

June 3, 2019

Uses of force reasonable in arrest of armed man

On Sept. 27, 2017, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding the arrest of a 29-year-old man in Lloydminster that resulted in an officer-involved shooting. During the arrest, the man was struck by a police vehicle and two RCMP officers discharged their service pistols, resulting in serious injury.

ASIRT interviewed police and civilian witnesses, including the 29-year-old man and both subject officers. Large portions of the events, including the uses of force were captured on audio and video recordings. ASIRT's investigation is complete.

Having reviewed the investigation, executive director Susan Hughson, QC concluded there were no reasonable grounds, nor reasonable suspicion, to believe the involved officers committed any criminal offence.

On Sept. 27, 2017, Lloydminster RCMP officers attempted to stop a Dodge truck in relation to an outstanding investigation. The truck entered the drive-thru of a fast-food restaurant. An officer in a marked RCMP vehicle pulled behind the truck and activated its lights and siren. Other officers pulled in front of the truck. In response, the driver of the truck drove over the drive-thru curb and up an embankment to the roadway, speeding past two officers standing with their service pistols pointed at the truck. As the driver exited the parking lot, he headed northbound on 40 Avenue and engaged in a high-speed criminal flight from police.

As the truck approached 52 Street, it collided with a SUV driven by a 25-year-old woman, causing extensive damage to both vehicles and causing the woman's vehicle to roll, landing on its roof. The woman did not sustain serious injury. The visible damage to her vehicle and the force of the collision would have easily left an observer with the belief that any occupant would have likely sustained serious injury or died. Data downloaded from the truck confirmed that immediately prior to the collision, it had been travelling at a speed of 144 km/h, and was moving at 124 km/h at the moment of collision.

The truck stopped on the side of the road. A passenger fled on foot from the truck to an adjacent field. The 29-year-old exited the truck holding a handgun, and immediately ran towards a man who stopped his truck to provide assistance.

An officer in pursuit pulled over his marked police vehicle and exited upon seeing the collision. He shouted verbal commands to drop the gun as the 29-year-old man ran towards the second truck. When the armed man failed to comply, the officer fired his service pistol. The man kept running and reached the civilian's truck, attempting to gain entry. With a gun in hand, the man began banging on the driver's window and yelling for him to "get out of the truck."

As the armed man stood at the driver's door, a second officer drove up in his unmarked RCMP SUV and clipped the armed man with the vehicle, causing him to spin away and fall, dropping the gun. As the second officer exited his SUV, the man got up, grabbed the handgun and raised it. The officer fired two shots from his service pistol striking the man.

The man fell to the ground, where he was arrested and handcuffed. RCMP members contacted Emergency Medical Services, who responded to the scene, provided medical attention and transported the man to a nearby hospital. He was subsequently transferred by STARS air ambulance to an Edmonton hospital where he was treated for what would ultimately turn out to be serious, permanent injuries including partial paralysis.

Under S. 25 of the *Criminal Code*, police officers are entitled to use as much force as is reasonably necessary to carry out their lawful duties. When necessary, where an officer believes, on reasonable grounds, that the person presents an imminent risk of death or grievous bodily harm to the officer or any other person, he or she may use force that is intended or likely to cause death or grievous bodily harm. An officer may also use lethal force in limited circumstances to prevent the flight of a person.

During the course of these events, the 29-year-old man demonstrated he was highly motivated to escape, having driven over an embankment and fled police. He was not only prepared to endanger others to do so, but had possibly already injured or killed an uninvolved woman who had simply been in his path, having forcefully collided with her vehicle. Instead of remaining at the scene of the collision or checking on the condition of the driver of the other vehicle, the man took a handgun from the truck before running towards a vehicle that stopped to provide assistance. In these circumstances, the man objectively presented a risk of death or grievous bodily harm to the occupant of that vehicle. Having directed the man to stop or drop the gun, the first officer's use of force was reasonable and necessary. This risk became even more immediate when the man reached and attempted to enter the stopped truck. The use of the police vehicle to remove the armed man from the vehicle door of the innocent bystander was reasonable in the circumstances.

Having been fired on by the first officer, and struck by a police vehicle, the man stood and instead of running or surrendering, decided to pick up the handgun. In that moment, the man presented a risk of grievous bodily harm or death to not only the innocent bystander but also to the officer.

The officers' use of force during this event, while they were lawfully placed and engaged in the lawful execution of their duties, was both reasonable and justified in the circumstances. In the opinion of the executive director, there can be no doubt that the actions of the officers prevented the man from committing what could be characterized as an armed robbery, or more simply, a "car-jacking", that could have easily resulted in the serious injury or death of the driver of that vehicle. As such, no charges will be laid against the officers.

ASIRT's mandate is to effectively, independently and objectively investigate incidents involving Alberta's police that have resulted in serious injury or death to any person.

Media inquiries may be directed to:

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