



Pierce County

Office of the Prosecuting Attorney

930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Front Desk: (253) 798-7400

Prosecutor Mary E. Robnett

(253) 798-7792
FAX: (253) 798-6636
www.pierceprosecutor.org
pcprosatty@piercecountywa.gov

August 18, 2020

Chief Donald Ramsdell
Tacoma Police Department
3701 S. Pine Street
Tacoma WA 98409

Re: Officer Involved Fatal Incident
Tacoma Police Department Incident No. 1919400316
Prosecutor Nos.: 201914728, 201914729, 201914730, 201914731

Dear Chief Ramsdell:

We have reviewed the investigations stemming from the shooting death of Willem van Spronsen on July 13, 2019. Investigations were conducted by homicide detectives from your department, investigators from our office's Investigative Services Unit (ISU), and investigators from the Medical Examiner's Office (ME). The investigations were also comprehensively reviewed by the Pierce County Sheriff's Department. Based on the investigations and review, we conclude that the officers' use of force was justified and lawful.

Investigations

The relevant statute in effect at the time of this event took effect on February 4, 2019. It provides that "when the use of deadly force by a peace officer results in death...an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040...The investigation must be completely independent of the agency whose officer was involved in the use of deadly force." RCW 10.114.011. At the time of this event, the Washington State Criminal Justice Training Commission (CJTC) was tasked with establishing criteria to determine what qualified as an "independent investigation," as required by the statute, but had not yet adopted rules. RCW 10.114.011.

Although the Tacoma Police Department (TPD) investigated this event involving Tacoma Police officers, the ME conducted an independent investigation pursuant to Pierce County's Officer Involved Fatal Incident (OIFI) Protocol. The ISU investigator from our office also conducted an independent investigation pursuant to the OIFI Protocol. The ISU and/or ME investigators had full, unobstructed access to all aspects of the investigation from the very beginning. The investigators' involvement and access included:



Printed on recycled paper

- Timely notification shortly after the scene was secured;
- Access to the scene while it was undisturbed with the evidence left in place;
- Presence and participation in interviews with the independent witnesses;
- Presence at the postmortem examination and access to reports and case documentation from that examination; and
- Presence and participation in the voluntary interviews of the involved officers.

The CJTC has since promulgated rules that would now fully exclude involvement by TPD after securing the scene and rendering aid.¹ Although TPD was not fully excluded, I have confidence in the integrity of the investigation of this incident based on the multiple concurrent investigations and the independent review by another law enforcement agency. Further, much of this event was documented on video surveillance of the scene.

Summary of Facts

The following is a brief summary of the salient facts. A more thorough description of the facts and witness statements is contained in the Executive Summary Report prepared by Chief Investigator Keith Barnes.

On July 12, 2019, numerous people gathered at the Northwest Detention Center located at 1623 East J Street for a planned protest. The protest ended peacefully at approximately 2000 hours and all protesters left the area except for one subject, Willem van Spronsen. He had arrived that day in a Volkswagen hatchback, which he parked on the street directly in front of an RV that the detention center was using as a counseling center. While Mr. van Spronsen was at the detention center that day, he was seen lighting candles and lingering on the sidewalk near his vehicle.

On July 13, 2019 at approximately 0358 hours, three detention facility workers exited a detention center building and observed lights flashing and an alarm sounding on the Volkswagen hatchback. They then saw a man, later identified as Mr. van Spronsen, breaking windows on a building across the street from the detention center. The witnesses reported that they observed him throwing Molotov cocktails and road flares at the building, some of them landing inside the building, and throwing incendiary devices at a trailer that was parked next to the building.

The witnesses also saw Mr. van Spronsen standing near the back of his vehicle manipulating a rifle that he was holding. The witnesses called 911 and reported their observations, including the fact that the man was manipulating a rifle. The witnesses also contacted detention center security personnel who were inside the building and who were watching the area via security cameras. Although Mr. van Spronsen was the only protester still on scene at that time, the detention center security personnel initially believed that the three detention center witnesses were actually protesters. This explains why it was reported to responding police officers that

¹ Chapter 139-12 WAC became effective January 6, 2020, 30 days after it was adopted by the CJTC.

there was more than one subject/protester still on scene, and that there was possibly more than one armed subject.

At approximately 0405 hours, multiple Tacoma Police officers were dispatched to the detention center in response to the 911 calls. Based upon the information provided by dispatch, the responding officers believed that there might be multiple subjects on scene, and that at least one subject was armed with a rifle. After they were dispatched the officers were further advised that both a structure and vehicle were on fire near the detention center. The detention center witnesses heard sirens approaching the area at the same time that they saw Mr. van Spronsen throwing flares at a large propane tank (500-gallon) on the north side of the building.

At 0414 hours the officers drove into the area as a group, but in several patrol cars. Sgt. Chris Martin was one of those responding officers, and as he drove into the area, he saw a flare being thrown at the 500-gallon propane tank. Sgt. Martin saw the flare land at the base of the propane tank and immediately recognized that there could be a "mass explosion" if the tank was ignited.

Sgt. Martin initially drove his patrol vehicle into the detention center area on J Street, but after seeing the fires and flares being thrown, he decided to back the patrol car out of the area and instead search the area on foot. Based on the information he had been given prior to arriving, Sgt. Martin had his department-issued handgun drawn as he approached on foot to begin searching. Sgt. Martin and the other officers who were behind him could see that the Volkswagen was fully engulfed in flames as they began their search. The vehicle exploded when Sgt. Martin was approximately 20-30 feet away. Later investigation revealed that there was a propane tank in the car that exploded.

Immediately following the explosion Sgt. Martin saw movement in the area of the portable toilets that were lined up along the west side of J Street across from the detention center. Sgt. Martin began to scan the area for other subjects, and he yelled out for Mr. van Spronsen to come out. He did not receive a response to his verbal commands. Sgt. Martin then saw Mr. van Spronsen quickly come from around the northeast corner of the portable toilets. When Sgt. Martin first spotted him, Mr. van Spronsen was holding a rifle in what he described as a low-ready position, but Mr. van Spronsen quickly raised the rifle and aimed it directly at Sgt. Martin. Sgt. Martin immediately yelled "gun, gun gun" to warn the other officers, and he fired his duty handgun at Mr. van Spronsen while backing away so he could get into cover. Sgt. Martin was out in the open and without any viable cover when he first spotted Mr. van Spronsen aiming the rifle at him, which put the sergeant in a particularly vulnerable position. Sgt. Martin reported that he thought he was about to be shot by Mr. van Spronsen and he felt that he had no other choice than to engage Mr. van Spronsen with deadly force because he viewed this as a life-threatening situation.

Police Patrol Officer (PPO) Wyatt Gustason was immediately behind Sgt. Martin when this incident happened. Prior to arriving at the scene, PPO Gustason also heard the dispatch information regarding a subject with a gun outside the detention center. PPO Gustason knew

there were reports of “firebombs and flares” in the area. When he arrived at the detention center, PPO Gustason saw two flares landing within a foot of the propane tank near the portable toilets.

PPO Gustason reported that he was the next officer in line behind Sgt. Martin as they searched the area on foot. After the Volkswagen exploded, PPO Gustason continued to watch Sgt. Martin and saw Sgt. Martin shine his flashlight in the direction of the portable toilets. He then heard Sgt. Martin yell out a verbal command, so he increased his pace to provide better back-up to Sgt. Martin. PPO Gustason next saw Sgt. Martin move “hard left” and heard him yell out “gun.” At that time PPO Gustason saw Mr. van Spronsen pointing what appeared to be an AR-15 rifle directly at him. PPO Gustason later reported that he thought he was about to get shot. In response to what he saw, PPO Gustason also moved quickly to the left to get into cover and he fired his duty weapon, a .45 caliber Glock, at Mr. van Spronsen. PPO Gustason reported that he believed this was a life-threatening situation. He did not think he had any option other than to use the level of force that he used.

PPO Elijah Allman arrived at the detention center in the same patrol car as PPO Gustason. PPO Allman also heard dispatch report that there was a subject on scene with a rifle, and that there were an unknown number of protesters throwing objects and starting fires. PPO Allman reported that they received several updates as they drove to the detention center, to include hearing that there was a vehicle on fire and that someone was throwing Molotov cocktails at the building across the street.

When PPO Allman drove into the detention center area, he could see Mr. van Spronsen’s vehicle fully engulfed in flames. He believed that there were multiple subjects on scene, but he could not see any people in the street. PPO Allman removed his department-issued rifle from his patrol car and chambered a round. He saw PPO Gustason exit the patrol car and the two of them began to search the area on foot. PPO Allman reported that shortly after Mr. van Spronsen’s vehicle exploded he heard Sgt. Martin say that he thought he saw movement behind the portable toilets. He next heard Sgt. Martin yell out “gun” and he then saw Mr. van Spronsen appear between a portable toilet and the fence. When PPO Allman first saw him, van Spronsen already had his rifle shouldered and was aiming it in Allman’s direction, and in the direction of the other nearby officers.

As soon as he recognized that Mr. van Spronsen was pointing a rifle at them, PPO Allman fired his rifle at van Spronsen. PPO Allman reported that he continued firing until it appeared that Mr. van Spronsen was incapacitated and no longer a threat. PPO Allman thought that he had fired between eight to ten rounds at Mr. van Spronsen. PPO Allman reported that through his training and experience he knows that a rifle is “more capable of causing serious injury or death” than a handgun. PPO Allman reported that he believed his life and the lives of the other officers were at risk and he did not think he had any option other than to use deadly force against Mr. van Spronsen.

PPO John Correa was the fourth officer who fired his weapon at Mr. van Spronsen. Prior to arriving on scene, he heard dispatch advise that there had been an incident at the detention center involving a “rifle and a fire.” PPO Correa was the first officer to arrive on scene and began broadcasting to other officers what he was seeing. He scanned the area using binoculars, but he did not see anyone outside the detention center. PPO Correa was also under the belief that there were multiple subjects involved based upon the information relayed to him. As he approached the area, he saw a flare fly through the air and land underneath the large propane tank.

After seeing Sgt. Martin exit his patrol car, PPO Correa joined the sergeant on foot. Sgt. Martin was ahead of PPO Correa walking in the middle of the street. After Mr. van Spronsen’s vehicle exploded, PPO Correa heard Sgt. Martin verbally engage someone who was behind the portable toilets. PPO Correa heard Sgt. Martin yell out, “show me your hands, get down on the ground.” He then saw Sgt. Martin turn and yell, “gun, gun gun.”

PPO Correa next saw Mr. van Spronsen “bouncing back and forth” between a portable toilet and the fence and immediately observed the barrel of a rifle. PPO Correa believed that Mr. van Spronsen was trying to acquire a target; specifically, he was targeting Sgt. Martin. PPO Correa knew Sgt. Martin was in harm’s way because he had no cover. PPO Correa heard shots being fired and thought that Mr. van Spronsen was engaging with the other officers. At that point PPO Correa fired his department-issued handgun at Mr. van Spronsen, firing approximately ten rounds. PPO Correa stopped firing once he saw Mr. van Spronsen fall to the ground and out of his sight. PPO Correa reported that he did not believe that he had any reasonable alternative to the use of deadly force because Mr. van Spronsen was “behind cover, concealment, ha[d] a rifle” and had already started engaging the officers. He was also of the belief that Mr. van Spronsen had “baited” them down to the end of the street, specifically referring to the situation as an ambush.

Mr. van Spronsen was struck by rounds fired by two of the four officers who fired their weapons. The officers approached Mr. van Spronsen once they were safely able to do so and found him lying on the ground near the northwest corner of the portable toilets. Mr. van Spronsen was still holding his rifle despite having been shot several times. Even after securing Mr. van Spronsen, the officers were still scanning the area for other subjects.

The investigation revealed that Mr. van Spronsen’s rifle, identified as an AR-style semi-automatic rifle, was fully loaded. He was dressed in a black hooded sweatshirt and was wearing hearing protection earmuffs. Mr. van Spronsen also had a magazine pouch attached to his left leg that contained four loaded magazines. A later examination of his rifle revealed that it had malfunctioned, which prevented him from actually firing it at the officers. Video surveillance from the incident clearly showed Mr. van Spronsen manipulating the rifle in a manner consistent with attempting to clear a jam before the officers arrived, but it appeared as if he was having trouble doing so.

The officers' duty handguns, as well as the rifle fired by PPO Allman, were all examined by Washington State Patrol Forensic Scientist (FS) Johan Schoeman. FS Schoeman found all four weapons to be operable. The thirteen 9mm shell casings that were recovered at the scene were determined to have been fired from PPO Correa's Glock handgun. The twelve 5.56/.223 casings that were recovered were found to have been fired from PPO Allman's rifle. FS Schoeman was able to match eight .45 shell casings to Sgt. Martin's Glock handgun, and six .45 shell casing to PPO Gustason's Glock handgun. Two spent bullets were conclusively matched to Sgt. Martin's Glock, one bullet having been recovered from Mr. van Spronsen's body and the other recovered from an office wall inside a building.

FS Schoeman examined van Spronsen's rifle and discovered that the rifle had experienced a double feed malfunction in the chamber which prevented the rifle from firing. After removing the chambered round, FS Schoeman discovered that the gas tube was slightly bent, and the bolt carrier would not close. This finding indicated that even if Mr. van Spronsen had been successful in clearing the malfunction during the incident, the rifle likely would not have fired due to the damage. However, once FS Schoeman bent the gas tube back, the rifle operated normally. The rifle had no serial number on it, which made it untraceable. In a letter Mr. van Spronsen sent to an acquaintance prior to the incident, he referenced the rifle, stating that it was a "cheap, home built unregistered 'ghost' ar15." These types of rifles are known as "ghost guns" because they cannot be traced.

The unfired round that FS Schoeman found in van Spronsen's rifle was identified as a 5.56/.223 round. The headstamp matched the other ammunition that had been loaded into the spare magazines found on Mr. van Spronsen. The rounds were loaded with a bullet containing a steel penetrator, which could be capable of penetrating a protective ballistic vest. The rifle was determined to be a 5.56/.223 caliber rifle.

Pierce County Medical Examiner Dr. Thomas Clark conducted an autopsy on Mr. van Spronsen on July 13, 2019. Dr. Clark determined that Mr. van Spronsen had suffered two gunshot wounds, one to the head and another to the left hip/pelvis. Dr. Clark determined that Mr. van Spronsen died from the gunshot wounds to his head and pelvis. The postmortem toxicology report showed that Mr. van Spronsen had "intoxication levels" of THC in his system at the time of his death.

Analysis

The legal standards to be applied in this case are found in RCW 9A.16.020, 9A.16.040, and 9A.16.050. RCW 9A.16.040 applies specifically to a law enforcement officer's use of deadly force and provides:

(1) Homicide or the use of deadly force is justifiable in the following cases:

...

(b) When necessarily used by a peace officer meeting the good faith standard of this section...in the discharge of a legal duty; or

(c) When necessarily used by a peace officer meeting the good faith standard of this section...

- (i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony...

(2) In considering whether to use deadly force under subsection (1)(c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

- (a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or
- (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

"Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended." RCW 9A.16.010(1).

Pursuant to RCW 9A.16.040(1)(b), there is no question that the responding officers were discharging a legal duty when they responded to the detention center and encountered Willem van Spronsen. The officers were on-duty, general authority peace officers commissioned to enforce the criminal laws of the state of Washington pursuant to RCW 10.31.020(1) and (3). As documented above, the officers were dispatched to the detention center after receiving reports that Molotov cocktails and flares were being thrown at buildings and vehicles, windows were being broken, a fire was burning in a building and in a vehicle, and a subject was on site with a rifle. These officers were dispatched to investigate the crimes, many of which are not only felony-level crimes, but crimes and activities that pose a risk of serious physical harm to others. The officers also needed to secure the scene so that fire department personnel could safely enter the area to extinguish the fires. The officers saw Mr. van Spronsen trying to ignite the large propane tank that was next to one of the buildings, and the officers were present when a propane tank inside the burning Volkswagen exploded. The intentional fires and explosions posed a threat of serious physical harm to the officers and others who might be nearby.

It was during the officers' lawful investigation of these crimes that they encountered Mr. van Spronsen, who was armed and pointing his rifle directly at them. Mr. van Spronsen displayed the weapon in a manner that could reasonably be construed as threatening. Further, the officers had probable cause to believe he had committed multiple crimes involving the threatened infliction of serious physical harm. Accordingly, the officers were justified in the use of deadly force to stop that threat and arrest or detain Mr. van Spronsen pursuant to RCW 9A.16.040(1)(b), (1)(c)(i), (2)(a) and (b).

The next consideration is whether the use of deadly force by each officer was done in "good faith" as outlined in RCW 9A.16.040(4). "Good faith" is an objective standard that must consider all the "facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual."

Given the circumstances relayed to the officers at the time they arrived, as well at their own observations once they arrived at the scene, these officers knew that they were walking into a very volatile and dangerous situation. They could have been seriously injured if hit by a flare or Molotov cocktail, and they could have been seriously injured by the fires that Mr. van Spronsen set, as well as the explosions that followed the fires. All four officers knew that the large propane tank was at risk of being ignited by the subject or subjects throwing flares at it. They had also been advised that there was an armed subject on scene, but they could not see that subject when they did a visual search. In every respect, these officers' lives were at risk simply by entering the grounds of the detention center, and any "similarly situated reasonable officer" would have held the same belief.

Each of the four officers reported a very similar timeline regarding the events that occurred after they began approaching the area on foot. They all reported seeing the Volkswagen fully engulfed in flames, and they each reported that the car exploded when they were within 20-30 feet of it. It was shortly after the car explosion that Sgt. Martin first saw Mr. van Spronsen with the rifle. Sgt. Martin recalled that he verbally engaged Mr. van Spronsen, and this was supported by the statements of the other officers. Notably, each officer expressed concern about Sgt. Martin's lack of cover when he first encountered Mr. van Spronsen.

Mr. van Spronsen did not respond to Sgt Martin's commands, but instead brought his rifle to his shoulder and pointed it directly at Sgt. Martin. Sgt. Martin reasonably believed that he was about to be shot at that moment. In fact, any reasonable officer in that situation would also have viewed that as a threat to their life. The other three officers also saw Mr. van Spronsen pointing his rifle in their direction. The three officers who were behind Sgt. Martin heard him yell out "gun, gun, gun" and saw him move quickly toward cover while he fired his gun at Mr. van Spronsen. PPO Gustason and PPO Allman also fired at Mr. van Spronsen, believing that they had no other alternative to protect their own lives and the lives of the other officers. PPO Correa believed that Mr. van Spronsen was trying to "acquire a target" when he saw Mr. van Spronsen with the rifle. He next heard Sgt Martin yell out "gun" and then heard the gun

shots. PPO Correa reasonably believed that the lives of Sgt. Martin, PPO Allman and PPO Gustason were at risk at that time.

The statements of Sgt. Martin, PPO Gustason and PPO Allman demonstrate that each of them reasonably believed that they were about to be shot by Mr. van Spronsen. Each officer saw Mr. van Spronsen holding a long rifle, and each officer saw him aiming the rifle directly toward them. Any similarly situated reasonable officer would have believed that there was no reasonably effective alternative than shooting Mr. van Spronsen. The amount of force used was reasonable to effectuate the lawful purpose of officers stopping Mr. van Spronsen from starting more fires, causing further explosions, and shooting one of the officers or someone else in the vicinity with a rifle.

It is important to note that each officer also had a personal right of self-defense and defense of others under these circumstances. As stated in RCW 9A.16.040(5)(a): "This section shall not be construed as: (a) affecting the permissible use of force by a person acting under the authority of RCW 9A.16.020 or 9A.16.050." RCW 9A.16.020, the general statute regarding lawful use of force, provides:

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

- (1) Whenever necessarily used by a public officer in the performance of a legal duty...
- (2) Whenever necessarily used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person...

The analysis under RCW 9A.16.020 is similar to the analysis under RCW 9A.16.040(1)(b). When this event occurred, the officers were public officers acting in the performance of their legal duty. They were faced with an imminent life-threatening situation when Mr. van Spronsen set fires, caused explosions, and pointed a rifle at the officers. As previously noted, the officers had no reasonably effective alternative other than using deadly force. The use of deadly force was reasonable to effectuate the lawful purpose of stopping Mr. van Spronsen from firing the rifle at them.

The officers' actions are also justified under RCW 9A.16.050, the statute that applies to the general public and defines justifiable homicide. RCW 9A.16.050 provides:

Homicide is also justifiable when committed either:

- (1) In the lawful defense of the slayer...or of any other person in his or her presence or company when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal

injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or

(2) In the actual resistance of an attempt to commit a felony upon the slayer, in his or her presence...

This event led the four officers to reasonably apprehend a design on the part of Mr. van Spronsen to commit a felony and to do great personal injury to the officers. Specifically, he was pointing or aiming a rifle toward the officers who were on foot near the detention facility, one of whom was without cover. There was imminent danger that Mr. van Spronsen would kill one or more of the Tacoma Police officers or someone else within rifle range. Any citizen having the means to respond to such a grave and imminent threat would have been permitted to use deadly force to defend themselves and others.

These applicable self-defense statutes provide additional reasons supporting our determination that the four officers acted lawfully.

In light of the analysis set forth in this letter, we find that the use of deadly force by Sgt. Martin, PPO Gustason, PPO Allman, and PPO Correa meets the good faith requirement of RCW 9A.16.040 and was a justified and lawful use of deadly force by each officer.

Sincerely,



Mary E. Robnett
Pierce County Prosecuting Attorney



Lisa Wagner
Deputy Prosecuting Attorney
Pierce County Prosecuting Attorney's Office