



**IN THE MATTER INVOLVING THE DEATH OF AN INDIVIDUAL AFTER AN
INTERACTION INVOLVING EDMONTON POLICE SERVICE MEMBERS IN
EDMONTON, ALBERTA ON JUNE 28, 2019**

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

Executive Director:

Michael Ewenson

ASIRT File Number:

2019-35(N)

Date of Release:

May 4, 2022

Introduction

On June 29, 2019, pursuant to section 46.1 of the *Police Act*, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding an interaction between police officers of the Edmonton Police Service (EPS), and a male individual, hereinafter referred to as the affected person (AP). The AP had gone into medical distress during his arrest on June 28, 2019 and ultimately died on June 30.

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 police and civilian witnesses, and obtained AIR-1 video and cell phone video footage from a civilian witness.

Circumstances Surrounding the Death of the Affected Person

At the time of his death, the AP was 42 years old.

On June 28, 2019, a civilian witness (CW1) called 9-1-1 to report an unknown male person acting suspiciously and starting small fires outside of her apartment building. The call was transferred to the Edmonton Police Service. Several police officers responded to the complaint, while CW1 and her boyfriend, CW2, followed the man, relaying information to the dispatcher as he walked away from the building.

The male person, who was later identified as the AP, was located by police officers walking northbound on 114 Street towards Jasper Avenue. When the officers attempted to detain and arrest the AP, an altercation occurred. Several officers were involved in the incident. The AP was taken to the ground, physically controlled, and restrained using handcuffs, a hobble strap (a strap designed to restrain the legs from moving/kicking) and a 'spit' mask.

Several officers lifted and carried the AP to a police prisoner van. When the AP was placed in the rear compartment of the van he was found to be in medical distress. He was taken out of the van and on to the street at which time officers and then paramedics attempted to resuscitate him. The AP was taken to hospital in life threatening condition. Two days later he passed away having never regained consciousness.

On June 28, 2019, at 9:51 p.m., the Edmonton 9-1-1 call center received a call reporting a male subject setting fires in the area of 99 Avenue and 114 Street. The following is a summary of the information provided during the call:

- A female reporting there is a guy lighting papers on fire next to complainant's building located at 9955 114 Street. The complainant reports that nothing has caught on fire yet. The call is transferred to fire dispatch from 911 dispatch.
- The Complainant advised fire dispatch there is a person setting fires around her building but there is no active fires right now. The complainant was advised that the police just need to take him in. Fire dispatch transferred the call back to police dispatch.
- The Complainant advised police dispatch about the male setting fires around her building at 9955 114 Street.
- The subject was walking away. The Complainant reported the male set a fire in the river valley earlier and he was by their fire escape now.
- The Complainant advised the subject was not being violent and provided a description of the involved male. The subject was reported to have walked to a funeral home parking lot.
- EPS dispatch advised that three cars were responding. The Complainant reported that the subject was walking towards Jasper Avenue on 114 Street.
- EPS officers arrived on scene and the complainant reported that a police SUV was on scene and the complainant could see police lights.
- The Complainant told the EPS dispatch that that the EPS officers were approaching the subject "right now". EPS dispatch confirmed EPS officers had the right person. The complainant confirmed and then hung up.

The initial police officer (Subject Officer #1 – SO1) exited his vehicle and attempted to communicate with the AP, who ultimately kept walking. Another police officer arrived (Subject Officer #2 – SO2) and moved towards the AP, at the same time that SO1 was doing so too. Both these officers ultimately engaged in a physical confrontation with the AP, where all three people ended up on the ground. It was reported that the AP was struggling with the officers at which time a third police officer arrived on scene (Subject Officer #3 – SO3). SO3 ran up to the group to assist, and shortly thereafter it is reported that the AP was in custody.

The AP remained on the ground with SO2 holding him down. The AP reportedly continued to struggle while on the ground. SO1 and SO3 returned to assisting SO2 in

holding the AP on the ground. Subject Officer #4 – SO4 and Witness Officer #2 – WO2 arrived on scene. SO1 received and applied a “spit mask” to the AP. SO4 went to the group and held the AP’s feet. An EPS prisoner transport van arrived on scene. Witness Officer #3 – WO3, and Subject Officer #5 – SO5 exited the van. SO5 obtained a hobble strap and then went to where the AP and the other subject officers were. SO5 assisted by placing the hobble strap on the AP’s legs. Three officers then carried the AP to the transport van, with his stomach facing the ground. The AP was placed into the rear of the van. The AP was noted to be in medical distress and was removed from the van. He had the handcuffs removed, and CPR was started by police on scene. CPR continued until EMS arrived and took over. The AP was transported to hospital by EMS. The AP subsequently passed away in hospital on June 30.

ASIRT’s Investigation

While not in chronological order, the following sets out what ASIRT investigators learned as a result of the investigation:

When the call for service came in AIR-1, an EPS helicopter, was nearby and flew overhead. The following is what was reported by the tactical flight officer (Witness Officer #1 – WO1):

- WO1 reported a ground unit (believed to be SO1) had located the subject of the complaint (the AP) and SO1 stated over the radio that the subject was non-compliant to verbal direction.
- A second ground unit arrived (believed to be SO2) and both officers approached the subject on the sidewalk. The subject and officers ended up on the ground in front of 10049 114 Street.
- A third officer arrived (believed to be SO3) and the three officers placed the subject in custody.
- The helicopter then cleared the area.

ASIRT investigators subsequently obtained video from AIR-1 which was reviewed and the following was learned:

- The dispatcher provided AIR 1 a description of the male subject of the complaint.
- The dispatcher reported the subject was walking north on 114 Street towards Jasper Avenue.
- A marked police unit driven by SO1 attended the location.

- The marked police unit stopped along the east curb of 114 Street, facing southbound, just south of Jasper Avenue.
- The overhead emergency lights were on and an officer was standing beside the driver's door.
- Through the foliage, the AP was seen walking north on the sidewalk, just opposite of the officer. An officer (believed to be SO1) stated on the radio "trying to give verbals to him, he's just walking away on me right now. I'm following him up 114 toward Jasper". A siren, at a distance, can be heard in the background.
- SO1 is standing on the sidewalk pointing at the AP, who appears to be facing the officer.
- The AP turns away from the officer, then turns back.
- A second police unit driven by SO2 arrived. The police vehicle stopped north of the AP. The officer got out of the vehicle, appeared to be putting gloves on as he walked towards the AP at the same time the first officer closed the distance and reached the AP.
- The AP and both officers fell on to the grass in front of a condo building. The video recording is partially obscured by overhead foliage.
- An officer reported, "he is still on the ground here". Two officers appeared to be struggling with the AP on the ground.
- A transmission was made that stated, "Can we get some more cars here. We've got him pinned down, waiting for some more to get his arms behind his back".
- A third police unit, operated by SO3, arrived on scene. SO3 ran up to the other officers and the AP, who still appeared to be struggling.
- WO1 announced "third member on scene, they are just going to be behind Teddy's".
- SO1 announced "Control, one in custody" ... "We have a Category 2 Use of Force".
- AIR-1 video ends. The subject is on the ground with one officer standing over him, one officer crouched near his head and the third officer crouched or kneeling over his legs.

On the morning of June 29, 2019, ASIRT investigators became aware of a video recording of the arrest of the AP that had been posted on social media. Investigators were able to determine the person who recorded the arrest of the AP on a cellular phone was Civilian Witness #3 – CW3.

ASIRT interviewed CW3, and he provided a copy of the video he had recorded and subsequently posted on-line. The quality of the video was such that ASIRT had the video enhanced for clarity purposes.

There is no displayed date or time on the video. Times in the following summary refer to the running time from the start (00:00) of the video:

00:15 The camera focuses on two people standing on the sidewalk, across the road from CW3's second floor balcony. The two men are facing each other approximately 12 to 15 feet apart. The AP is the north individual (screen left) and a police officer, SO1, is to the south. SO1 has his left arm extended towards the affected person and his right arm by his side. SO1's left hand is obscured by a tree, therefore it is not known what, if anything, he had in his hand at that time. However, at 00:17 his left hand is visible, and he is wearing a glove but not holding anything. Sirens are audible in the background. Red and blue lights are also visible.

00:29 A second police vehicle arrived from the north operated by SO2, with its emergency lights activated and it parked on the sidewalk, immediately north of the AP. The AP turned towards the vehicle.

00:38 SO1 approached the AP, grabbed him by the left arm and pulled him on the yard beside the sidewalk. A male voice (believed to be SO1) says "get on the ground now".

00:42 A second uniformed officer (SO2) walked from the north toward SO1 and the AP. SO2 engages with the AP and all three men fall to the ground on the grass. A male voice says "get on the fucking ground".

00:48 The AP is on the ground, both officers are kneeling over him. At least one officer has his weight-bearing knee on top of the AP. The officers appear to be hand fighting to gain control of or struggling with the affected person.

01:11 A third police vehicle arrived with its overhead emergency lights on. This is SO3. The first two officers are still struggling with the affected person.

01:13 The affected person has at least one arm free. SO2 repositions himself and administers a knee strike against the affected person. CW3 can be heard saying "oh, poor guy... look, look".

01:19 SO3 joined the group. As he was approaching, SO2 drew a conductive energy weapon (CEW) and held it against the lower area of the affected person.

01:29 "Get your fucking arms behind your back now!" is heard.

01:44 All three officers appear to relax (implying the AP was then restrained).

01:48 SO1 appears to be talking over the police radio.

02:03 SO1 and SO3 stand up. The AP appears to be laying on his stomach, moving and raising his head.

02:20 SO2 stands up, but then returns to putting pressure on the AP's back, after the AP appeared to be turning on the ground.

02:36 SO3 and SO1 appear to be examining the yard. SO2 continues pressure on the back of the AP.

02:45 SO2 states "Stop!... (indiscernible)" as the AP appears to be moving on the ground, and SO2 appears to increase the pressure to the AP by using his hands and arms. The AP says "I'm suffocating", SO2 replies "no, you're not".

02:55 The AP appears to struggle with SO2, SO1 then returns to assisting SO2 with controlling the AP. Two plain clothes officers, SO4 and WO2 approach from the north on the sidewalk.

03:00 All three officers (SO1, SO2 and SO3) continue to struggle with the AP. SO4 walks toward the group, stops short and appears to observe the group for several seconds.

03:12 SO4 kneels near the AP's feet. The AP is making indiscernible grunting or yelling noises. CW3, in conversation with a female, repeats what he had heard, "he said they were suffocating him".

04:15 SO1, SO2, SO3 and SO4 continue to hold the AP down. The AP is randomly yelling. WO2 is standing to the side, holding a flashlight over the group.

04:27 Four officers continue to kneel over the AP. SO1 appears to reposition himself and then apply a spit mask to the AP.

04:53 CW3 states "I am getting this" (video recording). He stated "I don't want them to kill this dude, they are on his fucking head".

05:30 WO2 walks away, south bound on 114 Street.

05:54 A marked prisoner transport van arrives at the location, driven by WO3. SO5 gets out of the passenger side of the van, opens the passenger side door and retrieves something from within.

06:15 SO5 and WO3 walk towards the AP and the other four subject officers. CW3 stated "two more gonna jump on him". SO5 kneels over the foot area of the AP.

06:41 Another police vehicle arrived at the location.

07:07 All of the subject officers stand up.

07:24 Several officers step aside while three officers lift the AP and carry him towards the prisoner van. One officer at either shoulder, lifting by his arms or shoulders and a third officer at his feet or knees. The AP is chest down with his arms handcuffed behind his back and his feet hobbled, bent up behind his back. CW3 stated “did they kill the guy... the guy is not even fucking moving. That’s crazy”.

07:47 The AP is placed in the rear of the prisoner van. The view is obstructed by the side of the van and the rear doors.

10:14 The AP is removed from the back of the van and placed on the ground.

10:16 The AP is rolled on his side, then to his stomach and the handcuffs removed.

10:49 The AP is rolled on to his back, his head is loose and unsupported and appears to strike the ground. Several officers are kneeling over the AP.

11:03 CPR is started on the AP. CW3 stated “ya, they killed him, they’re doing CPR. They fucking killed him”.

19:58 The paramedics arrived at the location, and walked up to where the AP is. Police officers are still performing CPR on the AP.

23:50 The AP is lifted on to a stretcher.

24:35 The AP is moved into the waiting ambulance.

26:29 The video ends.

Civilian Witness Interviews

CW1 stated she was the original complainant to the Edmonton Police Service. She lives in an apartment at 9955 114 Street in Edmonton.

On June 28, 2019, she arrived home at approximately 9:45 p.m., and observed a person loitering outside of their apartment building. CW1 said she also observed what appeared to be two separate areas where someone had tried to start small fires. CW1 went into her apartment and got her boyfriend, CW2. They came back outside but the man was gone. A firetruck arrived in their block, saying they had been called about the fires.

CW1 said she and CW2 went back inside. At approximately 10:30 p.m., she looked outside and saw the same person, standing by their dumpsters, trying to start another fire. She called out to him and recorded him in a short video on her cell phone. The man started to slowly walk away. CW1 said she went and got CW2 and then they went outside.

CW1 said she and CW2 found the man beside the fire escape where he had started another fire. CW1 recorded another video while CW2 asked the man what he was doing. He did not reply. She said the man was just mumbling as he walked away.

CW1 stated she called 911 and followed the man at a distance. She continued to update the 911 dispatcher of their location. She stated she could hear the police helicopter in the area.

CW1 stated the man walked behind the funeral home then went back on to 114 Street, and then headed towards the corner of 114 Street and Jasper Avenue. CW1 said she saw a police SUV arrive, then another police vehicle arrived. The man was in front of one of the buildings. One of the officers calmly approached the man, and then the next officer approached. She said she heard "get on the ground now" and a third officer arrived. CW1 said she was not sure what happened or how it happened. The man was on the ground on his stomach and the three officers were trying to hold him down.

CW1 stated two detectives arrived, a male and a female. The man was on the ground on his stomach. The male detective was kneeling by his feet. CW1 said they were having a hard time holding him down on the ground.

There was an officer on the man's right side and it looked like he kned him, two or three times. She did not see where the knees landed.

CW1 said the female detective, was shining a light on them. CW1 said she got the attention of the female detective and said they were the ones who had called in. The female detective brought them to a police vehicle where she and CW2 wrote out their statements for her.

CW1 stated that more police vehicles arrived. She saw them carrying the man to the prisoner wagon but could not see what he was doing with his arms or legs. They placed him in the back of the wagon, on his stomach, face down. She did not see him moving.

CW1 stated the next thing she saw, they had taken the man out of the wagon. He was laying on the ground and they were doing CPR on him.

CW1 stated she is a respiratory therapist, and works in a hospital. She said the man seemed paranoid, when she first saw him. He seemed fixated on this place. She said she told the 911 operator that he seemed high or something, but he had not been violent.

CW1 said that when the man was on his stomach and the officers were holding him down, the man said he could not breathe. However, it looked like the officers then moved or rolled him.

CW1 was not familiar with the man at all. She had not seen him around the neighbourhood before.

CW1 stated she heard one officer tell the man something about needing to stay down and to keep his hands behind him. It seemed like he was not cooperating. CW1 stated that aside from the knee strikes, she did not see any other strikes or blows. She said the knees landed on the right side or back.

CW1 said the man was on his stomach most of the time and appeared to be trying to hold his head up (arched back). When he was carried to the wagon, he appeared to be limp.

CW1 said the man was placed in the wagon. He was not tossed in, or dropped in. She knew it was the police because of the uniforms, the police lights and the badges the plain-clothes officers worn on chains around their neck.

CW1 confirmed that she had given a copy of the videos directly to the police officers at the scene. She had only recorded the man when he was outside their building. They did not record any part of the arrest.

CW2 was interviewed by ASIRT investigators, and provided the following information.

On June 28, 2019, he was at home when his girlfriend, CW1, said there was a guy outside their building who had been setting fires. They went outside and he saw two areas where there had been small fires set. One pile was still smoldering. CW1 pointed out the man she had referred to earlier, who was walking south towards the river valley access.

CW2 stated a fire truck came through and headed to the south end of the block. They said someone had called 911 about the fires at their building. The fire truck left and they went back inside. CW2 said he went to bed. CW2 stated CW1 woke him up and said the same guy was back and setting fires near the dumpster. He said he got dressed and they went outside. He said he found the man standing over what was a fourth fire.

CW2 said he asked the guy what he was doing. The man stamped out the fire and started walking away. CW2 said he and CW1 followed the man at a distance.

CW2 stated CW1 called 911. She relayed the man's location to the dispatcher. CW2 stated the man walked behind the funeral home then through the alley, back to 114 Street, then up towards Jasper Avenue. They stayed back near 100 Avenue.

CW2 said the police helicopter came overhead and a police SUV turned on 114 Street from Jasper Avenue. He said two officers got out and started talking to the man. CW2 said he and CW1 were walking north on 114 Street from 100 Avenue at that time.

CW2 stated he saw two officers talking to the person and it did not seem too aggressive at that point. He was not sure what happened but it quickly became aggressive and the officers took the man to the ground.

CW2 said the man was not cooperating but was not really fighting them. He heard the officers giving repeated commands to put his hands behind his back and stop resisting. He said the man was not cooperating with them.

CW2 stated a third officer arrived from the south and parked right beside where he and CW1 were standing. The officer got out and went to help the other officers. CW2 stated that CW1 told him they put a spit mask on the guy. Two plain-clothes officers then arrived. They had badges around their necks.

The man was pretty much restrained at this point and the officers were standing around and appeared to be searching the grass with flashlights. CW2 said they waited around because he thought the police would want to talk to them because they had made the 911 call. The female detective brought them to another police vehicle to give their statements.

CW2 said he saw the police carrying the man to the prisoner van. He said there was an officer on each shoulder, but he could not tell if they were dragging him or if someone had his feet as well. CW2 stated CW1 told him the police were doing CPR on the man, so he looked back over. CW2 said he did not see them take him out of the van but he was now on the ground. More officers arrived then the ambulance showed up.

CW2 stated that he could not hear the conversation between the man and the officers but said it appeared calm, then suddenly it was not. He was not sure what the catalyst was for the situation to have changed.

When asked, CW2 stated he saw one of the officers strike the man with a knee, while the man was laying on the ground. It was the officer that was closest to the man's feet that did this, and the knee strike probably struck him in the legs, although CW2 wasn't completely sure about this.

CW2 stated that he heard the man say that he "can't breathe", and that he was saying something like he was immobilized. CW2 could not recall if that comment was before or after the spit mask was placed on the man. CW2 said he believed the man was hand cuffed and laying on his stomach. When the police moved the man to the van, he was face down.

CW2 said that he remembered the police officers moving the man to the van but he did not see them put him in the van.

CW2 stated that he knew about the video on social media and he had seen a clip on the news but had not seen the full video. He stated he had made an effort not to watch the video until after his interview. CW2 stated they had mentioned it to the officers or the 911 dispatcher that the man was not acting aggressive.

CW3 was interviewed by ASIRT and provided the following information.

CW3 stated that on Friday night (June 28, 2019) at 10:43 p.m. he started recording what was happening on the street outside his building. He had arrived home and taken a nap. When he woke up from his nap, he saw police lights outside. He said that he had his phone and was already recording when he went outside on to his balcony. His girlfriend CW4 was in the apartment at the time too.

CW3 stated he saw a man standing on the sidewalk. It looked like he was speaking to a police officer who was standing nearby, but CW3 could not hear any words. The man appeared really confused. He stated a second police car arrived and that officer got out of their vehicle, and approached the other officer and the man. Then both officers took the man to the ground. CW3 said he could hear the officers saying "get on the ground you fucking idiot", and some other words that he could not make out. One of the officers kned the man, on the right side, close to his head. They all were on the ground for a "few minutes". After that he then heard one officer say he was going to Taser the man on the ground. He said the man on the ground made a few noises.

He said more officers arrived, and they all went to where the other officers were with the man on the ground. Then, they were all off him. CW3 said the man was handcuffed and laying on the ground and the officers were "just standing around". CW3 was not sure what happened, the man was moving, and all of sudden they went back on to the man.

He then heard the man on the ground say he was suffocating and one of the officers said “no you’re not”. Two other officers arrived, one man and one woman. He was pretty sure they were police officers as they had badges on a chain. They were standing around. The man on the ground was making “disturbing noises”, CW3 described it as like an animal on its last breath. CW3 said that the only thing he heard the man say, was the comment about suffocating and “help”.

CW3 said the officers were standing all around the man, like an igloo. Then the man on the ground was not making any more noise. CW3 said he told his girlfriend, that he thought the police were going to kill the man. CW3 said, after a few minutes they pulled the man up off the lawn and the man’s head was dangling down, frontwards, and he was not moving. He said they placed him in the back of the van.

Moments after that, they then took the man out of the van. He was not sure if he was still handcuffed. They had him on the front side, and then they flipped him over. When they did this, his head hit the concrete. Seconds afterwards, the officers then started doing CPR and did not stop until the ambulance arrived.

CW3 stated it was the police lights that first caught his attention. His apartment is on the second floor right across from where it happened.

CW3 stated he posted the video on to Facebook the next morning and it started getting a lot of attention. He stated later, he also put it on Twitter and YouTube.

CW4 was interviewed by ASIRT and provided the following information.

CW4 stated she and her then boyfriend, CW3, had recently moved in to their apartment at 10040 114 Street. CW3 looked out the window and said he saw a man walking down the street and then he saw a police car do a U-turn and drive up to the man.

CW4 stated the man had said he was suffocating and the officer told him “no, you’re not” and threatened to taser him. CW4 stated the man seemed confused because he did not react when the police approached the man. He did not respond, he did not turn around, he did not run away.

CW4 stated police cars showed up en masse, from all directions, like they were looking for someone.

The first two police officers that arrived, got out of their cars and were yelling at him to put his hands up and to stop resisting arrest. CW4 stated it did not seem like he was resisting arrest, he was just confused or something.

CW4 stated when they got him down on the ground, there was one on his back and one on his head or neck. CW4 stated there were quite a few police officers there. When asked she said when they first took the man to the ground, it was on the grass, in front the building across the street. She said the police held him down then stood and left him there for five to seven minutes, before they moved him to the street. She stated the man said "I am suffocating" when they were holding him down, not "I can't breathe".

CW4 stated that she could not see very well because the rear door of the van was open. She did not recall how they moved the man to the street from the grass, aside from recalling that he was limp and CW3 thought he was dead.

CW4 stated she did not hear any other conversations.

CW5 was interviewed by ASIRT and provided the following information.

CW5 stated that on June 28, 2019, at approximately 11:00 p.m. to 12:00 a.m. there were police vehicles outside of his building. He looked out his kitchen window and saw police lights illuminating the area. He observed five uniformed police officers and two plain-clothes officers trying to pin someone down on the grass immediately in front of his apartment building. CW5 estimated this was happening approximately 10 to 15 feet away from his window.

CW5 said it appeared the subject was resisting and struggling with the police officers. The subject had his arms pulled into to his sides, and it appeared the police officers were attempting to control them, and get his arms behind his back, to the officer that was on his back.

CW5 stated the officers used their knees and body weight to hold down the subject as they handcuffed him. He observed the police officers bending the subject's legs towards his bum as if to "hog tie" him. The subject struggled for a while then he stopped moving, but he could not tell if he gave up or was unconscious.

CW5 said that although the struggle was close to his window, he only heard the subject "yelp" a couple of times. He also heard mumbling during the struggle but he could not hear or understand what was said. CW5 stated the subject was lying on his stomach with his head pointed to the south and his feet to the north.

Once the subject was handcuffed, the officers picked him up like a “suitcase” and carried him towards the ambulance and out of his line of sight. At that time he thought the subject appeared to be unconscious and possibly dead.

CW5 stated he did not witness the police strike the subject, and although they were forceful in their efforts to detain him, he did not witness anything he felt was excessive.

He believed that he saw the police carry the subject to the ambulance. He did not recall if he was taken to the prisoner wagon but he was taken out of his sight.

Witness Officer Interviews

WO2 was interviewed by ASIRT and provided the following information.

WO2 stated that she works in the Downtown Division, Criminal Investigation Section, Patrol Support Team. She was on duty and working in plain clothes at the time of the incident. She was partnered with SO4. They were driving an unmarked police vehicle.

WO2 stated she heard on the radio a report of an arson by a male, lighting fires in dumpsters. She and Detective SO4 headed to the area of the call to assist, if required. When they arrived in the area, she saw at a distance, what she thought to be other officers already dealing with a subject, so they drove past without stopping. About one block later, she heard the broadcast of a Category Two use of force, and a call for more cars to attend. It did not sound like a panic, but nonetheless they made their way back and parked on 114 Street.

WO2 believed she heard an officer say they had one in custody. When they arrived, it appeared like things were under control. She stated she and SO4 approached and saw three uniform officers attempting to control the handcuffed AP.

WO2 stated she believed the AP was handcuffed, but he was not compliant. She stated that the AP’s legs were flying up and down. WO2 stated that SO4 knelt down and put his knee on the AP’s legs to prevent the male from kicking, by controlling his legs. WO2 said she grabbed a flashlight that was in the grass and shone the light on the AP to assist with the removal of a backpack that was still on him and it was interfering with gaining control of him. WO2 shone the flashlight on the group to assist the members see as they carefully cut the straps to get the backpack off.

WO2 stated a spit mask was applied to the male. She did not see the male spitting, but believed the male had been or they would not have used the mask.

WO2 stated the situation was never out of control, but the patrol officers were giving verbal direction to the AP to stop resisting and to relax, but she was not sure who actually said what. She asked if anyone had hobbles, but no one indicated they had any.

WO2 said she turned her attention to two witnesses that were at the scene and had them start to write out statements. The female witness (CW1) said she felt the AP was suffering from a mental condition, or high, as he was not behaving or speaking normally.

WO2 stated she returned to the scene, when a prisoner wagon had arrived and the AP was being moved to the wagon. She returned to her vehicle at that time to retrieve the witnesses written statements. WO2 stated that as she was having the statements signed, she looked over and saw an officer doing chest compressions on the AP.

WO2 told the witnesses to remain at the police car and then she went to assist the other officers coordinate using the mouth piece and the switch off of members doing chest compressions.

When asked by the ASIRT investigator, WO2 said she believed the AP was handcuffed behind his back. WO2 did not believe that hobbles were ever located or applied, but if they were it may have been when she was dealing with witnesses and she did not see them being used.

WO2 stated the chest compressions (CPR) were being done at the back of the wagon. She did not believe the AP was still handcuffed while they were doing CPR. She said the spit mask had been removed as a CPR mask was being used.

The flashlight she found on the ground she believed had fallen out or was dropped by one of the other officers before she arrived.

When asked what she heard, WO2 stated the AP was grunting and moaning, the officers were giving direction to the AP to clam down and stop resisting and stop moving his legs. Her partner, SO4 was on the AP's legs.

When asked about any use force she observed, WO2 recalled an officer on the AP's left side and the AP was kicking his legs strongly. He almost kicked one officer in the head. The AP seemed abnormally strong by being able to lift himself off the ground even with the three officers on him. One officer gave the AP a couple of knee stuns on the side of

the AP. WO2 believes the knee stuns were to the AP's leg. She believes the officer delivered two or three knee strikes to the AP.

WO2 said she saw the officers taking the AP to the prisoner wagon and within a minute or two later they were doing compressions. She did not see them remove the AP from the van. She said WO3 and SO5 were working the wagon. WO2 recalled WO3 at the head of the AP trying to seal the mask and someone else was squeezing the pump.

WO3 was interviewed by ASIRT and provided the following information.

WO3 stated that on the evening of June 28, 2019, she was working with a partner, SO5. They were assigned to the prisoner transport vehicle that evening. She stated she was driving.

WO3 stated they were on another call when she heard the original call for service being dispatched at approximately 10:40 p.m. She said other officers arrived and were dealing with the AP. WO3 was not sure but she thought they had finished their call and were headed towards the area of the incident. The officers on scene called over the radio and requested they "pick it up". This meant that they should get there as soon as possible.

When they arrived, WO3 stated the officers on scene then said to them to "bring hobbles". This meant to WO3 that the subject was being aggressive. WO3 stated she was not sure if it was before they arrived, but someone came on the air and declared a "category two use of force" had been used.

WO3 stated that when they arrived, she observed a group of officers on the grass embankment and they were holding the AP on the ground. SO5 got the hobbles while she approached the group.

WO3 stated the AP was being held down but was still thrashing a bit. The officers holding the AP down said to be careful of his legs. The AP was actively resisting but was still pretty much restrained, he was already handcuffed at that time. However, the officers said that whenever they would ease up he would try to kick at them.

WO3 stated SO5 brought the hobbles over, and officers at the AP's feet put the hobbles on. WO3 tried to help the other officers lift the AP, but it was easier to have the other three carry him.

WO3 stated three officers carried the AP to the prisoner van, which was parked about ten feet away. She believes she opened the doors and they placed him in the van.

Very shortly after the AP was placed in the van, WO3 stated the AP made some sounds and one of the officers either got into the van, or looked in and said the AP was good. SO2 then went in the van, and checked the AP and said "no, let's get these hobbles off". SO2 turned the AP over, and used his knuckles to try and arouse the AP, by rubbing his sternum. This did not wake him up, so it was decided to remove him from the van.

WO3 said they brought the AP out of the van, placed him on the ground and she and SO2 started doing CPR on him. She said they had requested an ambulance, but there was a miscommunication as the dispatcher was saying the ambulance should already be on scene, but they were not.

The ambulance and fire department eventually arrived on scene and took over doing CPR. Subsequently, the AP was transported to the hospital by ambulance.

WO3 stated she stayed at the scene while the other officers were taken back to the office, as she was going to be investigating the original arson complaint. WO3 said she had spoken to two witnesses who said they were the ones who called the police.

WO3 was then asked some questions, and provided the following information.

WO3 stated when she arrived, she believes SO4 was at the AP's feet, SO3 was on the west side of the mid torso, SO1 was near his head and SO2 was on the other side (east) near the AP's feet. WO3 said she inserted herself on the east side and SO5 went to the AP's feet with the hobbles. WO2 was also there but she was not directly involved with the AP.

WO3 stated she could not remember when they arrived if the AP was on his belly or back. However, when they did the hobbles the AP was on his stomach, so they could secure the hobbles and handcuffs. Aside from the applying of the hobbles, she did not see another use of force.

WO3 said when she arrived, the AP was still making movements and making noises but she could not recall anything specific he may have said. WO3 said that it was SO2 that asked over the radio for the hobbles and it was either SO2 or SO1 that declared the category two use of force.

WO3 said SO5 later found the hobble in his pocket. It was a regular issued hobble strap.

WO3 stated that it was easier to carry the AP with someone supporting shoulder, shoulder and feet. As a result, WO3 stated she went to, and believes she was the one that

opened the police transport van doors. The other officers carried the AP over and placed him in the van. He was placed in as professionally as possible given the handcuffs and hobbles. The AP was not tossed or thrown in.

WO3 stated she believed that SO2 had rolled the male over in the van to check on him. Once he was removed from the van, he had to be rolled over again to take off the handcuffs and hobbles.

She stated she had watched the video that was posted on social media that was recorded by an individual on a balcony across the street that had commentary about what he perceived about what he was viewing. This video did not change her memory of the incident.

WO4 was interviewed by ASIRT and provided the following information.

On June 28, 2019, he and his partner were at another call when they heard the request for assistance from another member. They left their call and responded lights and siren to the area of 114 Street and Jasper Avenue.

While driving to assist but prior to arriving they heard that the AP was in handcuffs, so they turned off their lights and siren and proceeded to the scene at normal speed. There was then a request for hobbles, so they turned their lights and siren back on and went to 114 Street.

When they arrived, he saw the AP on the ground face down handcuffed behind his back with hobbles on. He observed four to six officers pick the AP up by his arms and legs and carry him to the police wagon that was parked on the road.

WO4 stated he picked up one of the AP's shoes and put it in the side door of the police wagon. WO4 stated that other officers were dealing with the AP at the back of the wagon when SO1 advised him that the AP was experiencing excited delirium and told him to call for Emergency Medical Services (EMS).

SO2 stated that the AP did not have a pulse, the hobbles were removed and the AP was pulled out of the back of the wagon and placed on the ground. WO4 stated he checked again for a pulse but found none and he did not see the AP's chest rising and falling.

The handcuffs were removed and chest compressions were started by another officer. Three officers were taking turns doing chest compressions. WO4 stated he was by the AP's head providing air to him by use of a portable device, and he continued that until

the AP was transferred to the ambulance. He left the scene and went in the ambulance to the hospital.

At the hospital WO4 searched the AP's clothing and found his wallet. He also found what he believed to be a meth pipe and a small clear baggie of what he believed to be methamphetamine. All of the AP's items were turned over to a crimes scene investigation unit member. He stayed at the hospital until 4:30 a.m.

The ASIRT investigator then proceeded to ask WO4 some questions with the following being provided by WO4.

WO4 stated that when he and his partner arrived, they parked their vehicle and they walked to where the incident was occurring. He did not recall hearing anything concerning as he approached.

WO4 said when he first arrived, the AP was on the ground, face down in the grass, with his hands behind his back in handcuffs and his feet up to his butt in hobbles. The hobbles secured his feet crossed and bent up towards his butt and attached to the handcuffs. He could not see how much slack there was in the hobble strap.

WO4 stated he had seen the video CW3 had recorded that was being shown by the media and that is where he saw that the AP had a spit mask on. He did not see or recall the spit mask at the scene. WO4 said that watching the video did not change his memory or observations.

WO4 stated he did not get a good look at how the AP was moved to the prisoner van. He thought the AP's hands were behind his back and officers had his arms. WO4 stated he did not see any head movement when the AP was moved to the prisoner van. By the time WO4 got to the back of the prisoner van, the hobbles were already off of the AP. He did not know where the hobbles went.

WO4 stated SO1 that told him that it was an excited delirium incident. It was after he called for the ambulance that SO2 said the AP was not breathing. The AP was still wearing handcuffs when he was removed from the back of the wagon.

The AP was rolled to his left side and the handcuffs were removed, during the roll back the AP's head was not supported and hit the ground. WO4 did not have any conversation with the AP in the ambulance or at the hospital, as the AP remained unconscious.

WO4 stated he did not have any conversation with other officers at the scene about what happened. He knew the original call had to do with a male starting fires and that the

original officers did not have him under control and needed assistance. He believed a male and female that were at the scene were the 911 callers.

Subject Officers

While not obligated to do so, all of the Subject Officers provided statements to ASIRT.

SO1 reported that on June 28, 2019, he was dispatched to the area of 9955 114 Street after a report of an arson. SO1 reported that via EPS communications section he received a fulsome description of the suspect and details surrounding the reported arson, and this person's last location.

When SO1 arrived in the area of 114 Street and Jasper Avenue, he observed a male matching the description of the subject walking northbound on the east sidewalk of 114 Street, which was the same location where the reporter had stated the subject was.

The reporter was following the suspect and providing real-time updates to dispatch. SO1 stated there were no other persons in the area. He believed he had reasonable and probable grounds to arrest the subject for arson based on the information provided by the reporter, through police communications and dispatch.

SO1 stated he activated the emergency lights on his police vehicle, parked his vehicle and approached the subject on foot. The subject was later identified as the AP. SO1 reported he was dressed in full uniform, without his forge cap.

SO1 made eye contact with the AP and told him to stop where he was. SO1 then advised the AP that he was under arrest and to stop where he was. SO1 stated that the AP looked at him and said "no I'm not" and continued walking. SO1 advised the AP that he was under arrest for Arson. The AP stated, "what's Arson? I didn't do anything" and kept walking away from SO1.

SO1 shouted at the AP to stop and to put his arms behind his back and he would not get hurt. The AP looked at SO1 but continued walking away. SO1 stated that SO2 arrived on scene in a marked police vehicle. SO2 exited his vehicle and approached SO1 and the AP. The AP stopped and stood there and began looking around. SO1 stated he told AP to put his hands behind his back. The AP did not comply and continued to move his arms about despite the verbal direction to do otherwise. The AP then began to argue with SO1 about the arrest. The area was rather dimly light. SO1 stated given these actions and observations, he did not know if the AP was in possession of a weapon, and he believed the AP was going to try to flee or become assaultive.

SO1 reported that as the AP's hands were still in plain view, he made the decision to physically take control of the AP. He grabbed the AP by the arm and attempted to put it into an arm lock behind his back. The AP resisted and began pulling away. SO1 believed the AP may become assaultive so he dropped down to his knees and grabbed hold of both the AP's legs and executed a double-leg takedown. SO1 believed this technique would prevent the AP from striking him or accessing a potential weapon in a backpack he had on. SO1 also believed that it would be easier to control the AP while he was on the ground.

On the ground the AP did not give up his hands and continued to actively resist the arrest. He was unrelenting in his struggle on the ground, attempting to escape SO1's grasp and control, by turning away, twisting and flailing his body. He began pulling his arms in towards his body. As a result, SO1 and SO2 were unable to force the AP onto his stomach and place his hands behind his back in order to place him into handcuffs.

After approximately 30 seconds, SO1 gained control of the AP's left arm, while SO2 held the AP down. SO1 then requested additional officers to assist. SO1 stated the AP made a sudden and explosive movement, rotating his body away from SO1 and pulling his arm underneath himself. As a result, SO1 fell to his side from his knees and lost control of the AP's left arm. SO1 yelled at the AP to stop resisting. SO1 stated that SO3 arrived and provided additional assistance controlling the AP. The AP was handcuffed behind his back and quit resisting. SO1 said SO2 maintained control of the AP.

SO1 said he had lost his prescription glasses in the struggle. He used his flashlight to look for them in the nearby grass. He stated that he declared over the radio that a category II use of force had occurred.

The AP began kicking his legs towards the officers, shouting and trying to roll onto his back. SO1 stated that he placed a knee on the AP's upper back and yelled at him again to stop resisting. The AP continued to thrash around on the ground while shouting. Another officer gave SO1 a spit mask. SO1 made the decision to apply the spit mask as the AP was still actively resisting despite being in handcuffs and being held down by other officers. In SO1's experience, subjects acting in that manner who are restrained will use any tactic that is available to them, which often includes spitting or biting. The purpose of the mask was to prevent that from occurring. SO1 placed a spit mask over the AP's mouth and he requested over the radio for another officer to bring hobbles for the AP, to assist in the safe control of the AP for transport of him to the police station.

SO1 said he removed the backpack from the AP by cutting one of the straps. Other officers arrived and helped place the AP in hobbles. SO1 maintained control of the AP by placing his knee on the AP's upper back. Once the hobbles were on, SO1 and other officers carried the AP to the patrol wagon. As they were carrying the AP to the wagon, he noticed that the AP was not moving, but thought the AP was exhausted and finally had given up. SO1 heard the AP spit loudly into the spit mask, as if a lot of saliva was leaving his mouth. At the wagon, SO1 noticed that when the AP was placed in the back of the patrol wagon he was not moving. SO1 observed that the AP did not try to keep his head up; it appeared to be limp.

Once the AP was in the wagon, SO1 stated he immediately climbed into the patrol wagon to assess the AP. SO1 removed the spit mask and observed the AP to be unconscious. SO1 tried to see if the AP was breathing.

SO1 reported the AP to have laboured breathing and saliva bubbling around his mouth. SO1 then applied pressure behind the AP's ear to try and arouse him. However, the AP did not respond to the stimulus.

SO1 exited the patrol wagon and advised that Emergency Medical Services (EMS) would need to be called. Other officers removed the AP from the patrol wagon and it appeared that the AP was not breathing. SO1 checked for a pulse on the AP's carotid artery but could not find a pulse. At this point, he advised over the radio for EMS to come in "hot" [quickly]. SO1 reported that in the frantic process of officers trying to remove the AP's handcuffs to begin CPR, he observed the AP's head bump on the pavement.

SO1 stated that other officers began doing CPR on the AP and he began to coordinate scene containment. SO1 reported he had no further dealings with the AP thereafter.

SO2 provided a statement to ASIRT.

On June 28, 2019, SO2 was on duty in Downtown Division, in full uniform, operating a fully marked police vehicle. SO2 was dispatched to the area of 9955 114 Street for a report of an Arson that had just occurred. Initial information indicated a male subject had been lighting fires and was now leaving the area. A description of the male suspect was provided by police dispatch. The caller reported the suspect was currently behind a funeral home on 114 Street.

SO2 reported that as he was driving into the area, AIR 1 advised they had located the male walking north on 114 Street. SO2 heard SO1 state that he had located the male walking north on 114 Street and the male was not listening to the directions given by SO1.

SO2 had his emergency lights and siren activated as he turned onto 114 Street from Jasper Avenue. He observed SO1 and the AP on the east curb. SO2 exited his vehicle and approached SO1 and the AP. SO2 observed that the AP was a larger person, who appeared to be approximately 6'1" and 250 pounds. SO2 observed SO1 attempt to place the AP under arrest. The AP pulled away from SO1, and turned away from him with his arms up in a way that looked like he was swinging at SO1's head.

SO2 believed that the AP's behaviour was assaultive, and he ran over to where the two were and gave the AP verbal direction to "get on the ground". SO2 then grabbed onto the AP's shoulders. The AP appeared to be holding onto SO1 who was off balance. SO2 then stated to the AP, "get on the fucking ground", as he believed the AP was actively resisting arrest. SO2 knocked the AP off balance and pushed him to the ground.

The AP fell to the ground and landed on his right shoulder. SO2 pinned the AP down by kneeling on his left shoulder. SO2 reported he grabbed onto the AP's left hand and wrist and twisted in a way that would force the AP's shoulder to the ground. SO2 gave verbal commands advising the AP to get onto his stomach. The AP did not comply.

The AP pulled away violently and spun his body on the ground. SO2 stated he lost control of the AP's shoulder. While he had lost control of the AP's shoulder, he was still holding the AP's arm. He held the AP's arm to the small of his back and SO2 regained his balance by placing his left knee on the AP's left hip. SO2 stated he delivered one knee strike to the AP's left thigh in an attempt to gain compliance from the AP. SO2 gave verbal commands for the AP to get his other arm behind his back.

SO2 stated, the AP then began to thrash violently, in what SO2 believed to be an attempt by the AP to get off the ground. SO2's knee was knocked off the AP's hip. SO2's right knee fell onto the inside of the AP's right thigh. In an attempt to gain compliance, SO2 picked up his body weight and quickly dropped it, driving his knee into the AP's inner right thigh. SO2 reported he then drew his issued conductive energy weapon (CEW) and stated "I'm gonna fucking tase you, get your fucking arm behind your back now".

Other officers arrived and SO2 re-holstered his CEW having not deployed it. SO2 positioned himself to deliver another knee strike, but the AP was by then handcuffed and the knee strike was not delivered.

SO2 began conducting a search of the ground in the vicinity for a pair of glasses. The AP said "I'm suffocating", and SO2 stated "no you're not". SO2 stated at this time, he

observed the AP to be speaking clearly, was breathing normally and showed no signs of being in distress.

A few seconds thereafter, the AP began kicking violently and continuously. SO2 moved from the AP's leg area to avoid being kicked in the face. SO2 then took a position of control over the AP's left leg. The AP's right leg though continued to be out of control, kicking up and down dangerously. With his flashlight in hand, SO2 delivered a hammer-fist strike with the end cap of the flashlight to the AP's left calf. The goal of doing this was to stun the AP briefly so that SO2 could get control of the free leg. The strike succeeded and caused the AP to stop moving his right leg, allowing SO2 to gain control of it.

SO2 requested the Patrol Wagon to attend the scene with lights and sirens, because the AP was still resisting by kicking and thrashing his body, even while in handcuffs.

SO2 stated he was feeling fatigued because he had been struggling on the ground with the AP for 2-3 minutes. SO2 crossed the AP's legs, bent them at the knees and pinned them against the AP's buttocks. SO2 explained that he chose this technique as from his experience, he found it to be less tiring and much more effective at stopping a subject from kicking and resisting.

After a few minutes, SO5 and WO3 arrived in the police wagon. SO2 assisted SO5 to apply leg restraints (hobbles) by lifting up the AP's feet and then assisting in tightening the restraint.

Once the hobbles were applied, SO2 assisted other officers to pick up and carry the AP to the wagon. Although well restrained at this time, SO2 could still feel the AP shaking and pulling his legs around, attempting to resist being brought to the wagon. The AP's upper body was placed into the wagon first. SO2 then pushed the AP fully into the wagon by pushing on his legs. As the AP was in hobbles, as a standard precaution, SO2 unclipped the "leash" portion of the hobbles from the handcuffs. As SO2 pulled the AP onto his side in the "recovery position", he observed the AP's body was oddly limp. SO2 requested another officer on scene to check on the AP. Once that officer had, SO2 entered the wagon himself and rotated the AP's shoulders back. The AP's head fell to the side and SO2 observed the AP's face had turned purple.

Another officer on scene was already radioing dispatch for an ambulance to check on the AP before he would be brought to police cells.

After noting the colour of the AP's face, he yelled out of the wagon to have EMS come as fast as possible, as the AP was not breathing. SO2 checked the AP for a pulse and could not find one.

SO2 and other officers on scene removed the AP from the wagon and placed him on the ground. The handcuffs were removed and another member checked for a pulse but could not locate one.

SO2 began doing CPR by doing chest compressions on the AP. SO2 requested another member retrieve a "bag valve mask" which is used to provide rescue breaths during CPR. SO2 continued doing CPR until relieved by SO5.

SO2 cut off the AP's shirt to prepare him for EMS's treatment. SO2 took over doing chest compressions when SO5 requested relief. SO2 continued chest compressions until EMS arrived on scene, and took over medical aid to the AP. SO2 noted there was no change in the AP's condition.

SO2 returned to his police vehicle and made hand-written notes. SO2 was transported back to Edmonton Police headquarters, where he continued making hand-written notes until they were complete.

SO3 provided a statement to ASIRT.

On June 28, 2019, SO3 was on duty, in uniform and driving a marked police vehicle. At 9:38 p.m. he was dispatched to a priority call of an arson fire located at 9955 114 Street. The reporter called police as she witnessed a male starting fires in the area. The male was reported to be walking away from the area. A description of the male was provided. SO3 reported that police communications advised the male was behind the funeral home parking lot across from 9915 114 Street, but then changed direction and was walking north towards Jasper Avenue on 114 Street.

The complainants were following the man. SO3 reported two other cars SO1 and SO2 were also responding to the area. SO1 stated he was following the male. Soon thereafter SO2 broadcasted that they had the AP on the ground.

SO3 reported that as he approached the area, he observed SO1 and SO2 struggling to gain control of the AP on the ground. They were struggling with the AP on the grass.

SO3 reported he made the following observations and took the following actions.

He parked his police vehicle and exited in a hurry. He left the driver's door open due to the urgency of the members struggling with the AP. He ran towards the officers and noted the AP on his side trying to escape, flee or assault the officers by kicking. The AP was trying to get to his feet. The AP was laying on the ground. As he ran up, SO3 observed SO2 with his CEW pressed up against the AP's right leg. He did not observe the CEW to be activated nor did he hear the CEW cycle or hear the AP react to the CEW, if it had been used.

SO3 placed his hands on the lower back of the AP to try and get him onto his stomach to safely place his hands in handcuffs. The AP was uncooperative and not following verbal directions to stop resisting and to place his hands behind his back. All the officers present were struggling to gain control and the AP was trying to get to his feet by placing his hand underneath him and curling his knees. The AP was also kicking his feet while SO2 was trying to gain control of his limbs.

SO3 stated he crouched down and delivered a knee strike with his left knee to the AP's right thigh. He used this as a distraction technique to get the AP's hands behind his back. SO3 described the knee strike as "weak", as he was not able to retract his leg back far enough to gain power. As the first knee strike was ineffective, SO3 stated he delivered a second knee strike to the same thigh, which was also unsuccessful.

SO3 moved away from using knee strikes and pushed down on the lower portion of the AP's back with his left hand to try and position him on his stomach. SO3 grabbed the right forearm that was tucked underneath the AP and managed to get the right arm behind his back.

SO3 told the AP to calm down and place his hands behind his back. SO3 placed the AP in handcuffs with the help of SO1. The AP was still thrashing his body left to right and was shouting and yelling. The AP's words were indiscernible. The AP was trying to pull the handcuffs apart by pulling on his wrists. SO3 again told the AP to calm down.

He noticed that the AP's backpack had moved above his head, SO3 cut the straps with his knife and removed the backpack. The AP was still thrashing his body and would not stay still. As more officers arrived, SO3 remained on the right side of the AP holding him down by his arms. SO3 gave SO1 a spit mask which he placed over the AP's head.

The AP was placed in leg hobbles to prevent him from kicking and causing injury to himself or the officers. SO3 reported, it took about five minutes to get the AP in handcuffs.

SO3 assisted in picking up the AP and carrying him to the police wagon. SO3 was on his right side and carried him by the arm. SO3 reported that due to his erratic behaviour, EMS were requested to come check on the AP.

Once the AP was in the police wagon, the leg restraints were removed. SO3 noticed the AP was not moving as much as he was before. Another officer got in the wagon and checked on the AP and said the male was not breathing. There was no pulse and someone requested that EMS attend quickly.

While the AP was removed from the police wagon and CPR was started, SO3 directed members to block traffic and he used his police vehicle to block traffic at Jasper Avenue and 114 Street.

SO3 stated he spoke to supervisors about his involvement in the occurrence. SO3 was told to leave his point and go directly to police headquarters.

SO4 provided a statement to ASIRT.

SO4 stated that on June 28, 2019, he was working a night shift as a member of the Criminal Investigation Section. On night shifts they are allowed to dress down to appropriate attire for possible covert work. As such, he was operating in plain clothes that evening. He was working with WO2. They were operating an unmarked police vehicle.

They were driving east on Jasper Avenue when he heard a broadcast of an unknown male lighting fires close to 114 Street and 99 Avenue. They responded to the call. SO4 stated that as they were passing 114 Street, he looked to the south and saw that two marked police vehicles had already arrived on scene and they were on the ground with a subject. It appeared to him that they had everything under control, so they kept driving.

SO4 then heard over the radio there had been a category two use of force. SO4 said a category two use of force is when you strike someone or cause injury to someone. SO4 stated that he heard over the radio the male subject was still resisting. He thought they said the subject was in "cuffs," but he was still resisting. He and his partner decided they would go and give them a hand. They turned onto 114 Street from Jasper Avenue and parked. SO4 stated as he approached on foot he saw three officers on the ground with the AP.

SO4 recognized the officers as SO1, SO2 and SO3. SO1 and SO3 were trying to control the AP's upper body and trying to keep him from kicking and punching. SO2 was struggling

trying to control the feet as the AP was still kicking. SO4 stated the AP was laying on his chest and was cuffed behind his back.

SO4 stated he helped to control the legs of the AP, as it appeared that SO2 did not have control on them. SO4 grabbed the AP's right foot and with SO2 they straightened the AP's legs out, crossed his ankles, bent his legs at the knees and pressed the feet against his buttocks. SO4 stated his left knee was against the AP's thigh and he had approximately 50 per cent of his body weight on the AP. Although he and SO2 had the AP under control, the AP was still able to lift himself about two inches off the ground.

He could not see the AP's head during this time as it was obstructed by SO3 who was controlling the upper body of the AP.

SO4 stated the AP was mumbling but not saying anything specific. He said it sounded like the subject was drunk and was not able to pronounce words properly. SO4 said he could not understand what the subject was saying. SO4 stated someone called for a police wagon to attend and they asked for hobbles at the same time. He did not give the AP any directions and could not recall if any of the other officers were giving directions.

The wagon arrived, operated by SO5 and WO3. SO5 had the hobble prepared, SO4 and SO2 straightened the AP's legs and kept his feet off the ground so SO5 could put the hobble on. SO4 and SO2 then bent the AP's legs at the knees so the hobble could be wrapped around the handcuffs and back to the first loop. SO4 stated that at that time he believed the subject was fully controlled, so he transitioned into an investigative role.

SO4 started looking for video and witnesses. SO4 stated he told his partner, WO2, to speak to the witnesses and to start getting their statements.

When SO4 heard someone say, "he is not breathing", he approached the wagon. The handcuffs and hobble were removed, and they rolled the AP onto his back. SO4 stated he looked at the AP's face and based on his experience, he did not think the AP was breathing or had a pulse. He told the officer by the AP's head to check for a pulse, because they were putting him in the recovery position, and he believed that was not going to be enough.

He stated there was no pulse found and other officers removed the AP from the wagon, and CPR was started right away. EMS had already been called because of the male's apparent level of intoxication.

SO4 stated, dispatch was updated and told to have EMS “come in hot” because the male was not breathing and had no pulse. Somebody cut the males t-shirt open and did CPR. He said the ambulance took ten minutes to get there, which was unusual. When EMS arrived, he told them they had been doing CPR for ten minutes. He said EMS and Fire then took over the CPR.

SO4 stated, he knew from his experience that he was going to be a “subject officer”, he also told the other three officers, SO1, SO2 and SO3 that they could no longer be involved in the investigation or follow up because they would also be subject officers. He told a supervisor who had arrived on scene that he would like to help with the investigation, but he could not because he was a subject officer. SO4 stated another officer drove him to police headquarters, where he waited for ASIRT to arrive.

When asked questions by the ASIRT investigator, the following information was provided by SO4. When he first arrived, he did not have any conversation with the officers who were already on scene and engaged with the AP because they appeared to be well coordinated.

SO4 stated there were two officers on the upper body and SO2 was struggling to control the legs, so he stepped in to help with the legs. SO4 stated the AP was face down, so he had no idea who it was they were dealing with.

SO4 stated, when asked, that he thought the AP was not fit, because he had no muscle tone and was “kind of flabby”. However, even if he was not fit, he was still strong. SO4 stated sometimes people who are on drugs, can have “superhuman strength”. SO4 stated he immediately thought the subject was on drugs and the thought of excited delirium syndrome crossed his mind. However, the AP was not hot, naked nor sweating profusely, so he dismissed that thought.

SO4 stated there was no time to talk to the other officers when he first arrived on scene. He stated that he had heard the radio call about the arsons and assumed they were arresting the AP for the fires. SO4 added that the witnesses would have told them if they were arresting the wrong person, as they were the 9-1-1 callers.

SO4 stated while he was there, he did not strike the AP and he was confident the other officers did not either. SO4 stated he could not see the AP’s head while he was at the feet, so did not know when the spit mask was applied, but he did later see that the AP had a spit mask on. SO4 stated he did not know what happened to the spit mask or hobble strap or where they went to after they were removed from the AP. SO4 stated that at least four officers carried the AP to the police wagon, but he did not help do that. He also did not

see them put the AP in the police wagon. He stated that SO1, SO2 and SO3 were there. SO4 thought SO5 also helped. SO4 stated the AP was carried face down and he could not say if the AP was still moving while he was being carried to the police wagon. He remembered someone saying he was not breathing, taking off the hobbles and handcuffs and starting CPR on the AP.

SO5 provided a statement to ASIRT.

On June 28, 2019, he and WO3 were on duty and assigned to the prisoner transport van. At approximately 10:50p.m., they were requested to attend the area of 100 Avenue and 114 Street to assist with the arrest of a person that was reported to be actively resisting. While en route, SO5 heard a member ask on the radio for them to attend Code 2 (lights and sirens) and inquired if they had hobble restraints.

SO5 reported that when they arrived, he observed officers on the east side of 114 Street trying to hold the AP down on the grass. SO5 exited the police vehicle and ran towards the scene. SO5 observed that the AP was in handcuffs but he was still thrashing about. SO5 kneeled on the buttocks of the AP and opened the loop of the hobble restraint. SO5 was unsuccessful in his first attempt at putting the hobble around the AP's legs. SO2 held the AP's legs together and lifted them off the ground. SO5 was able to get the hobble restraint around the AP's feet and tighten the strap. SO5 bent the AP's legs so his heels were under his buttocks. SO5 looped the long strand of the hobble restraint under the chain of the handcuff and back around to his feet and clipped the restraint in place.

Once the AP was fully restrained (handcuffed and hobbled), SO5 returned to the patrol wagon and opened the rear door as wide as it would go. SO5 observed other officers carrying the AP to the wagon and place him in the back of the wagon.

Another officer entered the wagon with the AP. The other officer checked the AP and stated he was unresponsive.

SO5 reported he felt the AP was no longer resisting, so he removed the hobbles. As SO5 was removing the hobbles, he heard another officer requesting EMS to attend the scene. SO5 assisted the other officers to remove the AP from the patrol wagon.

Other officers removed the handcuffs and began to provide first aid to the AP. SO5 reported he began to block traffic because the AP was laying on the road. Another police vehicle attended and blocked traffic so SO5 returned to the AP.

SO5 observed other officers performing CPR on the AP. SO5 performed CPR on the AP, doing chest compressions for eight cycles, until SO2 relieved him. SO5 reported once EMS

arrived, he provided assistance until the AP was placed on a stretcher and into the ambulance. He then attended to scene containment until he was relieved, and he was escorted back to the police headquarters building.

Cause of Death

On March 17, 2021, the final autopsy report from the Office of the Chief Medical Examiner (OCME) was received by ASIRT. The findings of the medical examiner are summarized as follows:

- The immediate cause of death was struggle with/restraint by police combined with methamphetamine use.
- Other significant conditions contributing to the death but not causally related to the immediate cause were cardiomegaly and schizophrenia.
- At autopsy the examination showed various elements of injury, as well as the findings relating to medical treatment and some degree of underlying heart disease. The patient's heart was slightly enlarged by weight criteria (cardiomegaly), and there was thickening of its pumping chambers (ventricular hypertrophy). Such findings may relate to previous undiagnosed high blood pressure, or they may also relate to previous stimulant drugs such as methamphetamine or cocaine.
- Various blunt force injuries were also identified, mostly involving the extremities, but also the face, neck, back and front of the torso. There was bruising in the soft tissues of the upper back consistent with the story of a police officer kneeling on his upper back. These blunt force injuries were relatively superficial in nature, and were not associated with major internal traumatic injury; thus, these injuries do not account for the patient's death in and of themselves. The examination also showed findings relating to a suspected asphyxia component to the incident, in the form of scattered areas of petechial hemorrhages on the skin of the upper body.
- The AP was approximately 6' 1" and 215 pounds.
- Toxicology testing of blood and plasma recovered from the hospital...was performed at the OCME. No alcohol was detected. Drugs detected include an elevated level of methamphetamine..., the active component and inactive metabolite of cannabis, as well as hydroxyrisperidone (the metabolite of the antipsychotic medication risperidone).
- Considering the history, case circumstances, and autopsy/toxicology findings, it is the medical examiner's opinion that the decedent, [AP], died as a result of – struggle with/restraint by police combined with methamphetamine use. The mechanism is unstable electrical activity in the heart (cardiac arrhythmia).

Methamphetamine is a stimulant drug and can produce cardiac arrhythmias. Adrenalin release from the adrenal glands during a struggle with/restraint by police add to the stimulant effects of the methamphetamine. Cardiomegaly and schizophrenia are both risk factors for sudden cardiac death due to arrhythmias and are listed as contributory factors.

Summary of the incident

In this case, the subject officers were lawfully placed and acting in the execution of their duties. They had attended the area of 114 Street and Jasper Avenue in response to 911 calls that the affected person was lighting fires near an apartment complex. The subject officers did not arrive together, but continually arrived to assist, in varying ways, with the arrest of the AP.

SO1 was the first officer to arrive on scene. He first attempted to speak with the AP by telling him to stop. The AP did not do so, and he continued walking. SO1 then advised the AP that he was under arrest for arson and to stop where he was. The AP again did not comply and continued to walk away. SO1 moved closer to the AP, and given the non-compliance to direction, he decided to take physical control of the AP. SO1 grabbed the AP by the arm. The AP resisted and began pulling away.

SO2 had arrived at the scene by now, and upon seeing SO1 attempting to take control of the AP, ran to them. Given the AP's resistance, he helped SO1 take the AP to the ground. While on the ground, the AP was given direction to stop resisting. The AP continued to resist by thrashing about on the ground. SO2 drove his knee into the AP's inner right thigh. SO2 drew his CEW and threatened to use it on the AP if he did not comply. Another officer, SO3 arrived to assist them, so SO2 holstered his CEW without using it.

SO3 delivered knee strikes to the AP's right thigh in an effort to assist in gaining control of the AP. Eventually, SO3 was able to get the AP's right arm behind his back. The AP was still moving about. SO3 gave SO1 a spit mask that was then applied to the AP. About this time, the three officers then on scene were able to handcuff the AP behind his back.

The AP said "I'm suffocating", and SO2 stated "no you're not". SO2 stated at this time, he observed the AP to be speaking clearly, was breathing normally and showed no signs of being in distress. Additionally, the video from CW3 captured that more than a minute after AP stated he was suffocating, he was seen thrashing and could also be heard yelling. SO2 then hit the AP with the butt end of a flashlight in his left calf. This worked in allowing SO2 to gain control of the AP's leg.

Thereafter, more officers arrived, with SO4 assisting with restraining the AP's legs until SO5 arrived and assisted in fully securing the AP's legs with the use of a hobble strap.

Once fully restrained, the AP was carried by 3 officers to the waiting patrol wagon. The AP was carried with one officer at each shoulder, and another at his feet.

The AP was then placed into the patrol wagon face down. Almost immediately upon being placed in the wagon, it was noticed that the AP was in medical distress. The AP was removed from the wagon and placed on the pavement. Officers then removed the handcuffs and rolled the AP onto his back to begin CPR. While being rolled over, the AP's head struck the pavement.

Emergency first aid in the form of CPR continued by officers on scene until EMS staff arrived. They took over and subsequently transported the AP to hospital.

While at the hospital, the AP was placed on life support, but tragically he passed away two days later.

Analysis

All of the subject officers were lawfully placed and acting in the execution of their duties, having responded to a complaint that the AP was committing arsons.

The Use of Force

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. Force intended to cause death or grievous bodily harm is justified if the officer believes, on reasonable grounds, that the force was necessary to prevent the death or grievous bodily harm of the officer and/or any other person.

Reasonably Necessary

During this incident, a couple different applications of physical force by officers were used on the AP. There were knee strikes and the use of the butt end of a flashlight. All of these uses of force were applied to the AP's legs, in an effort to gain compliance from and control of the AP. The involved officers that applied these uses of force, all acknowledged

they did so, but that they were used in an effort to gain control of the AP, as they were trying to arrest him for the arsons that had been reported by CW1.

As previously noted, the AP was the subject of an arson complaint, and when first approached by SO1 he failed to follow directions. This ultimately led to SO1 advising the AP he was under arrest and placing hands on him. The AP did not comply and this resulted in other officers attending to assist in the arrest of the AP. In the course of doing so, the uses of force previously described were applied against the AP.

The situation faced by the subject officers was that of a relatively large male, who was noncompliant to getting arrested. Once the AP was taken to the ground, the noted uses of blunt force to the AP's legs were done to try and gain compliance and control of the AP. CW1, CW2 and CW5 all confirmed that the AP was resisting/struggling with the efforts of the officers to gain control of him. The aforementioned uses of force were not intended to cause death or grievous bodily harm. Given the resistance by the AP, the use of force by the officers was necessary to try and take control of him. The force used was reasonable for that purpose.

The application of the spit mask to the AP was preventative in nature. This was based on the AP's noncompliant behavior, and past experience of the officer in dealing with motivated noncompliant people. It should be noted, that such masks are designed to keep the AP from spitting at, or biting others. It is designed so that the person who it is applied to can still see and breathe. It is not a solid fabric bag or sack. Given the noncompliance by the AP and the dynamic situation faced by the officers, the belief that the use of a spit mask was necessary, was reasonable.

Given the AP's level of active resistance by kicking and thrashing his feet about, the use of the hobbles to fully restrain his legs to prevent injury to the officers was also necessary and reasonable.

In trying to gain control of the AP, he was ultimately taken to the ground. While struggling, the AP was primarily face down. At one point, the AP is heard to state, "I'm suffocating", and SO2 stated "no you're not". SO2 stated at this time, he observed the AP to be speaking clearly, was breathing normally and showed no signs of being in distress. CW1 said that when the AP was on his stomach and the officers were holding him down, he said he could not breathe. However, it looked like the officers then moved or rolled him.

There is no doubt that the AP did state aloud that he felt he was suffocating, as not only did SO1 acknowledge this, but it can be heard on the video recorded by CW3. However,

subsequent to this statement from the AP, CW1 states that the officers moved or rolled the AP. Also, the AP is reported by the officers to continue to resist by kicking his legs subsequent to this comment being made.

While the AP's comment about "suffocating" raises concern given his subsequent death, the findings of the medical examiner remove such concern. As was previously noted, the cause of death was found to be struggle with/restraint by police combined with methamphetamine use. Cardiomegaly and schizophrenia were also listed as significant contributing factors. Importantly, the medical examiner found the mechanism of death to be unstable electrical activity in the heart (cardiac arrhythmia).

Conclusion

After a thorough, independent and objective investigation into the conduct of all the subject officers, it is my opinion that they were all lawfully placed and acting properly in the execution of their duties. There is no evidence to support any belief that any of the subject officers engaged in any unlawful or unreasonable conduct that would give rise to an offence. The force used was necessary and reasonable in all the circumstances, notwithstanding the tragic outcome.

Original Signed by Executive Director

Michael Ewenson
Executive Director

May 4, 2022
Date of Release