



**IN THE MATTER OF A USE OF FORCE CAUSING INJURY TO A MALE
INDIVIDUAL INVOLVING AN OFFICER OF THE CALGARY POLICE SERVICE
ON SEPTEMBER 27, 2020**

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

Assistant Executive Director:

Matthew Block

ASIRT File Number:

2020-57(S)

Date of Release:

December 8, 2022

Introduction

On September 27, 2020, pursuant to section 46.1 of the *Police Act*, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding an injury to a male individual, hereinafter referred to as the affected person (AP). The injury occurred while being apprehended by officers with the Calgary Police Service (CPS).

ASIRT's Investigation

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols, and in accordance with the principles of Major Case Management. ASIRT interviewed all relevant civilian and police witnesses, and obtained and reviewed the medical records of AP. The culmination of this information and other investigative materials provided more than sufficient information to make a decision on the reasonableness of the use of force employed in this event.

Overview of the Circumstances Surrounding the Injury to the Affected Person

At approximately 9:00 a.m. on September 27, 2020, the CPS received a number of 9-1-1 hang up calls from a cellular number. At one point, the male on the phone asked for police, ambulance, and fire. CPS officers attended the location associated to the cellular number. This address was linked to AP. They knocked on the door to the residence several times with no answer. CPS dispatch also made multiple callbacks to the residence in efforts to get someone to answer, but the calls went straight to voicemail. As there was nothing to evidence anyone was in distress, the officers left the scene.

At approximately 9:50 a.m., police received another call from the same cellular number. This time AP stated that he had harmed himself by slitting his wrists, and then hung up. Police re-attended AP's residence and conducted door knocks. Once again, there was no answer. This time officers heard something/someone inside, and decided to force their way in to conduct a check on the welfare. Once they forced their way in, AP was located inside in possession of a knife, and what appeared to be serious self-inflicted injuries. The initial officers backed away, while maintaining communication with AP through the door until a tactical team could arrive with less-lethal options.

When tactical officers arrived, they entered the residence and found AP to be presenting with apparent signs of shock/blood loss. AP's well-being was a serious concern for the officers. Before officers could get him medical assistance, AP stood up with the knife and appeared to be going to injure himself further. At this time, an officer deployed three

rounds from his ARWEN (less-lethal blunt impact projectile launcher) to AP's body in an attempt to disarm him of the knife so that medical aid could be rendered to him. The ARWEN was successful in disarming AP. A tactical emergency services medic was present with the tactical team, and they immediately administered first aid to AP. AP was subsequently transported by ambulance to hospital in life-threatening condition.

The life-threatening condition was reported to be as a result of AP's self-inflicted wounds, and not the result of the ARWEN deployment. The AP suffered a mild lung contusion from the ARWEN, and the self-inflicted injuries to his wrist. AP was treated for both of these, as well as mental health concerns and was subsequently released from hospital. No officers were designated as subject officers in this investigation.

INTERVIEWS

AP was interviewed and provided the following information

AP told ASIRT investigators that he was not a regular drug user, and he only started using due to some personal issues he experienced in 2018. AP admitted he called police on several occasions on September 27, 2020, to come to his home. This was a result of paranoia from some drug use.

AP said he was looking for help, which was hard to get. AP ended up cutting himself, but he did not answer the door because he was scared to. Eventually, the police came into his house. He was threatening himself and was doing nothing aggressive towards the police. He remembered the first shot being to his arm. He did not remember the shot to the chest, but he did remember ending up on his back. He was concerned that the police did more damage to him than he did to himself.

AP stated that he had taken some cocaine, but he felt there was clearly some other substance in it. He explained that the drugs altered his perception, and he just did not want to go with the police. He said this was his fault, and that his previous experiences with the police had been positive.

AP did what he did in order to put the system in a position where they had to help him get help. He believed that the positive that came from this event was that he was about to enter a treatment program.

Medical Records for AP

AP was examined and treated at the hospital for self-inflicted lacerations to his left wrist, and three rubber bullet impacts to his chest and right arm. There did not appear to be any vascular injury or fracture to AP's left arm, so the lacerations were tended to. The ARWEN round to the chest resulted in a mild lung contusion, but functions of both the

left and right lungs were normal. AP's right arm that was impacted by two ARWEN rounds was examined, but nothing of significance was noted. Toxicology upon admission showed that AP had cocaine, ketamine, and cocathylene in his system. AP was also treated by a resident psychiatrist. The psychiatrist opined that AP's suicide attempt might have been triggered by substance-induced psychosis from cocaine use. After being admitted to hospital for a period, AP was cleared for release as he had a treatment plan in place.

Investigation

Comment

ASIRT investigators spoke with the estranged spouse of AP in an effort to get an understanding of AP's background and what may have led to his actions on September 27, 2020. Additionally, ASIRT interviewed over ten officers that had been involved in the attendance to AP's residence to either of the calls he made to police.

In this particular incident, there was no real question that an officer discharged an ARWEN at AP three times in an effort to apprehend him, to allow for him to get the medical attention he needed after admittedly cutting himself and being in possession of a knife.

Analysis

The officers were lawfully placed and acting in the execution of his duties, having responded to a check on the welfare complaint. The first call did not result in any officers forcing entry into AP's home. This may have been as a result of a lack of apparent urgency to do so. Whatever the reason, the attending officers likely would have had the authority to do so nonetheless.¹ In this case, nothing turns on the decision not to enter on the first call. Officers responding to the second call had more information. This time the AP had indicated on the call that he had self-harmed by slitting his wrist. Responding officers to this call ultimately decided to force their way in to check on the welfare of the occupant(s). This entry was fully justified based on the Supreme Court of Canada's decision previously cited.

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.

¹ *R. v. Godoy*, [1999] 1 SCR 311

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 officers were dealing with a situation where AP was in possession of a knife and had already self-harmed. The officers had the authority under the *Mental Health Act* to apprehend AP. The initial attending officers to the second call should be commended for recognizing the situation for what it was – a mental health crisis, and backing out until appropriate resources could respond to assist. This enabled the responding support officers to utilize equipment to disarm AP of the knife more safely. Given the immediate threat that AP posed to himself, and the attending officers, utilizing the less lethal ARWEN was proportionate to the situation they were presented with.

Reasonably Necessary

Similarly, there was a need to take control of the situation, and apprehend AP so he could get the medical assistance he needed. To do nothing was not an option and, as such, the officers were required to use some level of force to accomplish the safe apprehension of AP. The use of the ARWEN was reasonably necessary given the behaviour AP presented.

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 actions of the officers in dealing with AP, 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 any officer engaged in any unlawful or unreasonable conduct that would give rise to an offence.

Original signed

Matthew Block

Assistant Executive Director

December 8, 2022

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