



**IN THE MATTER OF A USE OF FORCE CAUSING SERIOUS INJURY  
INVOLVING AN OFFICER OF THE ROYAL CANADIAN MOUNTED POLICE IN  
STONY PLAIN, ALBERTA ON AUGUST 5, 2018**

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

**Assistant Executive Director:**

**Matthew Block**

**ASIRT File Number:**

**2018-40(N)**

**Date of Release:**

**October 4, 2022**

## **Introduction**

On August 5, 2018, pursuant to section 46.1 of the *Police Act*, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding a serious injury to a male individual, hereinafter referred to as the affected person (AP), after fleeing a vehicle involved in a traffic stop, and subsequently being located and apprehended by a Royal Canadian Mounted Police (RCMP) canine officer – the subject officer (SO).

## **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 interviewed all relevant civilian and police witnesses, obtained and reviewed the medical records of AP. The culmination of this information and other investigative materials provided more than sufficient information to make a decision on the reasonableness of the use of force employed in this event.

## **Overview of the Circumstances Surrounding the Injury to the Affected Person**

In the early morning hours of August 5, 2018, officers of the RCMP stopped a vehicle in the area of Stony Plain. These officers are witness officers #1 & #2 (WO1 & WO2). The vehicle was being driven by a civilian witness, CW1. AP was a passenger in this vehicle. WO1 asked for the names of both occupants. CW1 provided her real name; AP provided a name that, while close to his real name, was not in fact his real surname. WO1 conducted computer queries on both individuals, and believed that AP had provided a false name and that he was really another individual, who had outstanding warrants for his arrest. The officer returned to the vehicle and advised AP that he was being detained for warrants. AP opened the passenger door and fled from the officers and into some trees nearby.

The officers did not pursue AP into the trees. Rather, they called for a canine unit to attend to try to locate AP. SO and his police service dog attended and subsequently located AP. During the arrest of AP, the police service dog engaged AP on an arm. AP began to try to choke the canine. SO then responded to AP's actions by striking him in the head. SO had been holding a flashlight in the hand he used to hit AP. This caused AP to receive a cut to the left side of his scalp/ear. AP was then subdued and handcuffed. AP was taken

to the hospital in Stony Plain, where he was originally treated. He was subsequently taken to the University of Alberta (U of A) hospital in Edmonton for further treatment.

AP was ultimately diagnosed with a laceration to the left side of his head, including multiple left ear lacerations. A swollen right forearm with multiple hematomas, tenderness and a few shallow punctures. AP was also diagnosed with "an acute small focal slightly depressed fracture" to the left side of his skull. Treatment for the injuries involved sutures for the injury to his ear. No medical intervention was required for the skull fracture.

## INTERVIEWS

*CW1 was interviewed and provided the following information*

CW1 had known AP for approximately a year. CW1 was living in a motorhome/U-Haul. She went to visit AP in this vehicle. The two of them smoked some methamphetamine about 10-15 minutes before the police stopped them.

As they were being stopped, AP started to panic as he had warrants for his arrest. CW1 also had warrants, but they were in Saskatchewan. AP told her that he did not want to go back to jail, and he was going to run prior to the police coming up to their vehicle. She tried to convince AP not to run.

Once stopped, she noted there were two officers at the vehicle stop. One was a female officer (WO2), and the other was a male (WO1). The male officer did most of the talking with them. He asked them for their names. The officer then went and ran their names.

The male officer returned to the vehicle and informed AP that he had warrants. AP panicked and ran from the vehicle. The officers called for a dog. The female officer asked her to sit in her police vehicle, and she complied. The female officer was standing outside the vehicle. While in the police vehicle she heard over the in-car radio that the "dog's out," "crossed highway," "tall grass," and "okay, we got him" with a dog barking in the background. CW1 heard that the police had arrested AP. She was then told that she should go home.

CW1 left and returned to AP's residence and informed his roommates of the incident. CW1 noted AP's injuries two days after the arrest and he said that "they [police] beat him." CW1 said she saw injuries where AP's left ear was stitched up with bruising on his head. AP did not say much, only that "the dog got him." CW1 last saw AP the month previous to being interviewed.

*WO1 was interviewed and provided the following information*

WO1 conducted a traffic stop on a U-Haul vehicle. There were two people in the vehicle. CW1 was the driver, and AP was the passenger. CW1 was unable to produce the rental agreement for the vehicle, nor a driver's license. WO1 asked for the names of the occupants. CW1 provided her name. AP provided a name. WO2 had arrived to assist at the traffic stop.

WO1 went to his vehicle and queried the name AP provided. While not the exact name provided, a person with a similar name and date of birth was found to have an outstanding warrant for their arrest.

WO1 returned to the vehicle, on the driver's side, to try to determine if the person with the warrant was actually AP. No new information was received. At this time, WO1 believed that AP was not the person he said he was, but rather the individual with an outstanding warrant. WO1 told AP that he was going to detain him. As WO1 started to walk in front of the vehicle towards the passenger's side, AP opened the door and ran into the nearby bushes. WO1 did not give chase.

CW1 was detained at that time. WO1 had the detachment assist by running the name that WO1 believed AP to actually be. Upon seeing a photo that the detachment was able to provide, he knew that AP was the individual wanted on warrants. WO1 also learned that there were additional warrants for AP's arrest. WO1 requested the assistance of a police service dog. SO and his canine responded rather quickly. Prior to arriving at the scene, SO called WO1 and obtained details of the event. Once at the scene, SO's canine picked up the scent right away. WO1 proceeded to assist SO as his cover person on the track.

The track paralleled Highway 16 in a farmer's field. Due to fatigue, WO1 was 15-20 yards behind SO. WO1 noticed that SO stopped and said, "Show me your hands." SO stated this four times. WO1 then saw the flash of a flashlight. WO1 then heard SO say "Show me your hands!" twice more. Then twice he heard "You're under arrest don't touch my dog." Then, "Stop stop stop!" WO1 observed a flashlight that SO was holding, flashing multiple times. He saw SO's arm, with the flashlight move up and down. WO1 did not hear anything coming from AP. WO1 assumed the police dog had not bit AP, as he heard no yelling from him. SO had the dog in one hand, and the flashlight in the other.

When WO1 caught up to where SO and AP were, he observed AP to be laying on his stomach. SO was standing over AP. SO asked WO1 to take control of AP. WO1 moved in and handcuffed AP.

WO1 did not see the use of force by SO, but he did see a flashlight and a shadow of an arm going up and down. WO1 was unsure how many times this occurred.

WO1 chartered and cautioned AP, and then escorted him back towards his police vehicle. He observed blood around AP's left ear as they got closer to the highway. After placing AP in his police vehicle, he transported him to the hospital in Stony Plain. Staff there advised WO1 that AP would need to see a plastic surgeon to suture AP's ear, and that a further examination was also needed.

*AP was interviewed and provided the following information*

On the evening in question, he and CW1 drove in a U-Haul vehicle to look at a church building that was up for sale for \$1.00. They drove behind the church. He recognized that it was rather late in the night, but he is someone who enjoys being out late. CW1 was just driving back onto the highway when the RCMP conducted a vehicle stop of them.

There were two police officers at the scene of the vehicle stop. The male officer (WO1) came to the driver's window and asked CW1 and himself for their identification. AP could not provide identification. AP provided an alias to WO1. AP kept giving the same alias when asked. WO1 went back to his police vehicle, but when he came back he said that there was someone who had a lot of warrants for their arrest, and they matched his description. WO1 told AP that he was going to arrest him, and started to come around the front of the U-Haul. At this time, AP jumped out of the vehicle and ran through some trees and a hay field. AP said he ran from WO1 because he had missed court and had a fail to appear.

AP made a call to 911 saying there was a robbery, in the hopes of distracting the police. He called some friends while he was running, telling them he was probably not coming back and that he was running from the police. The grass he was in was chest high.

Around this time, AP fell to the ground in the long grass. He stayed laying on the ground. He heard something coming from his right. He then saw a dog walk by him. He thought maybe the dog would not see or smell him. The dog proceeded past him, but then turned around and bit his right forearm. AP said that the dog's head was underneath him, and that he did reach for and touch the police dog's nose. The officer present with the dog

started yelling something at him, and then hit him in the side of the head three or four times. AP could not recall what he was struck with in the head. He did not believe it was a flashlight, as he was very confident that nobody was using a flashlight while trying to find him. At some point, the police dog stopped biting him.

AP indicated that SO was encouraging the dog to bite him harder before he got hit in the head. AP stated that he had touched the dog's teeth, but he told the officer, "If I really wanted to kill the dog I could have." AP acknowledged that the dog's head was under him and he had placed the dog in a bit of a "choke hold" and that he was reaching for the dog's nose, because if you punch a dog's nose, they will let go of the bite. He also acknowledged he had touched the dog's teeth, but then let go. AP thinks he heard SO say, "don't touch the dog!" AP also stated that he read in the papers he received from the police about this incident that he had tried to rip the jaw of the dog open. AP denied trying to do that.

AP stated he did not see what he was hit with to the side of the head/ear, though he thought SO had used his fist. AP believed he was struck 3 or 4 times. In reading SO's report, AP learned it was a flashlight that SO had used.

After being hit in the head, other officers showed up, and he was handcuffed. The arresting officer was the same person who was at the U-Haul. AP was given his rights, and was then escorted to a police car. He was taken to the detachment, but then was taken to the hospital to get his ear looked at.

#### *Medical Records for AP*

AP was examined at the Westview Hospital where X-rays were taken. The attending physician reported that AP sustained a 3-centimeter laceration to the left side of his head, multiple left ear lacerations through the cartilage, swollen right forearm with multiple hematomas, tenderness and a few shallow punctures. The physician requested that AP be taken to the U of A hospital for a CT scan and to have a plastic surgeon look after AP's injured ear. Once at the U of A, a CT was performed along with suturing of AP's ear and head. The CT scan revealed "an acute small focal slightly depressed fracture" on the left side of AP's head. No treatment was identified as being needed for this injury.

## **Subject Officer**

*While not required to do so, SO participated in an interview with ASIRT and provided the following information*

SO had 18 years of service as a police officer. He has been a dog handler for 12 years and is on his second dog. On the night in question, he got called out from home to conduct a canine track of a suspect that had fled from a vehicle stop. SO attended the scene of the vehicle stop, and determined that AP was arrestable on warrants, including one that was for a weapons offence. SO was also aware that AP had a history of drug possession, and in his experience, decision-making by people using drugs is negatively impacted. These known factors (fleeing from police, drug user and warrant for weapon possession) were considered in his risk assessment of the situation. SO began to track AP with the assistance of his police dog. WO1 was running with him during the track. The track took him through bush and a field. It was pitch black out with only a streetlight at the overpass of range road 10. Given the level of darkness in many spots, SO could not see very well.

Minutes into the field, and still not being able to see that much, his dog stopped. SO believed that the dog had located something AP had dropped. SO did not know that a person (AP) was there. SO advised that usually when his dog makes contact with, and is biting a person, there is some form of audible response from the person being apprehended. However, in this case, SO heard nothing from AP. SO shone his flashlight and saw AP on the ground, and was surprised to see him.

SO had been about 10 feet back on the long leash, watching for a change in pace or direction of the dog. SO first believed the dog found a shoe or shirt, and was surprised to see AP when he did. SO moved up the leash and said "Stop police, you're under arrest!" SO was concerned as he did not hear anything from AP, nor see his hands. SO moved further up the leash, but he could not see his dog's head. He then realized that AP had his dog in a headlock. SO leaned over AP and saw that AP's hands were in the dog's mouth and he was trying to pry the mouth open.

At one point, SO had observed his dog take a hold of AP's right forearm, but he did not hear anything from AP. SO stated this was the first time in his career that a person bitten by one of police dogs did not react audibly.

SO stated he had told AP he was under arrest, so he felt that AP knew who he was dealing with. When he saw AP had his dog in a headlock, he was giving commands to him. He could not recall exactly what he said, but believed it was probably something like "Show me your hands" and/or "Stop fighting my dog." The commands were loud and often. AP did not say a word, which concerned SO. SO stated that given AP did not react to the pain from the dog biting him, he believed that AP was potentially high on drugs.

SO wanted to see AP's hands. SO had a flashlight in his one hand, and the leash in the other. SO leaned over AP and did not see anything in his hands, but he saw that AP had somehow managed to manipulate his arm, such that he was able to use both hands in trying to pry the dog's mouth open. SO felt the situation was out of control. AP was not reacting to the pain that normally occurs during a dog bite. Further, while he has seen people try and fight a dog, AP was calmly trying to remove his arm from the dog's mouth. SO had never experienced this sort of behaviour before. SO felt the situation was "out of control." Given his observations, SO was immediately concerned for his safety, and that of his police service dog.

Given the foregoing, SO struck AP in the head three times with the flashlight. He stated he did this as it was in his hand, and his other hand was holding the leash for the dog. After the third strike, AP stopped his behaviour and WO1 was able to handcuff AP.

SO stated that he did not have time to transition to another use of force option to stop AP's resistance to apprehension, and he believed utilizing the strikes the way he did was the best option to get control of AP. SO was very alarmed by AP's behaviour, as in his previous 12 years as a dog handler he had never seen this before.

## **Analysis**

The subject officer was lawfully placed and acting in the execution of his duties, having responded to a dog track of a person fleeing a vehicle stop where there were grounds to believe they were arrestable for outstanding warrants, and obstruction of a police officer.

### *The Use of Force*

Under s. 25 of the *Criminal Code*, police officers are permitted to use as much force as is necessary for the execution of their duties.



A police officer's use of force, in law, is not to be assessed on a standard of perfection nor using the benefit of hindsight and the opportunity to consider alternatives with the luxury of time, recognizing the exigencies of the circumstances and the decisions and reactions that must occur in split seconds.

With the benefit of hindsight, time for detached reflection and knowledge of the ultimate outcome, it is easy to speculate about how things could have been done differently. That is not the standard, however, against which an officer's conduct is measured. The question is, applying principles of proportionality, necessity, and reasonableness, whether the force used falls into a range of possible reasonable responses.

### *Proportionate Response*

Proportionality requires balancing a use of force with the action to which it responds. The SO was dealing with a situation where AP had fled from police into bushes. SO was tracking AP through bushes and a field in the darkness. Without any real notice, or time for thought, SO's dog found AP and engaged him. However, AP did not respond as virtually every other person SO had dealt with when his dog had bitten a subject. Further, in addition to not making any audible response, he was also wrestling the dog and admittedly putting his hand into the dog's mouth. This caused SO to believe that AP may be on some form of drug. While SO did not know this, SO had used methamphetamine just prior to the traffic stop. Police service dogs are "law enforcement animals" for the purposes of section 445.01 of the *Criminal Code*. Given the situation as presented to him, the SO decided to strike the AP in the head to cause him to release the dog, which was preventing a continuation of the offence, and to allow AP to be taken into custody. As SO was holding the leash in one hand, the only hand free to be used was the one holding his flashlight. SO provided three strikes to AP's head area. After the three, he ceased using force on AP, as AP's behaviour had stopped and they were able to take him into custody. At this time, the use of force against SO was not only for trying to apprehend AP, but also to prevent the continued assault on the law enforcement animal. The strikes were proportional to the level of resistance AP was presenting. Strikes to the head will of necessity draw scrutiny. However, a comment from the Alberta Court of Appeal is apt for this situation: "*The optics here are far worse than the actual force employed. It is the package, not the content, that offends.*"<sup>1</sup>

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<sup>1</sup> *R v Yum*, 2001 ABCA 80 at para 10.

*Reasonably Necessary*

AP was willfully resisting being apprehended. He was actively wrestling a law enforcement animal. SO used his only free hand to take action against AP that he believed was necessary to gain immediate control of the situation. SO's actions were reasonably necessary given the behaviour AP presented.

Again, a police officer's use of force, in law, is not to be assessed on a standard of perfection nor using the benefit of hindsight and the opportunity to consider alternatives with the luxury of time, recognizing the exigencies of the circumstances and the decisions and reactions that must occur in split seconds.

**Conclusion**

Under s. 25 of the *Criminal Code*, a police officer is justified in doing what he or she is authorized to do and to use as much force as is reasonably necessary where he or she has reasonable grounds to do so.

After a thorough, independent and objective investigation into the conduct of the subject officer, it is my opinion that SO was lawfully placed and acting properly in the execution of his duties. There is no evidence to support any belief that he or any other officer engaged in any unlawful or unreasonable conduct that would give rise to an offence. While the injuries suffered by AP were not insignificant, a lawful use of force does not become otherwise due to resulting injuries. The use of force by SO was necessary and reasonable in all of the circumstances.

ASIRT's investigation having been completed and our mandate fulfilled, I have concluded our file.

*Original signed*

**Matthew Block**

**Assistant Executive Director**

October 4, 2022

**Date of Release**