



**IN THE MATTER OF AN ALLEGATION OF ASSAULT INVOLVING OFFICERS
WITH THE ROYAL CANADIAN MOUNTED POLICE ON JUNE 12, 2020**

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

Assistant Executive Director:

Matthew Block

ASIRT File Number:

2020-35(S)

Date of Release:

December 6, 2022

Introduction

On June 15, 2020, pursuant to section 46.1 of the *Police Act*, ASIRT was directed to investigate allegations of assault on the affected person (AP) from an event on June 12, 2020. Two officers with the Royal Canadian Mounted Police (RCMP) Leduc, Alberta detachment were designated as subject officers (SO) in ASIRT's investigation. Our investigation is now complete.

ASIRT's Investigation

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols, and in accordance with the principles of major case management. All relevant police and civilian witnesses were interviewed. Video and audio recordings were also obtained and considered.

Circumstances Surrounding the Incident

Overview

On June 12, 2020, Leduc RCMP received a 9-1-1 call from civilian witness #1 (CW1) reporting that their neighbour, AP, was refusing to leave her property. CW1 reported that AP was standing outside her front door and demanding that his daughter return to their house.

Subject officer #1 (SO1) and witness officer #1 (WO1) attended CW1's residence to investigate her complaint. AP was outside of the residence when the officers arrived. AP was agitated and demanded that the officers get his 14-year-old daughter out from CW1's residence. AP indicated that he had welfare concerns respecting his daughter being at this residence. The officers explained that they would conduct a wellbeing check, assess her condition, and then make a decision.

CW1 allowed the officers into her residence. Inside the officers found AP's daughter, civilian witness #2 (CW2), seated on a couch. CW2 was visibly upset and had been crying. CW2 explained that she came over to CW1's residence the previous night after an argument with her Dad. CW2 showed the officers her arms. There were some marks on one arm from where past cutting had occurred. The officers noted no fresh cuts, scabbing, nor blood.

CW2 expressed concern about returning to her Dad's house and further expressed her wish to remain overnight at CW1's residence until her grandmother could pick her up the next day.

The officers returned outside where AP was. He was advised by them that they did not have any concerns for CW2's safety at the home of CW1, and that CW2 had indicated that she wanted to stay there until the following day. AP did not agree with the officers and started yelling at them.

AP became further agitated, claiming that he was not leaving until he got his daughter back, and that he would stay there until she came out. The officers asked AP to leave the property of CW1 numerous times. AP demanded to speak with a sergeant. SO1 requested over the radio that a supervisor contact AP. The acting supervisor, who was dealing with an unrelated matter, advised over the radio that he would call AP.

About this time, the wife of AP, civilian witness #3 (CW3) arrived at the scene in her vehicle, and parked out front of the house near one of the police vehicles. AP reached into CW3's vehicle through the open passenger's side front window and obtained a bottle of water, and started to drink from it.

AP was still very agitated, continuing to yell at the officers on scene. Video from one of the police vehicles shows AP to be visibly upset that the officers were not forcing CW2 to leave the house and go home.

After a verbal tirade towards the officers, AP sat in the front passenger seat of CW3's vehicle. After more swearing at the officers, AP whipped his hand holding the water bottle out the open window. This caused water to splash over both officers.

SO1 yelled that that was an assault, and moved quickly towards the vehicle and AP. AP yelled "go" multiple times, and CW3 then drove away to their residence. The residence for AP and CW3 was just around the corner from where they had been.

CW3 pulled in front of their residence and stopped. AP jumped out and ran to the front porch of his house. SO1 and WO1 followed CW3 in their respective vehicles, and stopped at this residence too. Both officers exited and moved towards AP. SO1 yelled at AP that he was under arrest for assaulting a police officer as they were running up the stairs onto the front porch where AP was.

AP was unable to unlock the door in time before the officers approached, so he moved towards the corner of the front porch. WO1 approached AP, placed a hand on his arm,

and advised him he was under arrest. AP pulled back aggressively and tucked himself into the corner of the porch.

SO1 drew his conductive energy weapon (CEW) and yelled commands to AP in an attempt to get him to comply. AP did not listen to any commands; instead, he proceeded to take out his phone and tried to record the incident. Back up was requested over the radio. About this time, CW3 started yelling at the officers from where she was by her vehicle.

Subject officer #2 (SO2) was the first back-up officer to arrive. SO2 joined the other officers. AP was given further commands for the purposes of being handcuffed, but he did not comply. SO1 and SO2 approached AP on the porch. AP was brought to the ground (stomach) on the porch by both subject officers. AP was resisting the whole way down to the ground, by tensing up his arms and refusing to place them behind his back. Once on his stomach, AP started yelling repeatedly that he could not breathe, and that this was police brutality. AP was placed in handcuffs and stood up and walked to a police car, and placed in the rear.

AP was then transported back to the Leduc detachment. After speaking with a lawyer, AP was placed in a cell. A watch commander, witness officer #2 (WO2) then spoke with AP. AP stated that his back and hand hurt. EMS was requested to attend.

EMS examined AP at the detachment, and found no obvious physical injuries; however, AP's blood sugar was off and they decided to transport him to the hospital. AP was transported to hospital. AP was released on an Undertaking with conditions before leaving with EMS. AP was then transported to the hospital. AP was discharged from the hospital later that night.

Interviews & Statements

AP was interviewed and provided the following information

AP was previously married, and his daughter, CW2, was from that relationship. She is now fourteen but has been living with him and CW3 since she was seven. This has been a struggle, and they have taken counselling for years. For some time, CW2 has decided that she does not want to be there, and has frequently run away. This was the second time in about a month that CW2 had not come home. He had called the police previously for the same issue.

AP stated that in working with Child Welfare, they had developed a safety plan. AP said this plan set out that he should not call Child Welfare, but rather the police. On a recent

occasion, he reported CW2 to police as being at a friend's house against his wishes. On this occasion, the officers that attended spoke with CW2 and told him that, after speaking with her, she was fine and could stay there. AP strongly disagreed and voiced his displeasure. He ultimately called the RCMP office to complain, but nobody called him back. CW3 returned home the next day, and they spoke. AP also called Child Welfare, and they again referred him to his safety plan.

Three weeks later, CW2 took off again to a neighbour's house. This is the residence of CW1. CW2 eventually returned home, and AP said that CW2 told him that she had been making "weed candies." He thought this was unacceptable, so he called CW1 and told her this. He said he also forbid his daughter from going back to CW1's.

On June 11, 2020, he had an argument with CW2. She stormed out and was gone for some time. He eventually tracked her down at CW1's house, against his wishes. He went there and knocked on the door. Nobody answered, and he became worried. He returned to this residence around 11:00 p.m., and knocked on the door. Again, there was no answer. He waited outside and tried to call CW2, but he got no answer. He said he could hear people inside the house, so he yelled at them and told them he wanted CW2 to come out now. He then called the police detachment, and expressed his concerns. He was advised that they felt CW2 was safe. AP disagreed; he did not think she was safe if they were making weed candies. The police did not attend.

CW2 texted AP and advised that she would be home before they woke up. However, that did not occur. By 6:00 p.m. when CW2 had not returned home, he became very worried. AP returned to CW1's residence, and banged on the door. No one would answer the door, and his safety plan said to call the police, so he did. SO1 showed up first, followed by WO1. AP recognized SO1, as he had been involved in a previous call relating to his daughter, and her not coming home.

The officers went into CW1's home, while he waited outside. When the officers came back outside, they told him that CW2 was safe, and they were going to leave her there. AP stated that he and SO1 then started "having words." AP stated that WO1 was yelling at him to get out of CW1's yard, and the officers said they were leaving. He told them that they could not leave, and asked them to get somebody on the phone and deal with this properly. AP was getting madder and said, "Call your supervisor." SO1 said he would not call him, as they went through this the last time and he is not coming down. AP said, "Bullshit."

AP stated that he told the officers they were ignorant, and not doing their job. Firstly, it is a pandemic, and secondly, she is making weed candies at this house. AP admitted to being very mad and swearing at the officers.

His wife, CW3, drove up in her vehicle and stopped outside the residence. He retrieved a bottle of water from her, through the open passenger's side front window. He was standing on the street next to her vehicle, swearing at the officers. They refused to get the supervisor. AP stated he asked about the supervisor, "Isn't that my right to have a supervisor?" SO1 said it was not, and they were not going there, and if he kept it up, he was going to be arrested.

AP said that he sat in CW3's vehicle, as he was getting a bit lightheaded. AP said that he went to put the water bottle down, but forgot the lid was not on, and it hit the edge of the open window. This caused water to bounce out the passenger side window and splashed the officers. AP said that he did not take the bottle and throw it at them intentionally. Rather, it bounced off the windowsill accidentally and it spilled some water on them. He saw that they both had a bit of water on their pants.

CW3 went to drive away, when SO1 grabbed his arm through the window, yelling, "You're under arrest!" CW3 drove away and pulled up to their house, which was just around the corner from where they had been.

AP said he got out of the vehicle, and was going into his house. He went up the front step and the officers pulled up out front, and chased him up the stairs. SO1 right away pulled out and pointed a Taser at him.

AP said SO1 had his Taser out, and WO1 was just standing behind him. One of the officers said, "You're under arrest," "We're gonna Taser you." While on the front step, he argued with the officers. SO1 kept pointing the Taser at him and saying, "You are going to get Tasered and you're going down." There was a green light on him from the Taser being pointed at him. AP walked over to the end of the deck and said, "I ain't doing nothing. You ain't arresting me." He pulled out his cell phone and tried to start videoing things.

AP said that he told the officers multiple times, "No, I want your supervisor." He also was yelling to the neighbours, "This is police abuse." A plain-clothes officer, SO2, then arrived. SO2 was putting on gloves, and one of the officers present said, "We're waiting for back up." AP said he heard SO1 then say, "No, we're not." and he just ran at AP. SO2 then jumped in with SO1. AP told them, "I'm not resisting. Let me go. I'll go." He then hit the railing and his phone went over it and landed on the ground below. The officers said, "stop resisting." AP said he was not.

AP said he tried to tell them to get off him. SO2 kicked his feet out and he ended up on the ground. One of the officers punched his lower back, and someone pushed his neck. They grabbed his arm and pulled it around behind him. One of them pushed his head so far around that it started to choke him out.

AP tried to struggle to get away because he was hurting, and he felt them reefing on him, and then they placed handcuffs on him behind his back. The handcuffs were tight, and he had no feeling in his fingers, which remained that way at the time of the interview. He thought that SO2 had his knee or foot on his neck, and he yelled, "I can't breathe, I can't breathe."

AP said that CW3 was then at the front of the house. She was mad. The officers yelled at her to stay back. AP yelled, "Police abuse!" and neighbours started to come out. The officers rolled him on his side, got him up, and walked him to the police car. They left him in there. It was very hot, and they would not open the windows.

CW3 went and got his asthma inhaler, as he was winded. He utilized the inhaler. He was subsequently transported to the police station. After speaking with a lawyer, he advised the supervisor, WO2, that he was in pain and needed medical attention. EMS attended.

AP said that when EMS arrived, the paramedic yelled, "Code red!" and they had to get out of there right away. He was then transported to the hospital. At the hospital, he was sent for X-rays, and the doctor told him he had soft tissue damage on his lower back. AP said his neck was sore too. AP was released from the hospital that day, but he attended a medical clinic afterwards, and further followed up with his family doctor.

AP's Medical Records

AP's medical records show his back, neck and left elbow were examined. AP reported pain in these areas. The medical reports concluded that there were no fractures, rather, only tenderness and degenerative changes to AP's lower back.

CW3 was interviewed by ASIRT and provided the following information

She and AP had been married for five years, and CW2 would run away when she did not get her own way. Child welfare had told them to call the police when that happened. CW3 stated that she had had three previous experiences with SO1 from prior calls relating to CW2. In none of those calls did the police make CW2 go home.

On June 11, 2020, CW3 went to CW1's residence, and she once again did not return home. AP called Child Welfare and they told him to wait 24 hours, and then call the police. The following day, AP walked over to CW1's house. CW2 would not answer the door, nor her phone, so AP called the police.

AP called CW3 and asked that she come to CW1's house, and bring him some water. When she arrived, she parked out front on the street. AP got in her car, and drank some water. CW3 thought AP was fine when she first arrived, and he was not yelling or swearing, until they were leaving.

As they were sitting there, AP had the water bottle in his hand and he went to put it down, but his hand hit the side of the door and some of the water sprayed out onto the officers who were standing outside the vehicle. SO1 then started hitting the side of her vehicle with his hand. She asked him to step away from her vehicle, and he was saying, "I'm going to arrest you." With this, she just drove away.

CW3 said she did not speed away, but just drove to her house that was close by. She turned the vehicle around so that it was parked the wrong way in front of her house. AP got out and walked up the steps toward their front door. She knew the officers were going to come.

SO1 and WO1 arrived, and they followed AP to the end of the deck out front of the house. The officers were yelling at AP repeatedly to get down on the ground. SO1 said that if AP did not get down on the ground, he would Taser him. SO1 had his Taser displayed when he said this. CW3 was watching things from her vehicle. AP was recording things from the porch on his cell phone, but then he threw his phone over the balcony, and told CW3 to retrieve it, which she did.

Another officer, SO2, arrived in an unmarked vehicle and plain clothes. He went onto the deck to assist handcuffing AP. The officers were telling AP they were arresting him and he needed to cooperate. CW3 said that AP was not resisting; he was just standing on the deck.

CW3 did not see exactly how AP was taken down to the ground on the deck, but he was on the deck yelling that he could not breathe. SO1 had his leg/knee on AP's neck. AP was handcuffed. AP kept repeatedly yelling that he could not breathe. CW3 thought the officers did not care.

CW3 then walked from her vehicle towards the front stairs. As she approached she was yelled at by the officers, with one of them saying they would "Tase" her.

CW3 described AP as a “big man,” and he has asthma. The officers were not listening to him say, “I can’t breathe.” AP also kept yelling, “police abuse” and neighbours were coming out of their homes. The officers got AP to his feet, and WO1 took AP to the police car. CW3 called 9-1-1 to report a “problem cop” and they needed to send someone over.

WO1 let CW3 go get AP’s inhaler from the house. She gave the inhaler and a bottle of water to WO1 to provide to AP. AP was subsequently taken to the police station. Sometime later, she received a call from a police officer telling her that AP was sent to the hospital.

CW4 was interviewed and provided the following information

CW4 lives in the immediate area of the incident, and came outside his house when he heard a loud commotion. He did not witness any assault on an officer, but heard comments about water being thrown at a police officer. He heard AP admit to getting water on a police officer. CW4 observed that WO1 had visible signs that she had been splashed with water.

AP was resisting the officers on the deck, by not listening to their commands, filming things and trying to convince other neighbours that there was police abuse occurring. CW4 stated that AP was being disruptive, and he refused the directions of the officers to leave the deck.

SO2 arrived on scene, and had a quick conversation with the other two officers. Two officers then moved in to arrest AP, but he was non-compliant throughout. The officers took AP to the ground. CW4 stated that AP is a shorter, but larger man, and that the officers took AP to the deck relatively smoothly. They appeared to aid him down to the deck. His arms were then placed behind his back. The officers aided AP to his feet and walked him to a police vehicle.

CW4 stated that AP had tried to claim that he could not breathe during the arrest, but CW4 felt this was not the case and AP was fine, as he was coherent and CW4 could understand everything that AP was saying, so he must have been able to breathe.

CW4 stated that CW3 was verbally antagonizing the officers during this event, and had walked towards them, but was told to back-off. CW3 did not interfere in the arrest.

CW5 provided ASIRT a written statement that contained the following information

She lives close by to where this incident occurred, and she heard a police officer yelling for someone to get on the ground. CW5 then went to a window to see what was

happening, and she could see both AP and CW3 arguing and yelling at the police officers that were there.

Both AP and CW3 were not cooperating with the police and were arguing with them. CW3 was really yelling at the officers and waving her hands. It got rather heated, and she heard an officer tell CW3 that if she did not stop it and take a seat in her vehicle, she would be arrested. CW3 then went and sat in her vehicle. At this point, AP was still not listening to the officers. CW5 then went to check on supper she was preparing, leaving a relative to continue watching.

CW5 said she did not see anything too physical between the police and AP, and he did not look hurt at all. From what she had seen and heard, AP did not listen to what the officers were instructing him to do.

Later that evening she saw AP return home in a taxi. CW5 stated that he looked totally fine, and was not favouring any part of his body.

CW6 was interviewed by ASIRT and provided the following information

She lives close by to where this incident occurred. She looked out a window and noticed police vehicles on the street, and two police officers speaking with AP on his deck. WO1 was standing behind SO1 and SO2, near the railing to the deck. CW3 was near the deck yelling at the officers.

One of the male officers had a Taser out and was pointing it towards AP. The Taser was never used. AP was yelling something at the officers, but she could not make out what that was. WO1 told CW3 to go back to her vehicle on the road.

CW6 briefly looked away and the next thing she observed was that the subject officers had AP laying on his side on the deck. One officer briefly had his knee positioned on AP's side. She could not describe that officer. AP only laid on the deck for a short period. CW6 did not observe the officers use any force in taking AP into custody. They were not wrestling with him. AP was on the deck for just seconds, and then the police picked him up and escorted him to a police vehicle.

WO1 was interviewed by ASIRT and provided the following information

WO1 was assigned to a call for service at CW1's residence because AP would not leave her property. CW1 was inside with CW3, who had stayed the night and did not want to return home. WO1 arrived at the residence at the same time as SO1.

AP was outside the residence. He demanded that they get CW2 out of the house, as he said he was concerned that she was self-harming and potentially suicidal.

WO1 said that she and SO1 went inside to speak with CW2. CW2 was found to be upset because she said AP had been texting and calling her all day, and that he was not being very kind to her. CW2 was 14 years old, and presented as very mature. CW2 did say that she had been suicidal in the past, but she showed them her arms, and there was no indication of any recent self-harm attempts. WO1 had no concerns for CW2's welfare at CW1's residence. CW2 stated that she was not comfortable going home with AP. CW1 offered to let CW2 stay until arrangements could be made for her to go to her grandmother's the next day.

WO1 and SO1 returned outside and tried to explain their findings to AP. He was very belligerent and demanded that they get CW2 out of the house, telling WO1 that she was not doing her job. WO1 explained that she could not physically remove CW2, as she believed that CW2 was safe where she was; and further that police could not force CW2 to go home. AP was leaning on a car in the driveway, and she asked him to leave. AP was yelling and was very upset.

CW3 showed up at the scene in a vehicle, and she started yelling at them too. AP got a bottle of water from CW3's vehicle and began drinking from it. This was during the beginning of the COVID situation and the heightened concern of transmission.

AP was asked several times to leave the property, but he refused. AP eventually entered CW3's vehicle, and sat in the passenger seat. While seated he took a sip of water, and he may have back-washed into the bottle. AP then whipped the bottle towards herself and SO1, with watering flying out of the bottle. As a result, her pants were soaked.

SO1 told AP that this was an assault and he tried to grab AP's arm, but CW3 drove away. WO1 knew they lived only around the corner. She and SO1 returned to their respective police vehicles and followed them. WO1 pulled up in front of their house, and AP had already jumped out of CW3's vehicle and had ran to the front door. AP tried to get in the door, but was unable to. She proceeded to follow AP up to the front porch. AP moved to the far corner of the porch.

WO1 said that AP is about three times her size. He is quite heavy with a big belly. WO1 approached AP and touched his arm, telling him he was under arrest. AP was not cooperating, saying "No!" AP pulled his arm away. SO1 asked her to back up, to avoid a fight on the porch. They asked for back up to assist them, and continued to demand that

AP place his hands behind his back. AP just kept yelling that they were abusing him. AP pulled out his phone and started to record them. Neighbours started to come out because of the disturbance.

SO2 arrived to assist them. He and SO1 approached AP. She was standing behind them. SO1 and SO2 approached AP and were able to handcuff him. WO1 was not able to recall how they got him to the ground. She did not see any strikes to AP from either officer. When on the ground, AP's arms were under his body. The subject officers each pulled on AP's arms, one at a time, to get them out from under him. They were repeatedly telling AP to stop resisting and to put his arms behind his back. WO1 then moved in and handcuffed AP.

AP was then repeatedly yelling, "I can't breathe." AP was then stood up rather quickly after this, and he was walked to the rear of the police car, and placed in the back. She rolled the window down, because it was a hot day. CW3 had been yelling at them.

CW3 got AP some water and his asthma inhaler. After giving AP water and a dose of his inhaler, she started to drive back to the detachment. AP complained that his hands were hurting. She recognized that handcuffs are not very comfortable, but they would soon be taken off.

CW3 checked AP into the cellblock area. She learned that AP complained about his back or hand being broken during the arrest, and that EMS was requested. She was not present for this. She learned that EMS determined that he had no obvious physical injuries, but he did have low blood sugar and they wanted to transport him to hospital for that. As a result, AP was issued an undertaking to appear, and was transported to the hospital by EMS.

WO2 was interviewed by ASIRT and provided the following information

WO2 was the watch commander for this event. He was aware that AP had been arrested and was in the cells area. He was asked to go check on AP, as he was complaining of a broken hand and back. WO3 watched AP on camera for a bit, and observed him moving around. WO2 opened the cell door and asked AP what kind of pain he was in. AP indicated his hand and back hurt.

WO2 looked at AP's hand and nothing seemed wrong with it. He did notice though, that AP appeared very red in the face, almost a purple colour, and he seemed physically exerted. This was more concerning to WO2, so he had EMS called to attend.

When EMS attended, they found AP's heart rate was very high and his blood sugar levels were low. This concerned EMS, so they asked to transport him to hospital. WO2 agreed. AP was served his release documents, and EMS transported AP to hospital. WO2 then called CW3 and advised her about AP being transported to hospital.

Subject Officers

While not required to do so, SO1 participated in an interview with ASIRT and provided the following information

On June 12, 2020, he responded to a call for service from CW1, reporting that AP was at her house, and he would not leave. AP wanted CW2 who was in CW1's house to return home. WO1 was also attending this call.

SO1 was familiar with AP and his family. Approximately two months prior, he responded to a very similar complaint from AP after a dispute he had with CW2. He observed on that occasion AP to be volatile and verbally abusive/aggressive towards police. AP was cautioned then for his actions, and he chose to drive away.

For this event, he and WO1 arrived on scene at the same time. He noted AP to be standing outside of the residence against a parked vehicle. As SO1 exited his vehicle, he could hear AP immediately engage with WO1 in conversation. AP seemed agitated and was immediately demanding that they get CW2 from within the house. AP was aggressive in his tone and speech toward WO1. AP was told that they would conduct a wellness check on CW3.

SO1 and WO1 entered the residence of CW1 and found CW2 seated on the couch. She was clearly upset and crying. CW2 explained that she came over to CW1's home after getting into a heated argument with AP and CW3 the night before. She went on to explain a very volatile situation at home. AP is verbally abusive towards her, and they are always fighting at home. CW2 advised that in consultation with her counsellor, she was going to stay with her grandmother permanently, starting the next day. CW2 said that she was afraid to go back with AP. In speaking with CW2 and examining her arms, SO1 had no concerns that she was self-harming.

CW1 advised that she was prepared to have CW2 remain with her until her grandmother could come and get her the next day. He asked CW2 if she would go back to AP's house. CW2 broke down and seemed to have some kind of anxiety attack. SO1 felt he had no legal authority to force her to go back, as she was 14 years old, was currently safe and it appeared to be in the best interest of CW2 to remain with CW1 overnight.

He and WO1 returned outside, where WO1 explained to AP that CW2 would be staying with CW1, and that CW2 did not wish to go home with him because she was afraid. WO1 further stated that they did not believe CW2 was self-harming.

AP immediately stated in a raised voice, "No she's not." and he became further agitated and angry. He refused to listen to any reasons and started yelling profanity and vulgar comments towards police.

SO1 asked AP to leave the property, but he refused to do so until CW2 was brought to him. SO1 advised AP that he needed to calm down and leave the property, or he would be arrested. AP refused and demanded that a supervisor attend. SO1 then advised the acting supervisor over the radio of this request. The supervisor, who was busy elsewhere, advised that he would call AP once he was available. AP was not happy with this and continued to yell.

CW3 drove up at a high rate of speed and immediately started yelling and screaming at him and WO1. AP continued to yell and make vague threats toward them. They were advised to leave the area.

At some point AP grabbed a bottle of water, and was drinking out of it while looking at them. SO1 saw what he believed was AP back washing into the water bottle. He observed AP looking at his water bottle and then looking at him and WO1. AP suddenly whipped the contents of the water bottle at both of them. The water from the bottle hit his body and face, and entered his mouth. With the pandemic of COVID 19, he thought AP might have been intentionally trying to contaminate him with something. SO1 felt extremely assaulted by AP's actions of whipping the water at him.

SO1 advised AP that he was under arrest for assault. SO1 attempted to get AP out of the vehicle by grabbing his right arm through the open window, but CW3 drove away rapidly. He and WO1 entered their respective police vehicles and went after the vehicle. The vehicle went just around the corner to the residence of AP and CW3, where it stopped. AP exited the vehicle and ran to his front door.

SO1 exited his vehicle and ran up towards the stairs, repeatedly yelling at AP to stop and that he was under arrest for assault on a police officer. AP was frantically trying to get in his front door. He was unable to, and then he ran to the far corner of the front deck of the residence.

WO1 tried to gain control of AP's arm, but he forcefully pulled his arm down, breaking the grip she had on him. SO1 believed that AP was about to fight them as he had clenched fists and was very stiff. AP was quite a bit larger than either of them was, and he feared that if AP decided he wanted to fight them, he could cause bodily harm to either of them. SO1 advised WO1 to back up as he drew his CEW and pointed it at AP with the laser on him. While this seemed to calm him down slightly, he still would not cooperate. SO1 asked over the radio for backup.

AP pulled out his cell phone and started recording. He was yelling at neighbours. It appeared to SO1 that AP was trying to gain attention. SO1 could hear sirens in the distance, so he knew backup was coming, so he chose to wait with the CEW laser pointed at AP. He waited for backup to arrive so the least amount of force necessary could be used to get things under control safely. CW3 started yelling at them from the sidewalk.

A few minutes later SO2 arrived. At this time, SO1 holstered his CEW, and once again advised AP that he was under arrest and tried to reason with him to comply, but he refused. He and SO2 then moved in to effect the arrest. SO1 grabbed AP's left arm while SO2 grabbed the other arm. They tried to pull AP's arms behind his back, but AP immediately stiffened up and tried to pull away from them.

AP was guided to his stomach with no extra force being required. SO1 then placed his left knee between AP's left shoulder blade and arm, and applied a wristlock to that arm thereby gaining control of it. AP did not hit the floor hard, and SO1 did not strike any part of AP's body, but AP kept screaming at the top of his lungs.

SO1 believed he handcuffed AP with the assistance of SO2. Once handcuffed, AP was immediately brought to his feet and escorted to WO1's vehicle, where he was provided with water and his inhaler.

While not required to do so, SO2 participated in an interview with ASIRT and provided the following information

On June 12, 2020, he was working in plain clothes and driving an unmarked vehicle. He responded to a request for assistance by other officers. While enroute, he was advised that AP was arrestable for assaulting a police officer.

Upon arriving on scene, he noted SO1 standing on the deck of the house pointing his CEW at AP. WO1 was by the stairs leading up to the residence. As SO2 approached the top of the stairs, he observed AP failing to follow the verbal directions of SO1 to place his hands behind his back, as he was under arrest.

Because of AP's non-compliance, he and SO1 moved forward to where AP was, to effect the arrest. SO2 took a hold of one arm, while SO1 took a hold of the other. AP began to actively resist by pulling his arms to his chest and "turtling." AP bent forward while doing this, so that he was now bent forward at the waist. AP was then guided to the ground. SO2 was confident that due to AP's shape and being overweight this assisted them in taking him to the ground, in that gravity did the work.

Once on the ground, AP began yelling that he could not breathe. He was still pulling his arms underneath him. SO2 was kneeling next to him, and he believed SO1 was doing the same thing on the other side. SO2 was able to pull AP's right hand out from under him without having to strike him. SO2 believed that WO1 placed the handcuffs on AP. Once AP was handcuffed, he was immediately stood up and escorted to the rear of a police car.

Video Evidence

WO1's police vehicle captured a portion of the interactions between herself, SO1 and AP outside CW1's residence. Audio also accompanies the video, but at times it is difficult to hear aspects of what was captured. The video clearly shows CW3's vehicle pull up outside CW1's and stop. It shows AP reach in and get a bottle of water. AP proceeds to drink from the bottle several times, while pacing about outside the vehicle. SO1 and WO1 are standing approximately 5-6 feet away from AP at the bottom of CW1's driveway. It is clear that SO1 is engaging with AP in conversation. Not all of the conversation can be clearly made out. However, it is clear that AP became very agitated with the officers, and proceeded to get into the front passenger seat of CW3's vehicle. As he is getting in, you can hear him say, "You guys are a bunch of fucking assholes....fuck you" and more swearing directed at the officers. You can then see that AP clearly whips the water bottle he had out the window, while still holding it. This caused a noticeable amount of water to be flung in the direction of and onto the officers standing nearby. SO1 is seen moving to the vehicle and reaches into the open window

toward where AP's right arm would be. You can then hear AP say "go, go, go," after which CW3 proceeds to drive away. The officers return to their respective vehicles and follow CW3 just around the corner to their residence. CW3 pulls to the side of the road and you can see a head moving towards the front of a residence. WO1 can be heard saying over the radio that, "he's just running in the house now." SO1 can be heard yelling, "Stop, you're under arrest for assaulting a police officer." He is also heard yelling multiple times at AP to "Get on the ground!", and "You're going to get Tazed, get on the ground!" You can hear AP state, "No I'm not!" There is some incoherent yelling, and then you can hear SO1 say, "You're under arrest. You threw water in my face."

After letting AP out of the vehicle at their residence, CW3 drove to the end of the street and pulled a u-turn and returned out front of their residence and parked the vehicle facing the wrong way. CW3 exited her vehicle and started to go towards the house. You can hear SO1 twice yelling, "Stay back!" CW3 yells back that she is calling the police on them and then swore at them. She appeared to dial a number and start talking to what would appear to be a police complaint line. CW3 gets back into her vehicle and can be seen to apparently be still on the phone.

SO2 can be seen arriving on scene to the rear of CW3's vehicle, and then walking towards where the other officers and AP were. About 30 seconds later you can hear "Stop resisting," and then approximately 20 seconds later AP yelled, "Ow, I can't breathe." He yells "I can't breathe!" several times. CW3 is then seen exiting her vehicle and heading towards the residence. SO1 can then be heard yelling twice to her to "Get back..Back off!" You can hear AP once again say he can't breathe. There is some more incoherent talking/yelling. Then, you can hear AP say "I didn't do fuck all to you guys" and "Fucking pig." as an apparent sound of a door is being shut. AP can then be heard breathing loudly. He cannot be seen but appears from the sound to be in the rear of WO1's police vehicle. You can see officers and CW3 walking about in front of the police vehicle. AP appears to slow his breathing down, but then starts to yell that he needs the window rolled down, as he can not breathe in there as it is hot, and states aloud a very derogatory reference, that can only be presumed to have been directed at WO1. You can see CW3 walk past the vehicle and apparently towards SO1. AP then can be heard yelling to "Go in the house!" multiple times, as CW3 reappears in the video and walks towards the vehicle while she is yelling at someone off screen. AP then yells that he cannot breathe, and for CW3 to go in the house. CW3 sits in her vehicle and you can see officers talking with her. AP yells again multiple times that he cannot breathe. An officer opens the door, and you can hear her say, "He's pretending to be having a

seizure.” AP states, “I’m having an asthma attack! I can’t breathe as it’s hot in here.” A male officer can be heard asking AP if he wants an ambulance. AP said, “No, I just want air”. He then stated he needs his puffer and some water.

Relatively shortly thereafter, you can hear AP ask if the handcuffs can be moved to the front. He is told they can not. AP then says he needs “two shots of that”(presumably a reference to his asthma inhaler). You can see officers speaking with CW3 at her vehicle. You can hear more conversation inside the police vehicle about how hot it is, and AP wanting the windows down. AP is read his rights, and he talks about water splashing out and onto the officers being an accident. AP is then driven to the police station.

Analysis

SO1 and WO1 were lawfully placed and acting in the execution of their duties, having responded to a trouble with person complaint involving AP refusing to leave the property of CW1. The officers stated that AP became agitated and frustrated with them because they would not force CW2 to return home with him. They stated that at one point AP was very upset, including yelling and swearing at them from within CW3’s vehicle. He proceeded to throw water from a water bottle at them. AP acknowledged that he did become upset with the officers, but denied intentionally throwing the water at the officers. He acknowledges that water came out of the bottle he was holding, but that it was an accident. The video of the incident clearly shows that the water coming out of the bottle towards and onto the officers was because of an intentional whipping of the water bottle by AP. Once AP threw water at SO1 and WO1, he was arrestable for assault. SO2 was then lawfully placed to assist SO1 and WO1 in the subsequent arrest of AP.

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 also has the same protections for self-defence under s. 34 of the *Criminal Code* as any other person.

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 subject officers were dealing with a situation where AP was admittedly refusing to comply with SO1 to give himself up to be arrested. SO1 told ASIRT that he advised AP numerous times that he was under arrest. The audio from the video confirms that SO1 did tell AP of this several times. AP was refusing to cooperate with the officer present at his residence to be taken into custody. Both SO1 and WO1 relayed how AP refused to cooperate. Given the large stature of AP as compared to the officers, wanting him to get on the ground to assist in handcuffing him was a prudent and lawful demand. A physical altercation between AP and the officers would run the risk of injury to one or more of them. Additionally, SO1 wanted to avoid using his CEW on AP, as this too ran a greater risk of injury to AP when he would likely fall to the ground with no support, as opposed to AP going to the ground on his own. As a result, SO1 repeatedly told AP to get onto the ground. CW4 and CW5 confirm that AP refused SO1's demands to do this. Given AP's continued refusal to get on the ground, SO1 and SO2 moved in to take control of AP. Both subject officers described AP being taken to the ground (porch) without the need of any force. Rather, he was guided to the ground. CW4 confirmed that AP was taken to the ground rather smoothly. A decision to take a person, the size of and as non-cooperative as AP was, to the ground to better control them was proportionate, given the totality of the circumstances then experienced by the subject officers.

Reasonably Necessary

AP was willfully resisting getting arrested/handcuffed. The subject officers made a decision to take AP to the ground to be able to gain control of him. SO1 using his knee to help keep control of AP on the ground was similarly necessary. The use of force employed by the subject officers was reasonably necessary to gain control of AP.

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 officers, it is clear that they were lawfully placed and acting properly in the execution of his duties. There is no evidence to support any belief that they or any other officer engaged in any unlawful or unreasonable conduct that would give rise to an offence. The use of force by the subject officers was necessary and reasonable in all of the circumstances.

Original signed

Matthew Block

Assistant Executive Director

December 6, 2022

Date of Release