

SiRT

SERIOUS INCIDENT
RESPONSE TEAM

Summary of Investigation
SiRT File # 2020-030
Referral from
New Glasgow Police Service
August 3, 2020

Felix Cacchione
Director
November 10, 2020

This matter, concerning a police officer involved shooting was referred to SiRT by the New Glasgow Police Department (NGPD) within minutes after it occurred on the evening of August 3, 2020. The investigation began that evening with the SiRT investigator travelling to New Glasgow to view the scene, obtain police radio communications and interview various witnesses. The investigation was concluded on October 13, 2020.

The following were obtained, reviewed and considered in the preparation of this report: initial call to 911 by the Affected Party's (AP) mother, transfer of the 911 call to NGPD, police radio communications involving this incident, a video recordings taken from dash - mounted cameras in the police vehicles operated by the Subject Officer (SO) and Witness Officer 1 (WO1), police reports prepared by WO1, WO2 and WO3, the SO's police report and notes, statements from eight civilian witnesses (CWs), Forensic Identification Services reports and photographs, audio/video clip recorded by a CW, various Facebook posts and examination of the SO's service weapon, ammunition clips, and Conducted Energy Weapon (Taser).

Neither the AP or his mother were prepared to provide a statement to the SiRT investigator, and the AP did not consent to a release of his medical records.

Facts:

A review and consideration of all the above noted evidence establishes the following facts: the AP's mother called 911 at 8:45 p.m. on August 3, 2022 to report that the AP had been drinking alcohol and had damaged property in her residence. She provided a description of the AP and his clothing, indicated that he had left the residence on foot and described him as being "out of control", "very, very, violent", and "a threat to anybody out there".

The SO, WO1 and WO2 responded to the dispatch from the NGPD and began patrolling the area searching for the AP. During their patrols, the officers were made aware that the AP had stolen two bottles of rum from the local Nova Scotia Liquor Commission store. A short time after being notified of this theft WO1 observed the AP, with a bottle of rum in his left rear pants pocket, walking along McColl Street. WO1 drove up along side the AP with the passenger side window of the police vehicle down and attempted to speak with the AP by calling his name and asking him to stop so they could talk. The AP did not stop but instead continued walking to Washington Street, a street adjacent to McColl Street. WO1 followed the AP and notified the SO and WO2 that the AP was now on Washington Street.

The SO entered Washington Street from a direction opposite to that being travelled by WO1 on that street. The AP was walking towards the SO's vehicle, which had come to a stop, when he removed a knife with his right hand from his right front pants pocket and continued walking towards the SO who had by then exited his vehicle with his Taser in hand. The SO positioned himself behind the driver's side door of his vehicle and told the AP to stop and drop the knife. The AP continued walking towards the SO, removed a bottle of rum with his left hand from the left side of his jacket and threw it to the ground.

The AP then began walking towards the passenger side of the SO's vehicle. The SO continued telling the AP to drop the knife, but he did not. Eleven seconds after the AP began walking towards the SO's vehicle, the SO deployed the Taser. It was not effective, and the AP began running towards the SO while raising the knife in his right hand. The SO quickly started to move backwards while reaching for his service firearm as the AP continued running towards him with the uplifted knife. The AP was less than a foot away from the SO when the SO fired three shots within 1.2 seconds.

The AP fell to the ground in a nearby driveway. Both the SO and WOI began to administer first aid and continued to do so until the arrival of paramedics.

The entire incident, from the time the SO stopped his vehicle until the AP was shot, lasted 15 seconds. The incident in its entirety was clearly captured on video by the camera mounted on the dash of the SO's vehicle. The video recording made by the camera in WOI's vehicle is not as clear because that camera is facing the SO's vehicle and the glare of the headlights from the SO's vehicle greatly reduces the clarity of that video.

The videos made by the cameras in these police vehicles cannot be altered by any NGPD employees. The videos were downloaded for this investigation by the Town of New Glasgow IT department.

Legal issues:

1. Did the police involved have legal authority to arrest the AP?

Police officers are entitled to arrest a person they find committing an indictable offence, or who they have reasonable grounds to believe has committed an indictable offence.

2. Was the SO entitled to apply force to protect himself?

Police officers are entitled to apply force to protect themselves from force or the threat of harm from an offender. A peace officer, acting on reasonable grounds, is justified in using force that is intended or is likely to cause death or grievous bodily harm if the peace officer believes on reasonable grounds that it is necessary for self-preservation from death or grievous bodily harm.

3. Was the force used excessive?

Police officers are only justified in using force that is intended or is likely to cause death or grievous bodily harm if they believe, on reasonable grounds, that the force used is necessary for the purpose of protecting themselves from imminent or future death or grievous bodily harm.

Conclusion:

The un-doctored video footage taken from the camera in the SO's police vehicle shows, in real time, the entire interaction between the SO and the AP. It is the best possible evidence of what occurred.

The AP's actions were consistent with what his mother said in her call to 911 i.e. that the AP was very violent and a threat to anyone. The AP was obviously looking for a confrontation when he approached the SO's vehicle. He did not stop when told to do so. He produced the knife which he did not drop when ordered to do that but rather kept approaching the SO. The use of a Taser by the SO did not deter the AP from continuing to quickly approach the SO with his uplifted knife. The AP was armed and dangerous.

The totality of the evidence, in particular the video taken by the camera in the SO's vehicle, WOI's police report, the SO's police report and notes together with the physical evidence establishes a set of circumstances that show no internal inconsistencies.

Viewed objectively, in light of the protections afforded to peace officers under section 25 of the Criminal Code of Canada, an assessment of the use of force in the circumstances clearly shows that the SO was justified in using the force he did and that the force used was not excessive.

Based on the foregoing, there is no basis to conclude that the SO committed a criminal offence, therefore no charges are warranted against the SO.