



**IN THE MATTER OF AN OFFICER-INVOLVED SHOOTING INVOLVING RCMP
IN GRANDE PRAIRIE ON DECEMBER 4, 2018**

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

Executive Director:

Michael Ewenson

ASIRT File Number:

2018-0063(N)

Date of Release:

August 31, 2023

Introduction

On December 4, 2018, the Alberta Serious Incident Response Team (ASIRT) was directed pursuant to s. 46.1 of the *Police Act* to investigate a non-fatal Grand Prairie Royal Canadian Mounted Police (RCMP) officer-involved shooting. The shooting was reported to have happened at the conclusion of a criminal flight event involving a stolen truck.

ASIRT's Investigation

ASIRT's investigation was comprehensive and thorough, conducted using current investigative protocols and principles relating to Major Case Management. Evidence from the affected person (AP), a civilian witness (CW), the subject officers, and in-car video recordings provided sufficient information to determine whether the force used by the subject officers during this critical incident was reasonable.

Circumstances Surrounding the Officer-Involved Shooting

In the very early hours of December 4, 2018, subject officer #1 (SO1) was patrolling an area of Grand Prairie when she observed a male driving a truck in a suspicious manner. It was subsequently determined that the driver was AP. SO1 positioned her unmarked police vehicle behind the truck and conducted a licence plate check. This revealed that the licence plate affixed to the truck appeared to match the truck in front of her. [Once this event was concluded, it was determined that the truck was actually stolen, and the licence plate was also stolen from a similar looking vehicle.] As such, SO1 decided she would not stop the driver of the truck. However, as she continued behind it, the driver of the truck began to speed. As a result, SO1 turned on her emergency lights to conduct a traffic stop. AP did not stop the truck, but rather continued to drive with her following.

AP increased the speed at which he was travelling. Subject officer #2 (SO2) advised over the radio that he was coming her way to assist. About this time, AP drove the truck north in a southbound lane. A supervisor advised over the radio to stop pursuing the truck. AP moved the truck back into the proper lane. At this time, SO2 arrived in his marked police vehicle and he took over as the primary pursuit vehicle, with SO1 driving behind SO2 and the truck.

SO2 followed the truck as it drove down a relatively isolated access road. Part way down this road, AP slowed the truck down and actually stopped. SO2 stopped his police vehicle offset to the left of the truck and approximately 20 meters back of it. SO1 stopped parallel

to SO2, and remained in her vehicle. Suddenly, AP put the truck in reverse, and accelerated rapidly backwards ramming the front of SO1's vehicle.

The front end of SO1's vehicle was severely damaged and the vehicle was rendered inoperable. SO2 was standing just outside his vehicle when AP was moving the truck to ram SO1. Just before AP rammed the truck into SO1's police vehicle, SO2 fired a number of rounds from his handgun at AP in the truck, in an attempt to protect SO1.

AP was not struck by any of the rounds, and placed the truck into drive and began to drive forward. As AP drove forward and was slightly ahead of SO2's vehicle AP discharged a shotgun containing birdshot in SO2's direction. SO2 was not struck by any of the pellets. AP continued driving the vehicle forward, but it stalled out approximately 50 feet up the road.

SO2 began to shoot again at the driver. He shot numerous rounds. By now, SO1 who was not seriously injured, had exited her police vehicle and taken cover at the rear of SO2's vehicle. SO1 also started to shoot her firearm at the truck. AP then discharged the shotgun again. Both subject officers continued to shoot at the truck/AP. AP discharged the shotgun a third time, and both subject officers returned more rounds at the truck/AP.

The passenger door of the truck opened, and CW1 exited first, followed shortly thereafter by AP. SO1 observed that a "long gun" was being carried by one of these individuals. SO1 yelled to SO2 that he has a "long gun". CW1 ran around the front of the truck carrying a duffle bag going towards an adjacent ditch. AP followed behind CW1 running the same direction carrying the shotgun. CW1 was able to get into the ditch. As AP ran towards the same spot where CW1 was, AP was shot in the leg. AP initially fell to the ground, but got back up on his feet. He only hopped a few steps before he fell to the ground and stayed there. After AP was shot, CW1 came back towards the road and fell or laid on the ground.

SO1 jumped into the police vehicle with SO2 and they backed out of the area until they came across responding back-up officers. They stayed at this location while other officers attended the scene and took both AP and CW1 into custody. AP was found to have a gun shot wound to his left femur, which was subsequently repaired at the hospital.

The scene examination found the sawed-off shotgun that AP had possessed and discharged during this event. The duffle bag CW1 had carried away as he ran from the truck was found near where he went to the ground. The bag was open and a sawed-off .22 calibre rifle was located laying nearby it. Three empty shotgun shells along with 49 9mm bullet casings were also recovered from the scene.

Interviews

AP was interviewed by ASIRT and provided the following information

AP advised that he got the truck from a friend who said he could borrow it. He and CW1 were driving around and decided to get some food when he noticed a police vehicle behind him. He does not have a driver's license and he said the police bug him all the time. He saw the police lights turned on but he decided not to stop for them.

AP said that at one point he backed into one of the police cars. He did this because he wanted the police to leave him alone. His intent was for them to stop following him. The police started to shoot at him. The truck died, he took a shotgun from a bag that was in the truck and for some "stupid reason" he decided to shoot back at the police. He shot the shotgun because the police were shooting at him.

He told CW1 to get out of the truck and then pushed him out. Once out of the truck, his leg started to hurt and he could not walk. He thought he got shot three times. The police were yelling at him to crawl toward them but he could not because of his leg. AP stated he is a Heroin and Methamphetamine user, and he had used earlier that morning.

AP provided consent for his medical records. Those records revealed that AP suffered a compound fracture of the left femur. This was a through and through wound which was fixed with a surgery.

CW1 was interviewed by ASIRT and provided the following information

CW1 advised that AP was his methamphetamine dealer and that AP had used some prior to picking him up. CW1 advised that he and AP went out to get something to eat, and an undercover police car pulled up behind their vehicle. The next thing he knew they were in a high-speed chase. He wanted out of the vehicle but AP kept driving. AP was driving fast, but CW1 could not see the speedometer to know how fast. AP slammed on his brakes trying to get the police to slam into the back of the truck.

At one point, AP slammed the gas pedal to the floor in reverse hitting a police car, and the police started shooting at the truck as it had then stalled out. CW1 kept his head down in the passenger seat.

AP had two guns, one he knew was a .22 calibre. AP grabbed a shotgun from down by his feet and started shooting at the police from the driver's window. The shotgun had a

shoulder strap, and was sawed-off. AP fired three to five rounds and CW1 was being hit in the face by the empty shells. The .22 calibre rifle was still in an open bag in the truck.

AP pointed a gun at him and ordered him to carry the duffle bag with the rifle in it. AP was ordering him out of the truck. Both he and AP exited out of the passenger side of the truck. CW1 stated he slipped and fell causing the rifle to fall out of the bag. AP grabbed him and said, "Let's go." AP pulled him to the front of the truck. AP still had the shotgun and was pointing the barrel in the direction of the police. AP may have fired the gun while outside the truck. CW1 stated he heard the police yelling "stop" when he exited the truck. He fell and stayed down on the ground. AP ran towards the ditch and was shot. He began to scream that he had been shot in the leg. Both of them were arrested and handcuffed by police.

Subject Officers

While not required to do so, both subject officers provided statements to ASIRT

Subject Officer #1 (SO1)

In the early morning hours of December 4, 2018, she was patrolling the area in an unmarked police vehicle, when she noticed a truck that seemed suspicious to her. She ran the licence plate on the truck, and it came back to a truck that looked similar in appearance to that registered to the licence plate. She decided she was not going to stop this vehicle. She was travelling in the same direction as the truck. They entered a 50 km/hr zone and she noted that the driver of the truck sped the vehicle up such that she had to drive around 85 km/hr to keep up with the truck. At this time, she decided to conduct a traffic stop on this vehicle.

SO1 activated her emergency lights, but the driver of the truck did not stop. She continued following the truck while the driver failed to pull over. All of a sudden, the driver of the truck slammed on his brakes causing her to have to swerve into the next lane to avoid running into the back of the truck. She notified other officers over the radio that the driver of the truck had just brake checked her. It became clear to her that for whatever reason, the driver of the truck was motivated to avoid being apprehended by the police. She continued following the truck, now from more of a distance. She observed the truck at one point move to driving north in the south bound lane. A supervisor at this point stated over the radio to "shut down" the pursuit.

SO1 advised that in order for her to exit the road she was travelling on, she had to continue north bound, which resulted in her incidentally still paralleling the truck. The

driver of the truck then crossed over the meridian onto the proper side of the road. About this time, SO2 arrived as backup. SO2 took up the primary position behind the truck, with SO1 now following behind SO2. AP continued to refuse to stop for the officers in pursuit. Eventually, AP took a service road that SO1 was not even aware of. It was very dark given the time of day, location and lack of any other vehicles. SO2 advised that he believed the occupants of the truck were going to ditch the truck and run.

SO1 observed as the driver of the truck brought it to a stop. She put her vehicle into park. She was preparing to get out of her vehicle to assist SO2 in apprehending the occupants, when she noted that the reverse lights on the truck were activated and the truck was approaching her vehicle at a very high rate of speed. SO1 described how she felt as if her stomach was now in her throat. All she could think was that "this person is going to kill me." SO1 frantically attempted to put her vehicle into reverse so she could try to get away, but she fumbled over the gearshift and was ultimately unable to get her vehicle into reverse.

As the truck continued towards her vehicle, she was terrified and felt completely helpless knowing this could be the end of her life. She braced for the impact. SO1 closed her eyes and heard a loud crash and felt her police car jolt and an airbag exploded into her. Her ears were ringing, and when she opened her eyes she could not see out the front windshield, but she could hear what sounded like gunshots.

She then thought about SO2 and what was happening to him outside her police vehicle. She opened her door and instantly ran toward his police vehicle where he was. SO1 drew her firearm and began to fire toward the truck that was now pulled ahead of SO2's vehicle and stopped. SO2 was afraid that the occupants of the truck might again try to kill herself or SO2. She then observed AP exit the truck and turn toward SO2 with a gun and saw the flash from the end of the barrel pointing toward SO2. She looked to the passenger side of the truck and noticed a second occupant standing outside the truck holding a long gun in the air. At this point, she yelled to SO2 that they had long guns. She did this, because their normal body armour does not protect them against the ammunition used in long guns.

SO2 dropped to the ground to get extra cover from the occupants. SO1 then moved to the driver's side of the vehicle where she took cover at the "A" pillar. She continued to fire her service pistol. She was still afraid for her and SO2's life. She then saw both occupants on the driver's side of the truck. It appeared to her that AP was moving towards SO2.

She then noticed that one suspect (AP) was laying on the road, and the other (CW1) seemed to be further off of the road toward 100 St. CW1 then came back onto the road and was laying there with AP. She started to run towards a building for more cover, but SO2 yelled at her to come back and get into his police vehicle. SO1 did so, and then SO2 drove them backwards down the road to where they were finally met by another police vehicle that was coming to back them up. They remained at this location until they went back to the detachment.

Subject Officer #2 (SO2)

At approximately 4:00 a.m. on the day in question, SO1 advised over the radio that she had a truck that was not stopping for her. SO2 left the detachment to assist SO1, thinking he might be able to get in a position to deploy a spike belt. At one point, SO1 advised that the driver of the truck had slammed on their brakes in an attempt for her to rear end the truck. SO1 gave the direction of travel, and he found the truck and observed as it was driven recklessly. He observed as it jumped a curb. SO2 was able to get in behind the truck and follow it for some distance when all of a sudden AP slowed the truck down significantly. SO2 thought the occupants were looking to jump out of the truck and run away. SO2 slowed his police vehicle and kept some distance from the truck, as he was confused why AP would suddenly take this action after having driven so aggressively previously to evade them.

SO2 un-holstered his firearm as he felt this was going to be a high risk arrest. He noted that SO1 had pulled her vehicle to the right side of his. SO2 was intending to communicate with the occupants of the truck, but he then noticed the reverse lights for the truck were on. AP put the pedal to the floor and the truck started travelling at a high rate of speed in reverse directly towards SO1's vehicle, with her still inside of it.

AP was driving a pickup truck that was much larger than their Ford Taurus police vehicles, and given his experience from collision investigations bigger vehicles usually win over smaller ones. SO2 believed that AP had shown that he no longer was trying to escape, but rather he wanted to kill police, as he was using his vehicle as a weapon which could easily kill someone.

The truck was moving at a high rate of speed and was closing quickly on SO1's vehicle with her still in it. He believed he needed to act to try and protect SO1 from dying. From his memory, SO2 started to shoot at AP when the truck was about 10 feet back from ramming SO1's vehicle. The truck rammed SO1's vehicle and was then stopped for a moment. SO2 does not remember firing any further shots then. AP then drove the truck

forward a distance and then it just stopped for an unknown reason. SO2 stated that he was inside his vehicle and knows that he shot through windshield, but he does not remember doing so. He knows he was being shot at after the truck had come to a stop. He did not know how many times he was shot at, just that he was being shot at as he could hear it. SO2 was aware that there were two individuals in the truck.

In his mind, AP was walking towards them shooting. He also seemed to recall that CW1 was advancing towards them too, but he could not really recall for sure. SO2 recalls being at the rear of his police vehicle with SO1, and them both shooting back. After what seemed like a long time, he noticed that both males were laying on the road. He was not sure if they were dead, or what was going on.

As they were getting low on ammunition he decided that it was best to pull back and regroup. He backed them out of the scene, and had no further interaction with either male.

Video Evidence

Both police vehicles the subject officers were driving had an in-car video recording system. Given this, the actual events in this occurrence are captured, not impacted by adrenaline, perception or any other frailties associated with human memory and recall.

SO1's vehicle recordings captured the initial interaction and driving of AP. It also captured her following SO2 once he took over the primary position in the pursuit of AP. SO1's recordings also show her stopping near SO2 when AP stopped in the middle of the road. It also captures AP reversing rapidly into her vehicle. After being rammed, the recording from SO1's vehicle is of no real use given that her vehicle was pushed in such a way that the camera is no longer pointed towards the truck, and most importantly the hood of the vehicle is completely pushed up blocking the windshield and the camera that faces outwards through it.

SO2's vehicle recording of the occurrence is an excellent independent and objective source for what lead to the subject officers discharging their firearms, and AP being shot in the leg.

SO2's recording starts with him driving to get to the location where SO1 is pursuing AP. It shows SO2 pull a U-turn to get behind the truck being driven by AP. AP shortly thereafter drives over the curb at high speed. SO2 drives up to the nearby intersection and turns to follow the truck. AP makes a left hand turn at the next intersection and cuts off another truck that was in the process of turning that direction too. SO2 follows AP

and the truck on this apparent service road for about 45 seconds, when AP suddenly stopped the truck in the middle of the road. SO2 stopped his police vehicle offset to the left of the truck and approximately 20 meters back of it. Suddenly, AP put the truck in reverse, and accelerated rapidly backwards.

The video shows the truck as it passes SO2's vehicle, going out of sight. Based on SO1's in-car video we know the truck rammed her vehicle very shortly thereafter. As the truck is just going out of sight from SO2's video, you can hear SO2 yell something, but it is indiscernible. SO2 then can be heard firing a number of rounds from his handgun. Shortly thereafter, you can hear SO2 advise over the radio, "shots fired, shots fired."

SO2's video then shows as AP drives the truck forward after ramming SO1's vehicle and is slightly ahead of SO2's vehicle, discharging a shotgun containing birdshot in SO2's direction. The wadding from the shell is seen moving across the screen. SO2 was not struck by any of the pellets. AP continues driving the vehicle forward, but it stalls out approximately 50 feet up the road.

SO2 begins to shoot again at the driver. He shoots numerous rounds. AP then discharges the shotgun again. Based on the sound of gunfire, both subject officers continue to shoot at the truck/AP. AP discharges the shotgun a third time, and more rounds can be heard being shot at AP/truck.

The passenger door of the truck opens, and CW1 exits first, followed shortly thereafter by AP. SO1 yelled to SO2 that he has a "long gun". CW1 ran around the front of the truck carrying a duffle bag going towards an adjacent ditch. AP followed behind CW1 running the same direction carrying the shotgun. CW1 was able to get into the ditch. As AP runs toward the same spot where CW1 is, AP is apparently shot in the leg. AP initially falls to the ground, but gets back up on his feet. He only hops a few steps before he falls to the ground and stays there. After AP is shot, CW1 comes back towards the road and falls or lays on the ground. You can then hear SO1 say "two down."

SO2 then tells SO1 to get into his vehicle. After confirming that SO1 is inside, SO2 drives/reverses the police vehicle out of the area. You can hear SO2 on the radio advising the backup officers that "me and SO1 are backing up, he has a long gun and we have two down." A supervisor confirms over the radio that the two people down are not officers. There is further radio communication advising the backup officers that they did not clear the truck and to be careful as they have a long gun. SO2 backs up to a location where he is able to manoeuvre the vehicle into drive, and proceeds to drive normally to the main road where they meet another officer.

Other Evidence

ASIRT investigators also obtained statements from a civilian witness who resided in a nearby trailer and witness officers. None of these individuals actually saw the shooting event unfold, but their statements are in the investigative file.

Scene Examination

The scene examination found the sawed-off shotgun that AP had possessed and discharged during this event. The duffle bag CW1 had carried away as he ran from the truck was found near where he went to the ground. The bag was open and a sawed-off .22 calibre rifle was located laying nearby it. Three empty shotgun shells along with 49 9mm bullet casings (from the subject officers) were also recovered from the scene. SO2's police vehicle had numerous hits from bird shot ammunition (pellets) fired from the shotgun to the driver's side window/door and some to the front windshield. There were also some outbound holes through the front windshield from when SO2 was shooting at AP inside the truck from within his police vehicle.

Use of Force

Analysis

The officers were lawfully placed and acting in the execution of their duties, initially dealing with a driver that was refusing to stop the vehicle he was driving. Thereafter, they were dealing with the same person who intentionally rammed a police vehicle.

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.

A police officer's use of force is not to be assessed on a standard of perfection nor using the benefit of hindsight.

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. Here, SO2 was faced with an individual that was about to ram SO1's comparatively smaller vehicle with a truck at relatively high speed. A vehicle being used in such circumstances could reasonably be believed to be a threat to SO1's life. As such, SO2's response in using his firearm to shoot at AP was proportionate to the threat of death or grievous bodily harm that he posed to SO1.

As set out previously in this report, after ramming SO1's vehicle, AP drove the truck forward and shot at SO2 as he drove past him. SO2, then joined by SO1, shot at the truck/AP numerous times. AP fired the shotgun two more times, with both subject officers continuing to return shots from their respective handguns. AP and CW1 exited the truck and started to run in a direction that would allow them to get into a dark ditch. AP was shot by one of the subject officers in the leg causing him to become incapacitated. With AP running towards the ditch still armed with a shotgun, and the possibility that should he get to the ditch he could have the ability to have better cover and an ability to ambush the officers, the response in using their firearms to shoot at AP was proportionate to the threat of death or grievous bodily harm that AP still posed to the subject officers.

Reasonably Necessary

As set out previously in this report, AP presented the officers as a lethal threat given his actions initially towards SO1, and his subsequent actions towards SO2 in firing a shotgun at him multiple times. Under the circumstances as then faced by the officers, no other use

of force options were reasonably available for attempted use. The use by the subject officers of their firearms to incapacitate this threat was reasonably necessary.

Given the above, the defence available to the subject officers under s. 25 of the *Criminal Code* would apply.

Conclusion

After a thorough, independent and objective investigation into the conduct of both subject officers, 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 either of the subject officers engaged in any unlawful or unreasonable conduct that would give rise to an offence. The force used was proportionate, necessary and reasonable in all the circumstances.

Original signed

Michael Ewenson
Executive Director

August 31, 2023

Date of Release