would have left the family members exposed to the risk of death or grievous bodily harm if the AP proceeded to fire his gun down the hallway.

The SO's use of his carbine to shoot the AP was proportionate to the threat of death or grievous bodily harm that he reasonably appeared to pose to the SO, and other officers and civilians in the immediate area.

The SO was required or authorized by law to act that day and acted on reasonable grounds. His 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 SO.

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 SO was acting to defend himself, his fellow officers, and other civilians in the immediate vicinity when he fired at the AP.

There were no other means available to the SO 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 SO.

Conclusion

The SO's use of force was 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

January 15, 2026

Date of Release