



**IN THE MATTER OF AN ARREST AND DETENTION INVOLVING LAKESHORE  
REGIONAL POLICE SERVICE AND THE RCMP ON DECEMBER 12, 2021**

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

**Assistant Executive Director:**

**Matthew Block**

**ASIRT File Number:**

**2021-0062(N)**

**Date of Release:**

**February 28, 2024**

## **Introduction**

On December 13, 2021, pursuant to s. 46.1 of the *Police Act*, the Director of Law Enforcement directed the Alberta Serious Incident Response Team (ASIRT) to investigate an arrest and detention by the Lakeshore Regional Police Service (LRPS) and the Royal Canadian Mounted Police (RCMP) the day before. ASIRT designated two as subject officers, with notice to each. ASIRT's investigation is now complete.

## **ASIRT's Investigation**

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols, and in accordance with the principles of major case management.

ASIRT investigators interviewed eight civilian witnesses including the affected person (AP), three police officers including the subject officers, one cell guard, and one paramedic. Investigators also reviewed the AP's medical records, police vehicle video, LRPS office video, cellblock records, and police communications. There was a flaw in LRPS office video at this time which made the video of little to no use since it omitted the time where the AP was in distress while in cells.

## **Circumstances Surrounding the Incident**

At approximately 10:50 a.m. on December 12, 2021, LRPS received a call about the AP. He was at a residence on Sucker Creek First Nation, was not wanted there, and was possibly breaching his release conditions. Subject officer #1 (SO1) was dispatched and discovered that the AP was on conditions of house arrest in Edmonton. He was joined by subject officer #2 (SO2) and they arrived at the residence at approximately 11:30 a.m. When they arrived, the AP was sitting in a vehicle in the driveway. They told him that he was under arrest, but he ran off.

The AP ran away and entered a nearby residence. Civilian witness #1 (CW1) was inside. She knew the AP but was surprised to see him suddenly enter. The AP told her that the police were after him, and she said that she did not want him in the residence with her children in this situation. The AP went into a bedroom and closed the door. Inside were two young adults, civilian witnesses #2 and #3 (CW2 and CW3).

The subject officers followed the AP into the residence and forced open the door. They arrested the AP and took him back to the LRPS cells. He was placed in cells and left in the care of a civilian guard, civilian witness #4 (CW4).

At 1:54 p.m., CW4 noticed that the AP was slumped on his side in the cell. He did not respond when she talked to him. At 3:19 p.m., the subject officers returned and CW4 brought them to check on the AP. They called for emergency medical services (EMS) right away, and a crew arrived at 3:50 p.m. They administered two doses of naloxone. EMS took him to the hospital, and he was airlifted to Edmonton.

The AP was treated in the intensive care unit for aspiration pneumonia, a broken rib, a partially collapsed lung, and a complex infection.

He remained in hospital until December 16.

#### *Affected Person (AP)*

ASIRT investigators interviewed the AP twice. The AP's memories of December 12 were extremely limited. He said that he smoked a small amount of heroin at approximately 11 a.m. that morning. The next thing he knew, he was in the hospital.

#### *Civilian Witness #1 (CW1)*

ASIRT investigators interviewed CW1.

CW1 was at home on December 12 when the AP suddenly came through her front door and locked the door behind him. The AP told her that the police were after him, and she said that she did not want him in the residence with her children in this situation. The AP went into her son CW3's bedroom, where he and CW2 were, and closed the door. She opened her front door and found two police officers with their guns drawn there.

Police went to the bedroom door and asked the AP to come out. He said he would not come out unless the police left. They said they were not leaving and said they would charge him with kidnapping if he did not come out.

Officers then pushed through the door, although CW1 did not think it took a lot of force. They took the AP to the ground, and he resisted them. CW1 did not think the force used was excessive and thought they were just trying to handcuff him. They then walked the AP out to their vehicle and the AP did not struggle.

*Civilian Witness #2 (CW2)*

ASIRT investigators interviewed CW2.

She was in CW3's bedroom when the AP burst in and shut the door. He said he would not hurt them and asked about an escape route. Police came to the door and told the AP to come out and that they would not hurt him. Police pushed the door open, and the AP fell back into a wall and was squeezed a little bit.

Police then either pushed the AP to the floor or he tripped. Police took about five minutes to handcuff the AP. They did not strike him. Police then asked if she and CW3 were okay and apologized for the inconvenience.

*Civilian Witness #3 (CW3)*

ASIRT investigators interviewed CW3.

CW3's account was like that of CW2. He also said that the AP complained of pain when the officers were picking him up off the ground.

*Civilian Witness #4 (CW4)*

ASIRT investigators interviewed CW4, who was the cell guard. CW4 was not a police or peace officer.

CW4 was called in at 12:46 p.m. and arrived at the LRPS office at 1:04 p.m. She went to the AP's cell and saw that he was sitting on the floor and leaning on the cell door. He was mumbling to himself. The officers all left for other calls, so she was alone with the AP.

CW4 said she was required to check on the AP every 15 minutes in person and every 15 minutes by camera, but she checked on him closer to every seven minutes because there was an indication that he may be suicidal. She would rattle the door to rouse him, and he would mumble in response.

At 1:54 p.m., CW4 saw the AP slowly slump over through the camera. He made a loud snort or snore before slumping over. His shoulder hit the ground first but his head hit next, making an audible sound. He started snoring loudly. She tried to talk to him through the door but he did not respond.

At 3:19 p.m., the subject officers returned and she told them about the AP.

*Subject Officer #1 (SO1)*

SO1 was an LRPS officer. SO1 provided his notes and report to ASIRT investigators, but did not agree to be interviewed. As the subject of a criminal investigation, he is entitled to rely on the same right to silence that anyone else is.

At 11:30 a.m., he and SO2 arrived at the residence indicated in the complaint. The AP saw them and ran away. He yelled at the AP to stop and that he was under arrest. The AP continued to run and went into a residence.

He met SO2 at the door of the residence and they were about to breach the door when it opened. CW1 told them where the AP went and that there were kids in that room. They yelled through the door that he should come out and that they were concerned about the kids in the room. The AP said he would let them out if the officers left.

SO1 was concerned for the safety of the kids inside and decided he could not wait for backup. SO2 breached the door and they entered. SO2 punched the AP, who went to the ground. The subject officers struggled to get him under control. SO1 was becoming exhausted from the extended struggle. SO2 struck the AP in the head two more times and they were then able to handcuff him.

They lifted the AP up and took him out to the police car and then to the LRPS office. At the LRPS office, he asked him about any injuries. The AP indicated he had frostbite on his hands. His hands looked red where the handcuffs had been. SO1 asked the AP about the head strikes and he said he was okay.

*Subject Officer #2 (SO2)*

ASIRT investigators interviewed SO2, who was an RCMP officer seconded to the LRPS.

SO2's account of the incident leading up to the AP being in the bedroom was like SO1's. At the door, SO2 considered using pepper spray but did not think it would be effective and would contaminate the kids inside. He did not think a firearm would be a reasonable option with the kids in the room. He also did not want to wait for backup or the emergency response team since the kids inside could be in immediate danger. He decided to enter and subdue the AP. Based on what he had read on police systems, he was

concerned that the AP may have a knife and that the AP was bigger than he was. He decided that he needed to try to catch the AP off guard.

When he opened the door by striking it with his body, the AP was pinched against the wall. He punched the AP once in the jaw and then pulled him down to the ground. The AP began to struggle while he and SO1 tried to control his arms. The AP had his arms under him and SO2 was concerned he may be reaching for a knife. SO2 was tiring and he decided to deliver two strikes to the AP's head. This caused the AP to stop resisting briefly and they were able to handcuff him.

They walked him out to a police vehicle and transported him to the LRPS office. They asked about his injuries, and he indicated only frostbite and sore wrists from the handcuffs.

## **Analysis**

### *Affected Person's Injuries*

The AP was treated for many issues at the hospital – aspiration pneumonia, a broken rib, a partially collapsed lung, and a complex infection. These injuries may be connected to the uses of force by the subject officers, although that connection is not clear. It is possible that the AP's rib was broken by SO2 pushing the door open and pinching him. It is possible that the other issues flow from this broken rib. There is insufficient evidence to conclude that they were connected.

In assessing police actions, the intent or likely outcome of a use of force is more relevant than the injuries caused. If an officer uses force that is neither intended nor likely to cause serious injuries but serious injuries result, the officer is not required to provide additional justification for the use of force simply because of the injuries. Conversely, an officer who intends to cause death or serious injuries but does not cause them may still face more consequences if his use of force is not justified.

The uses of force by the subject officers, forcing open a door into the AP, striking him three times in the head, and struggling with him are unlikely to cause death or grievous bodily harm in this situation. There is also no evidence such injuries were intended.

### *Section 25 Generally*

Under s. 25 of the *Criminal Code*, police officers are permitted to use as much force as is necessary for execution of their duties. For the defence provided by s. 25 to apply to the actions of an officer, the officer must be required or authorized by law to perform the action in the administration or enforcement of the law, must have acted on reasonable grounds in performing the action, and must not have used unnecessary force.

All uses of force by police must also be proportionate, necessary, and reasonable. Proportionality requires balancing a use of force with the action to which it responds.

Necessity requires that there are not reasonable alternatives to the use of force that also accomplish the same goal. These alternatives can include no action at all. Analysis of police actions must recognize the dynamic situations in which officers often find themselves, and such analysis should not expect police officers to weigh alternatives in real time in the same way they can later be scrutinized in a stress-free environment.

Reasonableness looks at the use of force and the situation from an objective viewpoint. Police actions are not to be judged on a standard of perfection, but on a standard of reasonableness.

Where the force used by an officer is intended or is likely to cause death or grievous bodily harm, the officer must believe on reasonable grounds that the force is necessary for the self-preservation of the officer or preservation of anyone under that officer's protection.

### *Section 25 Applied*

The subject officers were pursuing the AP to arrest him. While police officers generally cannot enter a residence to arrest a person without a warrant, they are permitted to enter when the person flees into a residence. The subject officers were required or authorized by law to arrest the AP in this situation, and they acted on reasonable grounds.

The subject officers' uses of force were proportionate to the situation. The AP was fleeing lawful arrest and barricading himself in a room with uninvolved people. This was an uncontrolled situation with substantial risk and some use of force was warranted. Their uses of force were minimal in the situation.

The subject officers' uses of force were necessary. As noted by the subject officers, waiting for backup could have put the kids inside at risk. While the "kids" were in fact young

adults and did not appear to be in actual danger, the subject officers reasonably believed that they could be in danger and did not know that “kids” referred to young adults.

Finally, the subject officers acted reasonably. Their willingness to enter the bedroom in this unknown situation put them at risk, but the subject officers considered this and took action to prevent potential harm to children. They acted admirably.

The defence provided to the subject officers by s. 25 is likely to apply.

### *Care of the Affected Person in Cells*

When police put a person in cells, they have a duty of care to that person. That includes assessing if the person is medically suitable for cells at the beginning of their detention and providing medical care as needed throughout.

In this incident, the AP was placed in cells when he was possibly intoxicated, had been in a physical confrontation with police, and appeared to have been exposed to cold for an extended period. He was not assessed by medical professionals prior to being placed in cells. As can be seen by what happened next, this is problematic. Police officers are not medical professionals and should be seeking the assistance of medical professionals whenever there are potential issues prior to housing a detainee.

CW4 was the cell guard responsible for the AP once the officers left. CW4 checked the AP regularly, which is an important part of the duty owed to detainees. However, when CW4 did note a problem with the AP at 1:54 p.m., she did not take appropriate steps to get medical care for the AP. While CW4 could not be expected to enter the cell since she was a civilian guard, it was not reasonable to leave the AP without care for 85 minutes until officers returned. While the AP survived, there have been many situations where detainees go into medical distress exactly like the AP did and do not survive.

Unless otherwise directed, ASIRT’s mandate covers police officers only. CW4 was not specifically investigated by ASIRT, so there may be additional relevant evidence. However, from what was obtained through ASIRT’s investigation, the overall system of managing detainees at LRPS failed that day.

### **Conclusion**

On December 12, 2021, the subject officers attempted to lawfully arrest the AP. The AP ran off and barricaded himself in a bedroom. In that bedroom were two young adults,



but the subject officers knew only that there were “kids” inside. The subject officers responded quickly to what could have been an extremely dangerous situation for the two inside. They pushed open the door and SO2 hit the AP to catch him off guard. The AP fell or was brought to the ground, and a struggle began. SO2 struck the AP twice more to get him to give up his arms. He was then handcuffed and brought back to the LRPS office. While the AP suffered injuries, the connection between these injuries and the subject officers’ uses of force are unclear. Their uses of force were proportionate, necessary, and reasonable in the circumstances. As a result, there are no grounds to believe an offence was committed.

*Original Signed*

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**Matthew Block**

**Assistant Executive Director**

**February 28, 2024**

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**Date of Release**