



**IN THE MATTER OF A CANMORE RCMP OFFICER-INVOLVED SHOOTING ON
FEBRUARY 24, 2023**

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

Assistant Executive Director:

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Introduction

On February 25, 2023, 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 Canmore detachment Royal Canadian Mounted Police (RCMP) officer-involved shooting causing injury that occurred the previous day. ASIRT designated one subject officer (SO), 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 investigators interviewed three civilians including the affected person (AP) and four police officers including the SO. ASIRT investigators, working in concert with RCMP forensic identification officers, processed the scenes from this incident.

ASIRT investigators reviewed all police radio communications. The police vehicles involved in this incident were equipped with video cameras, and ASIRT investigators reviewed all available video. Such video is valuable for ASIRT investigations.

Circumstances Surrounding the Incident

At 11 p.m. on February 24, 2023, the SO was conducting a single-officer checkstop on Rundle Drive near Three Sisters Drive in Canmore. The SO was in a normal RCMP uniform with a high-visibility jacket marked "POLICE" overtop. He was in an unmarked police SUV with the rear emergency lights activated during the checkstop. The SO was stopping motorists as they drove by and requiring them to provide a sample of their breath for roadside alcohol analysis.

At 11:09 p.m., the AP approached the SO in a white Buick Verano. Instead of travelling past the SO, the AP turned around and drove away. At 11:09:54 p.m., the SO turned his

police vehicle around, activated his full emergency lights, and began to follow the AP (Figure 1).

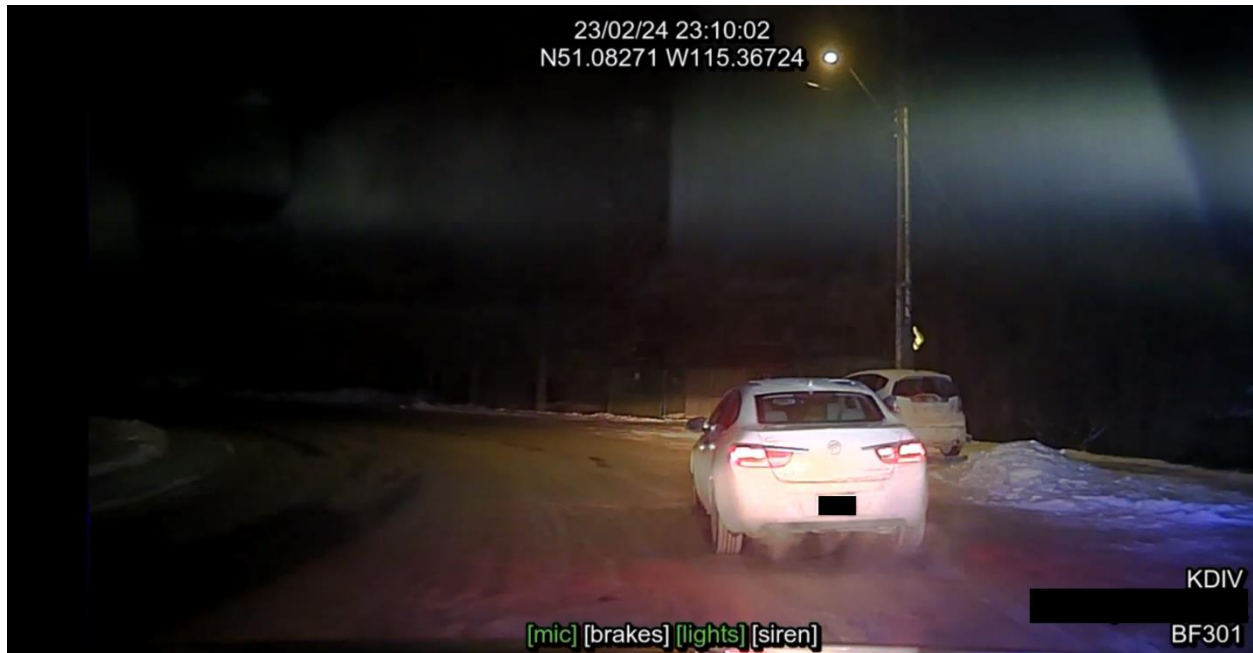


Figure 1 - SO's vehicle video showing the AP's vehicle after the SO turned around. "Lights" in green shows that the emergency lights were activated.

The SO also activated his siren shortly after turning around. The AP drove toward downtown Canmore before turning around and heading back toward where they had just been. The SO followed. The speed of both vehicles appeared moderate but, given that the speed limit is 30km/h in this area, the AP was likely speeding. The roads were covered in snow and ice, and the AP's vehicle slid slightly at times. The AP did not stop at stop signs and committed various traffic offences.

The SO radioed in what was happening and continued to follow the AP. At 11:11:29 p.m., the SO said that he was going to stop following the AP and he shut off his emergency lights and sirens. He continued to drive behind the AP.

At 11:11:41 p.m., the AP took a left turn at the junction between Rundle Drive and 8 Avenue. The SO followed. At 11:11:42 p.m., there was a muzzle flash from the area of the AP (Figure 2).



Figure 2 - SO's vehicle video showing a muzzle flash, circled in red. "Lights" in white shows that the emergency lights were deactivated.

The audio captured a bang at the time of the muzzle flash. Immediately after the muzzle flash, debris was released from the passenger's side area of the SO's windshield (Figure 3).

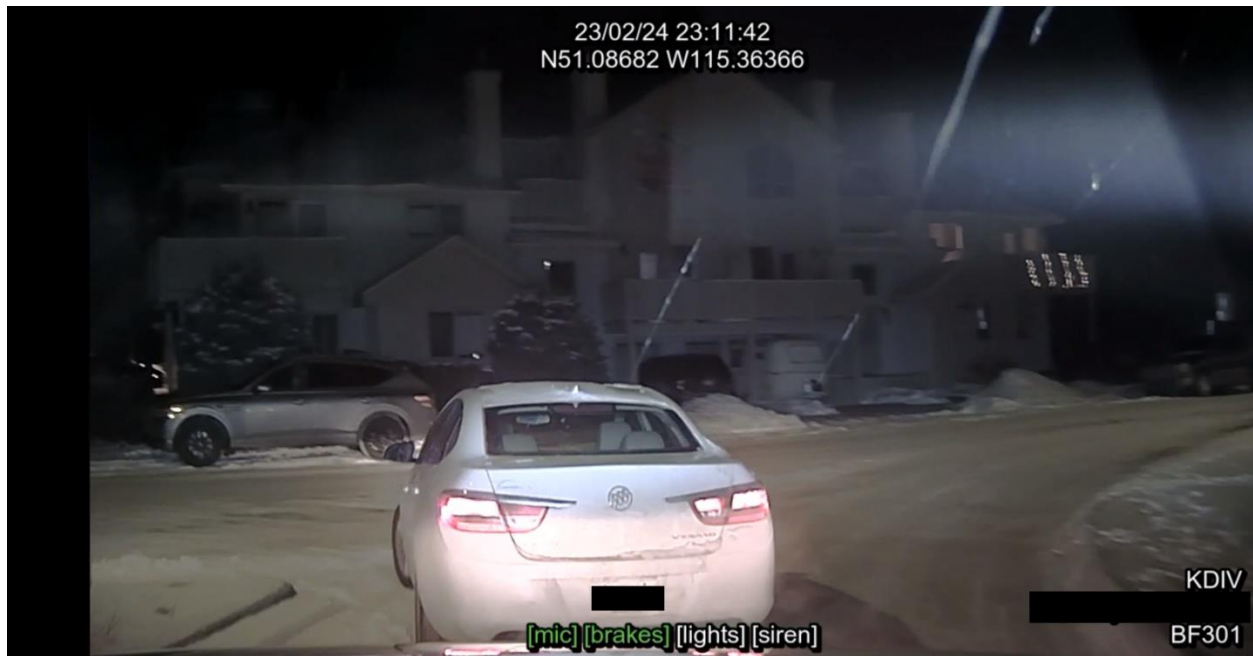


Figure 3 - SO's vehicle video showing debris coming from the upper right of the frame.

The SO then radioed "shots fired" and said that he was going to pursue. He activated his emergency lights and sirens. The AP drove back toward downtown Canmore at a higher speed. He drove through the downtown with the SO pursuing him, and then back on 8 Avenue toward Rundle Drive. The SO radioed that he had one bullet hole in his windshield.

The AP continued on 8 Avenue into a residential area at high speed. He turned left on 7 Avenue and another bang was captured on the audio at 11:14:04 p.m. The AP was slightly outside of the SO's vehicle video range at the time of the bang, so it was not captured on video. The SO said, "he's shooting at me."

The AP drove through downtown again and into a residential area. He repeatedly drove through stop signs and at a high speed, which caused him to slide numerous times. At 11 Avenue, the AP braked, fishtailed, and then went into a small cul-de-sac with some

snow coverage. The SO followed him and stopped behind the AP at 11:16:09 p.m. (Figure 4).



Figure 4 - SO's vehicle video showing him stopping behind the AP.

The AP attempted to reverse but, due to his tires spinning on the ice and snow, he only moved back slightly. The SO radioed that he had the AP pinned in an alley. The SO exited

his vehicle and, at 11:16:14 p.m., he fired three shots at the AP. The second shot hit the back passenger window (Figure 5).



Figure 5 - SO's vehicle video showing muzzle smoke on the left and the AP's rear passenger window shattering.

After the third shot, the AP quickly raised a hand to his head area as though he may have been struck. He then started to drive forward again, with his tires still spinning and covering minimal distance. At 11:16:21 p.m., the SO fired two more shots at the AP.

The AP then started to drive slowly to the left. At 11:16:23 p.m., the SO shot twice and appeared to hit the AP's rear window both times. The AP's vehicle began to turn back

toward the SO. The witness officer (WO) was approaching the scene at this time (Figure 6).



Figure 6 - WO's vehicle video showing the scene just before he arrived.

While the AP's vehicle was moving slowly, the tires were spinning rapidly. The AP was not visible and appeared to have ducked down. The SO fired one shot at 11:16:30 p.m. The AP continued to attempt to accelerate but his tires continued to spin. At 11:16:33 p.m.,

his vehicle came to the spot it would remain in other than turning of the front tires and minor rotation due to the spinning tires (Figure 7).



Figure 7 - SO's vehicle video showing the final position of the AP's vehicle.

At 11:16:34 p.m., the WO arrived at the scene and pulled up behind the SO's vehicle and slightly to the passenger side. The SO fired two more shots from 11:17:44 to 11:17:46 p.m.

The WO exited his vehicle, drew his handgun, and took cover behind the SO's vehicle on the passenger side (Figure 8).



Figure 8 - WO's vehicle video showing the SO on the left, the WO on the right, and the AP's vehicle in the distance.

As he arrived at the rear of the SO's vehicle, the WO yelled, "Hands up! Hands up!" From 11:16:55 p.m. to 11:17:16 p.m., the SO fired five more shots. At 11:17:17 p.m., the WO yelled, "Hands up! Get out of the car!" The AP appeared to be trying to drive away.

At 11:17:19 p.m., the AP appeared to have a dark object in his hand in the driver's side window. Three seconds later, the SO yelled, "Watch the handgun! Watch the handgun!" From 11:17:26 p.m. to 11:17:37 p.m., the SO fired four more shots. The WO returned to his vehicle and put on his hard body armour. The AP continued to try to drive.

At 11:17:49 p.m., the AP appeared to have a dark object in his hand while turning the steering wheel. At 11:17:54 p.m., the SO yelled, "watch the handgun!" From 11:17:59 p.m. to 11:18:15 p.m., the SO fired six more shots. During this time, the AP moved to the

passenger side seat, opened the door, exited the vehicle, and ran into the adjacent treed area at 11:18:17 p.m. (Figure 9).

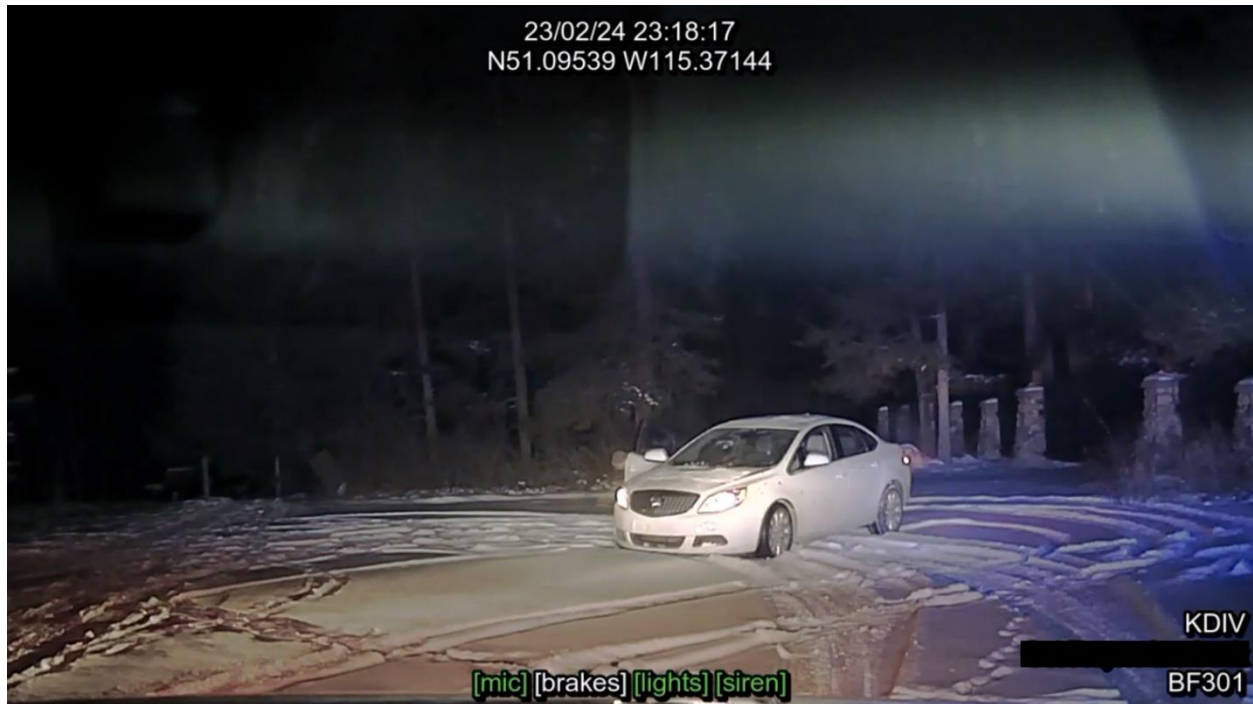


Figure 9 - SO's vehicle video showing the AP's door open as he runs into the woods.

The SO and the WO ran after the AP briefly, both stopping before they entered the trees. The SO requested the assistance of a K9 unit over the radio. The SO and the WO remained in the area of the AP's vehicle and other officers arrived.

At 1:03 a.m., RCMP emergency response team (ERT) officers began a search for the AP. He was found seriously injured in the yard of a nearby residence at 1:04 a.m. He was treated by emergency medical services at the scene, brought to the Canmore hospital, and then transported to a Calgary hospital by helicopter.

Scene

ASIRT investigators and RCMP forensic officers processed the scenes.

Aerial photographs were taken of the officer-involved shooting scene (Figure 10).



Figure 10 - The officer-involved shooting scene.

The distance between the closest parts of the two vehicles was 10.41 metres.

Twenty-five shell casings were found on or around the SO's vehicle. The SO's vehicle had damage consistent with a bullet (Figure 11).



Figure 11 - Damage on the SO's vehicle.

A short distance from the Buick Verano, a firearm was located (Figure 12).



Figure 12 - Firearm located nearby.

This firearm was an illegal 3D-printed black handgun that resembled a Glock handgun. It had a bullet stuck in the chamber and more in the magazine. Given that there was a bullet stuck in the chamber, it was inoperable at the time it was located.

The AP's Buick Verano was processed in a garage. There were 25 primary bullet entry points (Figure 13).



Figure 13 - Buick Verano the AP was driving with visible bullet holes.

Rods were placed in the bullet holes to show probable trajectory (Figure 14).



Figure 14 - Buick Verano the AP was driving with rods inserted in bullet holes.

Two shell casings from fired bullets were found in the vehicle, one on the driver's seat and one next to the driver's seat. One unfired bullet was also located in the vehicle. The shells and bullet were the same as those loaded in the printed handgun.

The areas around where the AP had shot while driving were canvassed. At a residence near the second shot, investigators located bullet holes. The bullet had gone through a door to a garage, through an interior wall, and hit a wall inside the house.

Affected Person (AP)

ASIRT investigators interviewed the AP on July 18, 2023. The AP said he had few memories of the incident.

ASIRT investigators obtained and reviewed the AP's medical records. They showed that he had been shot twice in the neck. His right mandibular ramus (jaw) was shattered, and his lateral right pterygoid plate (top of mouth) was fractured. A bullet was lodged in his esophagus and required surgery to remove. The AP also had frostbite from exposure that night. He remained in ICU for 15 days and in hospital for two weeks after that.

Witness Officer (WO)

ASIRT investigators interviewed the WO on February 25, 2023. He said that while he was on duty the previous day, he heard radio communications from the SO. The SO first said that he was following a vehicle that did not stop at his checkstop, then that he was terminating the pursuit, and then that he was being shot at. The WO went to find the SO and caught up to him at the cul-de-sac.

The SO had exited his vehicle and had his handgun drawn. The WO drew his as well and pointed it at the vehicle. He then realized he did not have his hard body armour on, so he returned to his vehicle to put it on. He heard the SO issuing commands to the AP and heard gunshots from the SO. The WO also shouted commands to the AP.

The AP appeared to be stuck and was moving back and forth. He could not see the AP's hands and did not see a weapon. He thought the AP was looking at his potential exit and not the officers. The AP eventually exited and ran into the trees.

The WO did not fire his handgun because he did not see a weapon.

Subject Officer (SO)

ASIRT investigators interviewed the SO on March 29, 2023. The SO provided a written statement and answered follow-up questions. Like any person under criminal investigation, the SO was entitled to rely on his right to silence and did not have to speak to ASIRT.

The SO described the single-officer checkstop he was operating that evening. He had chosen the location because drivers could not see him until they were close to him. When the AP approached, he made a U-turn and drove away from the SO. The SO thought that the AP was likely impaired, so he activated his emergency lights and followed him.

The SO said that the AP committed various traffic infractions but was driving relatively slowly, although still over the speed limit. After the AP turned back onto the same road, he was going to end his pursuit. The AP then appeared to be about to stop so he continued to follow him. The AP then turned, and he followed.

In the turn, he heard a loud noise and heard his windshield break. He did not see the firearm since he was focused on the back of the vehicle, but he realized he was being shot at. He continued to follow the AP and, at another turn, the AP shot at him twice.

The SO realized, after the first shot or second set of shots, that the AP was trying to kill him. He drew his handgun and placed it between his legs while driving.

The AP drove into a cul-de-sac and became stuck after trying to turn around. The SO saw that the AP had a gun in his hand. The SO exited and began to fire at the AP from the cover of his vehicle. The AP continued to try to free his vehicle and the SO thought that, if he did, the AP could get a clear shot at him or run him over.

During this time, the SO observed the gun in the AP's hand again. Another officer arrived and was not behind cover. The SO was now fearing for his life and the other officer's life, and continued to fire at the AP.

The AP moved to the passenger side of the vehicle and exited. The SO saw that he was still carrying the firearm, which was a black pistol. The AP ran away. The SO had a clear shot at him during this time but did not feel it was right to shoot him in the back so did not fire.

ASIRT investigators reviewed the SO's magazines and determined that the SO had fired 25 shots.

Analysis

Facts

Few of the facts are unclear given that most of the incident was recorded on video.

After the short pursuit, the AP fired his handgun at the SO at least twice. This is clear from the video, the shell casings found in his vehicle, and the damage on the SO's police vehicle. At some point after these shots, the AP's handgun jammed. It is not clear when this happened so it is possible that the AP may have attempted other shots.

The AP was clearly holding the handgun at 11:14:04 p.m., the time of his last shot, and at 11:18:17 p.m., when he ran from the Buick, since he left the handgun outside of the vehicle. There is no doubt that he was in possession of the handgun for this entire time, and the only question is whether it was in his hand or near him in the vehicle.

The AP fired no shots between 11:14:04 and 11:18:17 p.m. but, given that the handgun was later found to be jammed, this is weak evidence that he did not have it in his hand at these times. Twice during the time when the AP is stuck in the cul-de-sac, 11:17:19 and 11:17:49 p.m., it appeared that the AP had a dark object in his hand. While the video is far from definitive on this point due to resolution, the SO warned the WO about a handgun shortly after the dark object appeared each time. In their statements, the SO said that he saw the handgun in the AP's hand during this time while the WO never saw a weapon.

Based on the available evidence, it is more likely that a Court will find that the AP was holding the handgun in his hand from before the first shot to after he ran from the vehicle.

The SO fired 25 shots over 132 seconds, as indicated by the video, round count, and bullet holes. Two of these struck 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 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. The 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

The SO began this evening operating a checkstop. Checkstops are an important police action that serves their duties to prevent offences and preserve life, safety, and property.

When a driver attempts to evade a checkstop, a police officer has reason to suspect that the driver may be impaired and can investigate. Once the SO did that, the AP started committing other non-criminal offences such as speeding and failing to stop. As time went on, he started to commit criminal offences such as flight from a peace officer and dangerous operation.

In general, offences such as these do not warrant an extended pursuit by police due to the risk posed to the public from a police pursuit. The SO correctly recognized this and began to end his pursuit. While he did continue to follow the AP at this time, his

emergency lights were deactivated as shown in Figure 2. His provided explanation that he thought that the AP was pulling over is reasonable.

Once the AP fired a shot at the SO, the severity of the situation increased considerably and the SO's duty to preserve life and safety was further engaged. The SO's belief that the AP was trying to kill him was the only reasonable conclusion. The AP risked the SO's self-preservation and, as a person firing a handgun from a moving vehicle, he was a serious risk to the public. This risk was almost realized when one of the shots that the AP fired went through a garage and into a residence.

The SO pursued the AP after the shots and the AP became stuck in the cul-de-sac. There is no doubt that the AP was arrestable and an immediate risk to the SO and the public at that point. The SO was required or authorized by law to end the risk that the AP presented and arrest him. The severity of the situation called for immediate action, and the SO acted reasonably in moving to apprehend him quickly.

When the AP became stuck in the vehicle's final position in the cul-de-sac, his wheels were spinning rapidly. The angle of the wheels changed and was pointing at the SO and away from him at various times. The AP was pressing the accelerator down forcefully and, had his tires gained traction, he could have accelerated suddenly and rapidly. The AP had already shown that he had no regard for the SO's life when he shot at him, and it was reasonable to believe that he would run the SO over if it meant he could escape. It was also reasonable to assume that the AP may have intentionally run over the SO if the vehicle started to move. The AP had already tried to shoot and kill the SO over a potential impaired driving charge, which was far less serious than what he faced after shooting at the SO.

The AP therefore presented the SO with two lethal risks: he could shoot the SO or run him over. The SO responded by firing his handgun at the AP, which would kill or grievously harm him. The risk the AP presented and the force the SO responded with were proportionate.

The next consideration is whether the SO's use of force was necessary. When an officer fires several shots, necessity of the later shots can be questioned. An officer must reevaluate the situation when it changes, and often the situation will change in a prolonged exchange. That must be balanced with a recognition of the difficulties of a dynamic situation occurring in real time.

Just before the SO's first shots, the AP's vehicle was slipping and he was trying to turn around. He had failed to stop for the SO and had fired at him at least twice. The SO fired five shots during this time. The AP, as noted above, presented a lethal threat to the SO. The AP was not responding to the SO's lawful authority to stop him and was still holding a handgun. The use of force became necessary to contain the threat the AP posed.

After the AP turned around and became stuck, he was now facing the SO while holding the handgun he had fired at the SO only two and a half minutes earlier. His vehicle was positioned so that it could drive at the SO if it gained traction. The threat that the AP posed while in the cul-de-sac was at its highest during this time, and it was necessary for the SO to respond with lethal force.

After the AP was facing the SO, the SO continued to fire at him. There was no change in the threat that the AP presented; he continued to hold the handgun, continued to try to drive away quickly, and did not appear to be incapacitated or surrendering. This was not a situation where the SO knew that he had hit the AP and the AP was incapacitated. The threat continued and it was necessary for the SO to respond with lethal force throughout.

The SO told investigators that he did not fire at the AP while he was running away despite having a clear shot because he did not think that was right. The evidence supports that the SO did not shoot at him during this time, although it is not clear that the SO had a clear shot. While this evidence should be viewed critically as self-serving, it appears that this is evidence that the SO was properly considering the change in circumstances at that time.

Turning to reasonableness, there are other actions that the SO could have taken, such as ending the pursuit once the AP started shooting at him or attempting to simply contain the AP in the cul-de-sac instead of engaging with him. However, these actions could have created greater risk for the public by allowing the AP to escape. The SO's decision to follow the AP and engage him was exceptional action serving his duty to protect life and safety. While he could not have been faulted for acting in a way that did not risk his own life as much, his brave action protected the public.

While the SO gave limited commands to the AP throughout the incident, there is no doubt that the AP knew he was being pursued by the police and was required to stop and surrender. These limited commands therefore do not make the SO's actions unreasonable. Overall, the SO acted reasonably in his use of force.

Given that the SO's use of force was proportionate, necessary, and reasonable, the defence available to him under s. 25 of the *Criminal Code* is likely to apply.

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, it was reasonable for the SO to conclude that the AP was trying to kill him. While the AP continued to possess a handgun and not submit to the SO's lawful authority, he continued to present a lethal risk to the SO. For this reason and the reasons given above, the defence available to the SO under s. 34 is also likely to apply.

Conclusion

On February 24, 2023, the SO was conducting a checkstop when the AP tried to evade it. When the SO followed him, the AP fired a handgun at him at least twice. The SO continued to follow the AP, who eventually became stuck in the snow in a cul-de-sac. The AP, who was still holding the handgun, tried to drive away. The SO fired at the AP 25 times before the AP ran away into the trees.

The SO was required or authorized by law to respond as he did, and he did so reasonably. His uses of force were proportionate, necessary, and reasonable. As such, the defences available to him under s. 25 and s. 34 of the *Criminal Code* are likely to apply. There are therefore no reasonable grounds to believe that he committed an offence.

Original Signed

Matthew Block

Assistant Executive Director

June 27, 2024

Date of Release