



**IN THE MATTER OF AN ALLEGATION OF AGGRAVATED ASSAULT
INVOLVING OFFICERS WITH THE ROYAL CANADIAN MOUNTED POLICE ON
JUNE 11, 2022**

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

Executive Director:

Michael Ewenson

ASIRT File Number:

2022-0021 (N)

Date of Release:

January 12, 2024

Introduction

On June 11, 2022, pursuant to section 46.1 of the *Police Act*, ASIRT was directed to investigate the circumstances of an arrest of an individual that resulted in this person (affected person – AP) suffering a broken neck with subsequent quadriplegic paralysis. Two RCMP officers were designated as a subject officers (SO1 & SO2) in ASIRT's investigation. 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. Relevant police and civilian witnesses were interviewed. A video of the arrest and related take down of AP was also obtained.

Circumstances Surrounding the Incident

Overview

On June 11, 2022, at about 4:00 p.m., SO1 and WO, of Spirit River RCMP Detachment were riding together in a marked police vehicle, outside of Wanham, Alberta, conducting rural patrols. SO2 was in a second marked police vehicle, following SO1 and WO. They had attended a memorial service earlier that day, but were just out patrolling when they came across a vehicle flashing headlights at them. SO2 advised on the police radio that he would follow the vehicle and asked SO1 and WO to follow him. The officers ended up at the "New Pro" building, a property nearby, that they were all familiar with as it was a location of frequent calls for break and enter, theft of copper wire and drug use. As police arrived, the property owner, CW2, was escorting two males away from the building on the site towards some large concrete blocks at the mouth of the driveway. The concrete blocks had been installed to keep vehicles off the property.

The two males were later identified as AP, and CW1. CW2 told police that he had been driving by and noticed some activity on his property and when he went to investigate, he found AP and CW1 stripping some copper wire from the building. SO2 placed AP and CW1 under arrest for break and enter. WO also advised CW1 that he was under arrest and CW1 was handcuffed, with his hands behind his back, without incident. SO2 placed

handcuffs on AP, with his hands behind his back as well. AP was attempting to access his hoodie pocket even though he was handcuffed. The hoodie pocket seemed to be bulging. SO2 told AP several times to keep his hands behind his back and to stop trying to reach into his pouch. SO2 told AP that he would take him to the ground since he would not stop. AP spread his feet and wriggled his upper body in attempt to resist police. SO2 had AP by the right arm when SO1 grabbed AP by the left arm and did a “leg sweep” on AP, striking AP in the left shin with his right calf thereby taking AP to the ground. AP hit his head on the gravel when he was taken down.

Once on the ground, AP was searched by SO2 and pliers capable of cutting wire and drug paraphernalia were located in his hoodie pouch where he had been trying to access prior to being taken down. After AP was searched, he was asked to stand but he could not. SO2 and SO1 lifted AP by the arms and dragged him about ten feet. AP indicated that he could not stand, and he could not feel his legs. SO1 applied light pressure to AP’s chest, arms, legs and feet and AP indicated that he could not feel anything. EMS attended and AP was transported to hospital, and was subsequently transported by air ambulance to an Edmonton hospital for treatment. AP was treated for a spinal cord injury that resulted in him being left a quadriplegic.

Evidence of the Affected Person (AP)

ASIRT investigators spoke to AP on October 16, 2022 while he was in the University of Alberta hospital. AP stated that he and a friend, CW1, had stayed at a friend’s place near Wanhan and the two of them were trying to walk to Grande Prairie. CW1 had his dog with him, and at one point while they were walking, the dog ran off into an open building. They followed after the dog and entered the building. Shortly after entering, the two of them were confronted by a man, CW2, with a shotgun. CW2 directed them out of the building and they exited calmly.

Once outside, he believed that CW2 called the police and they arrived quickly. CW2 walked AP and CW1 to where the police were. When he got to where the police were, he was told he was under arrest for break and enter. AP said that he was “digging shit out of my pockets” when he was attacked by the officers. “One of the cops picked me up by the throat and slammed me on my head...” AP further stated that he was “raised up off the ground by my neck and slammed onto the ground.” AP said that “one officer was laying on the ground for some reason. Pretty sure had something to do with tripping me or something. All the other cops were standing around. They had worried looks when

they noticed what they did to him.” He said that he was then dragged on his face before the air ambulance (STARS) came and took him away.

AP was asked by investigators about a comment he made about digging in his pockets. AP acknowledged that he was digging in his own pockets. “I know because of past dealings with constables before I know I shouldn’t have. I should have let them pull the shit out. But I thought if I pull all this shit out of my pockets because it was one bag, they wouldn’t get mad at me if I just handed it to them.” AP recalled the police swearing at him, as they were upset that he was pulling stuff from his pockets.

AP stated that he had a C3-C4 break which caused his paralysis. He also stated that he had a few broken ribs and hip. He consented to release of his medical records.

AP’s Medical Records

AP’s medical records confirmed he had an impact with head on ground- axial load injury. This resulted in a “C3 ASIA A complete spinal cord injury.”

In lay terms, AP suffered an axial (top down) compression injury of the C 3 vertebrae and there is no motor or sensory function below the level of the injury. This is a permanent injury.

The medical records did not evidence any other physical injuries reported by AP (broken ribs or hip). The records state that at time of the injury, AP was under the influence of methamphetamine.

Civilian Witnesses

CW1 was interviewed by ASIRT and provided the following information.

CW1 stated that he and AP were in the New Pro building when the owner [CW2] arrived and pointed a shotgun at them. The police arrived very shortly after this. He and AP went to where the police were, and they were handcuffed. They said AP was resisting, but he was not. They proceeded to be really rough with AP for no apparent reason. The two police officers [SO1 & SO2] slammed him head first into the gravel. Then another officer came and stuck his knee into AP’s back. Then they picked him up and dragged him 10 feet.

CW1 was asked to go over the dealings with police again and he stated:

“They told me to get on the ground, so I got on the ground. They proceeded to wrap their arms around my buddy, around his neck and his arms. They took his legs and put him up in the air and head first into the ground...He wasn’t resisting, he seriously wasn’t. He was compliant he was standing there and let them search his pockets. Then all of a sudden they decided to slam him to the ground.” The one who had grabbed his legs proceeded to put his legs in AP’s back to hold him down. After he said he couldn’t feel his legs/feet, they decided to drag him about 10 feet. They just dropped him by a cement pillar and said they would call an ambulance.

CW1 was asked whether the takedown of AP was more of a judo type trip or more like a WWE pick up. CW1 responded that it was like a WWE slam.

CW2 was interviewed and provided the following information.

CW2 owned the property where the New Pro building was located. When he was driving by this property he noticed one of the overhead doors was open. After unloading some items he went to the building and found two males [AP & CW1] inside stripping wire. As he was escorting the males away from his building the police arrived. The police arrested both males for break and enter. One of the males [AP] resisted arrest and was being belligerent when he was pushed to the ground to be handcuffed, and was injured as a result.

CW3 was interviewed and provided the following information.

CW3 got a call from CW4 who advised that someone was at the New Pro building. CW3 immediately drove to the area and saw a police vehicle in the area and assumed they had already been called. He proceeded to the nearby New Pro building. CW3 saw CW2 walking with two males, whom he learned later had broken into the building. The police arrested the two males, but he did not see what happened to the one who was injured as he was preoccupied watching the dog that had been with the two guys, as he was concerned the dog might attack him.

CW4 was interviewed and provided the following information.

CW4 called CW2 as he thought there was someone in the New Pro building. CW2 said he would be going to the building and CW4 attended as well. When CW4 arrived, he saw CW2 walking towards the main road with two males. CW4 saw three RCMP officers and two fully marked police vehicles near CW2 and the two males [CW1 & AP]. AP was resisting the police who told AP to get down to his knees. The officers made several attempts to get AP to the ground and one of the officers swept AP's legs and they laid him on the ground. CW4 recalled AP complaining that he was hurt and could not move or walk.

Witness Officer

WO was interviewed by ASIRT and provided the following information.

WO was with SO1, wearing his full police uniform and attended the location of the incident. When he arrived, SO2 was already out of his vehicle and was talking to a group of people. When he exited his police vehicle and approached SO2, he heard SO2 tell two people, AP and CW1 that they were under arrest and to get on the ground. CW1 immediately complied but AP did not. SO2 grabbed onto AP, so he went behind CW1 and placed him in handcuffs. He heard either SO2 or SO1 say "stop resisting, stop resisting". He looked over and saw SO2 holding AP by the right arm and SO1 holding AP's left arm. WO heard them say "stop resisting" several more times. He did not see what happened to AP as he was focused on CW1 and when he looked up, he saw AP on the ground.

Subject Officers

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

SO1 described that he was wearing a regular police uniform on the day of the incident and was the passenger in a fully marked police vehicle driven by WO. SO1 advised that he and WO attended the scene as requested by SO2. When he arrived, he saw CW2 walking two males towards SO2's parked police vehicle. SO1 heard SO2 arrest both AP and CW1 for break and enter, and then place AP in handcuffs. WO placed CW1 in handcuffs. SO1 noted that AP had large bulges in his pockets. SO1 heard SO2 tell AP several times to get on the ground and keep his hands out of his pocket. SO2 tried to search AP, but AP resisted. SO2 raised AP's arm up behind his back and AP continued

to squirm. AP widened his feet to steady himself. SO1 believed AP might be trying access a weapon, so he grabbed AP by the left arm, near the elbow with both hands and conducted a leg sweep on AP's left leg. AP fell and struck his head on the ground. AP was searched and drugs, drug paraphernalia and wire cutters were found. AP refused to stand when asked so he was dragged a short distance. AP indicated that he could not move his legs and that his neck hurt. EMS was called and AP was transported to hospital.

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

SO2 described that he was wearing a regular uniform shirt and his "high browns" and breeches on the day of the incident, having been at a memorial. SO2 advised that he attended the scene, in a fully marked police vehicle. SO2 spoke to CW2 who advised that he had caught AP and CW1 stealing wire from the New Pro building. He identified himself as a police officer and told AP and CW1 that they were under arrest for break and enter. SO2 asked SO1 and WO, who had not yet arrived to come and assist him in dealing with AP and CW1. SO2 ordered AP and CW1 to their knees and CW1 complied. SO2 handcuffed AP, with his hands behind his back just as SO1 and WO arrived. SO1 and WO were dealing with CW1 and SO2 attempted to search AP, who appeared to have items in his pockets. AP tried several times to access the pouch of his hoodie, despite being told several times by SO2 to stop. SO2 decided to take AP to the ground to complete his search and told AP what he was going to do but was unable to take AP down, as AP had widened his stance. SO2 had AP by the right arm, holding him by the shoulder and elbow when AP began to struggle. AP continued to struggle and then suddenly AP went to the ground, headfirst. SO2 learned later that SO1 had done a leg sweep on AP's left leg, breaking AP's balance. Once on the ground AP was searched and drugs, drug paraphernalia and pliers were found. AP complained that he had no feeling in his arms or legs so SO2 moved the handcuffs to the front. When SO2 realized that AP was injured, he immediately called for EMS.

Video Evidence

SO2's police vehicle was equipped with "Watchguard" that captured the entire occurrence from the time SO2 arrived at the New Pro building. There is no audio accompanying the video.

The video shows SO2 pull into the gravel driveway to the building. There are already two pickup trucks parked at the entrance way as there are a number of cement blocks that are acting as a barricade to prevent vehicles from driving directly up to the building. CW4 is standing there. SO2 exits his police vehicle and is seen speaking with CW4. In the background, you can see CW2 and CW3 walking AP and CW1 away from the building towards the gate and where SO2 and CW4 are. As the group gets closer, SO2 walks to the left around the cement barriers to meet them. CW4 remains in the area and appears to be looking back [presumably seeing SO1 and WO arriving there] before walking towards the group from the right.

As the group gets to where SO2 is, CW2 and CW3 move to stand off to the left of SO2, AP and CW1. SO2 appears to be speaking with AP and CW1. As he is doing this, WO enters into the video and jumps up onto and then down from one of the cement barriers. SO2 walks into the scene from right side. He remains standing watching the entire group. At this time SO2 removes handcuffs. CW1 goes down to his knees while AP remains standing near SO2. WO approaches CW1 and appears to place handcuffs on him without any issue. SO2 then can be seen handcuffing AP to the rear. Very shortly after this SO2 reaches towards the midsection of AP [where the hoodie pocket would be]. Then, SO2 lifts AP's arms upwards behind him using his left hand. SO2 appears to then pull AP, causing him to bend forward. With this, SO1 quickly moves in and takes a hold of AP's arms with his right arm.



SO1 and SO2 holding AP's arms just prior to AP being taken to the ground

SO1 then conducts a leg sweep on AP by putting his right leg in front of AP's legs and quickly pulling him down. This results in AP being taken to the ground. In doing so, AP's head can be seen going downwards towards the ground. However, due to the cement barricades you cannot see exactly how AP's head hit the ground.



SO1 leg sweeping AP

Now on the ground, it appears that SO1 searches AP's pockets while SO2 is then kneeling beside AP. WO stands CW1 up and searches his hoodie pocket and sweatpants and can be seen tossing things he retrieves from the pockets onto the ground. It appears that SO1 and SO2 are leaning over AP and speaking with him. SO2 takes a hold of AP's right arm while SO1 then takes a hold of AP's left arm and they appear to try and help AP to stand up. AP is lifted off the ground, but does not get upright. The officers carry him a few steps before placing him back down to the ground. Almost immediately they pick up him up by the arms again and once again appear to be trying to get AP upright on his feet. They walk this way for approximately 10 feet before they place him on the ground again. AP is then left in this location until the ambulance arrives. Thereafter, AP is tended to by the paramedics before being transported to the hospital. While AP was carried/dragged forward twice, both times it was done in such a fashion that his head was off the ground.

Analysis

The subject officers were lawfully placed and acting in the execution of their duties, having responded to break and enter investigation involving AP and CW1.

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. Where this force is intended or is likely to

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

In this case, the leg sweep of AP was not intended or was likely to cause the type of grievous injury that occurred. Leg sweeps are a commonly utilized control technique, and injuries of this nature are extremely rare. As such, the general use of force criterion of s. 25 is applicable. That is, the officers were permitted to use as much force as is necessary for the execution of their duties, where they have reasonable grounds to do so.

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 trying to access his hoodie pocket where there was obviously something, given the bulge in it. Having been found at a rural location reportedly stripping wire it was reasonable to believe that AP was in possession of some sort of tool(s) (i.e. wire cutters, or other items capable of cutting or stripping wire) capable of being used as a weapon to harm someone. AP was told to keep his hands out of his pockets, but he acknowledged that he did not do so, even though he recognized that he should have. At this point, SO1 came to assist SO2 control AP. Given AP's non-compliance with trying to access the contents of his hoodie pocket, SO1 took AP to the ground with a leg sweep. The sweep was of a kind routinely done where an officer's leg is positioned in front of an offender's leg and the offender is pulled forward such that they are swept/tripped to the ground. A decision to take such a person to the ground to better control them was proportionate, given the totality of the circumstances then experienced by the subject officers.

Contrary to the statements both AP and CW1 provided, the video clearly shows that AP was not picked up off the ground and slammed onto the ground. AP was only tripped to the ground from a standing position.

Reasonably Necessary

AP was willfully non-complying with directions to not try to access the contents of his hoodie pocket. SO1 made a decision to take AP to the ground to reduce the level of threat he posed should he access a weapon. A use of force at this time 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 officer, it is my opinion that they were lawfully placed and acting properly in the execution of their duties. There is no evidence to support any belief that they engaged in any unlawful or unreasonable conduct that would give rise to an offence. While the leg sweep by SO1 did result in AP suffering a broken neck with paralysis, this was an unfortunate and unintended consequence of a lawful use of force. The use of force by SO was proportionate, necessary and reasonable in all of the circumstances.

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

Original Signed

Michael Ewenson
Executive Director

January 12, 2024

Date of Release