

Rapid City Police Department Shooting Summary detailing events that took place on February 21, 2013

On 2-21-13, the South Dakota Division of Criminal Investigation was called by the Rapid City Police Department to conduct an investigation into an officer involved shooting that occurred at 500 block of Quincy Street. The shooting resulted in the suspect, Elijah White Magpie being shot at least 5 times by Officer Jerry Moore. White Magpie was transported to Rapid City Regional Hospital where he was treated for his injuries. The following information is a synopsis of the events that occurred on 2-21-13 and the investigation that was conducted by the Division of Criminal Investigation and the Pennington County Sheriff's Office.

Synopsis

On 2-21-13 at approximately 6:01 pm, the Rapid City Police Department received a 911 call that a subject was outside of the Rapid City Public Library running around with a knife and just threw a rock through the window.

At approximately 6:10 pm, Officer Jerry Moore arrived at the public library. Upon arrival, Officer Moore turned on his in-car video camera. At approximately 6:12 pm, Officer Moore advised that the subject with the knife was chasing him. Officer Moore was still in his vehicle. The in-car camera captures a subject, later identified as Elijah White Magpie, wearing a black jacket and dark clothing and carrying a blue colored bandana in his left hand and a large knife in his right hand. As the video begins, White Magpie is seen running after the patrol car with the large knife in his right hand, while the patrol car backs down the street. White Magpie then stops and begins walking back toward the library. Officer Moore follows White Magpie at which time White Magpie turns around and once more runs at Officer Moore in his patrol car. Officer Moore again retreats by backing up his patrol car down the street. During this, Officer Moore is heard on his police radio requesting back up to assist with the subject and also requests dispatch to tell the library to lock up the doors and not let the subject back in the building. Officer Moore is also telling other Officers responding that the subject has a large "butcher knife", is acting aggressive, and will attack them.

The following information is a compilation of both Officer Jerry Moore's in-car video and Officer Marc Black's in-car video. Each video captures a different angle of the events as well as different portions of the assault on the officers.

At approximately 6:13 pm, Canine Officer Marc Black arrives as the second officer on scene and is seen stopping just forward and to the left of Officers Moore's patrol car. Officer Moore exits his patrol car and shuts the door.

Officer Black exits his patrol car on the driver's side and begins giving verbal commands to White Magpie. White Magpie then advances quickly in the direction of Officer Marc Black with the large knife still in his right hand.

Officer Black announces his presence and gives the following commands:

- "Police Department with a K-9, Police Department with a K-9!"
- "Stop right there, stop right there, stop right there!"

The video footage depicts White Magpie quickly walking and advancing upon Officer Black without stopping or hesitating in any manner. White Magpie is seen with the large knife raised in his right hand. White Magpie continued to advance on Officer Black despite all of the commands. Officer Black has what appears to be a Taser in his right hand and a red lighted mark is clearly visible moving around the chest area of White Magpie. The Taser held by Officer Black is heard being deployed at White Magpie with White Magpie advancing through the Taser deployment and attacking Officer Black with the large knife still in his right hand. White Magpie is clearly seen swinging the knife at Officer Black in an effort to stab him at an arm's length away. Officer Black is viewed backing up out of camera view with White Magpie pursuing him. Officer Black and White Magpie are out of camera view for approximately two seconds and then White Magpie is seen falling back into camera view just as six consecutive shots are heard being fired. Officer Moore is out of camera view when he shoots his firearm a total of 6 times at White Magpie. Officers present are then heard on police dispatch recording calling for Emergency Medical Services and then begin rendering first aid to White Magpie.

Both Officer Jerry Moore and Officer Marc Black were contacted by DCI investigators. They were both wearing Rapid City Police Department issued uniforms. Their duty weapons and magazines were secured and inventoried. The inventory did show that Officer Jerry Moore was missing 6 rounds of ammunition from his weapon and magazine. Officer Marc Black did not fire his weapon. A drug screen and blood alcohol test was conducted and both officers had negative results.

Officer Marc Black provided the following information to the Division of Criminal Investigation about the 2-21-13 incident. Officer Black said that he was close to the end of his work shift and was in the RCPD report writing room finishing reports. Over the police radio Black heard that a guy was chasing Officer Jerry Moore with a knife. The incident was occurring in the area of the Rapid City Public Library on Quincy Street. Officer Black responded to the scene along with his canine partner, Jackson.

Officer Black remembered that he heard over the police radio Officer Moore stating that the guy is going to be on you (Black) quick. Officer Black indicated he stopped his patrol unit parallel and just ahead of Officers Moore's RCPD patrol unit which was stopped on Quincy Street east of Sixth Street. Officer Black observed the subject in the area of Quincy and Sixth Street. He indicated the subject had a big knife in his right hand and described the knife as chrome or silver in color and 12 to 14 inches long.

Officer Black exited his patrol vehicle and put his canine, Jackson in a heel position. They both were now positioned behind the opened driver's side door. At this point Officer Black announced police with K-9.

Officer Black pulled his department issued Taser and told the subject to halt right there. He observed the subject's face and it appeared that the subject was angry and agitated. The subject rapidly continued towards Officer Black's location with the knife in his hand. When the subject was a distance where Officer Black believed the subject could be hit with the Taser, he fired it at him. He indicated that the Taser did not stop the subject at all and it had no effect whatsoever. Officer Black observed the subject

still coming at him. He then turned to retreat and the subject then either kicked or ran into the driver's side door with his body. The door hit Officer Black and his canine, Jackson. That action tripped and knocked Officer Black backwards, which caused him to fall to the ground by his patrol unit. At this point Officer Black indicated he was concerned for his safety; might die or be seriously injured. He said he was in fear for his life. He indicated that he definitely felt like he was going to get hurt.

Officer Black was then on the ground on his back. The subject came at him like he was going to stab him. The subject continued toward Officer Black with the knife moving it downward in a stabbing motion towards Officer Black's body. He believed the stabbing motion of the knife came within 6 to 12 inches from striking his body. He believed the subject was going to dive on top of him. When the subject got close enough, Officer Black used his legs/feet to kick at the subject. He believed he kicked the subject causing him to momentarily stand in a semi-upright position. Officer Black indicated that at this point he tried to "crab crawl" backwards on his back. Officer Black then heard a bunch of gunshots go off. At this point he realized Officer Moore shot the subject and the subject then fell to the ground.

Officer Black got up off the ground, told dispatch shots fired, subject down, and that medical was needed. Officer Black saw the knife in or near the area of the subject's hand and kicked it away. The knife went under his patrol car.

Officer Black said he did not have the opportunity (while on the ground) to pull and fire his weapon at the subject. He also indicated that he believed it was most appropriate for Officer Moore to use deadly force on the subject.

Officer Jerry Moore provided the following information to the Division of Criminal Investigation about the 2-21-13 incident. Officer Moore advised that he was dispatched to an unknown disturbance at the library at approximately 6:00 pm. Just as he arrived on scene, dispatch updated that an unknown subject had thrown a rock through a window. Officer Moore pulled into a parking spot in the front of the library and was just about to exit his patrol vehicle when he noticed a male, acting agitated (yelling), holding a foot long butcher knife. At this time this male subject noticed him and started coming towards him. Officer Moore said he immediately got back in his vehicle, started it, and began to back away from the subject. Moore said the subject made it all the way up to his driver side window (able to touch the vehicle) before he was able to start reversing, away from the subject. Due to the proximity of the subject to Officer Moore, there was some panic on the Officer's part. Moore said he was scared that the subject would break his driver side window and stab him before he could back away. Moore was able to escape the subject and back away from the subject in the westbound lane of Quincy Street. The subject chased the patrol car as it backed away from him. Moore called for backup units, advised of his situation, gave the subject's general description, and told dispatch to contact the library and have them lock their doors so the subject could not get back into the library. Moore then put his spot light on the subject and continued to try and keep the subject's attention while backup units responded. Moore would advance on subject when he would walk away and retreat when the subject ran after his patrol car. Moments later, the first backup unit arrived. Officer Moore told the responding unit that the subject had a knife and that he would come aggressively. The responding unit, Senior Officer Marc Black, parked his vehicle just in front and parallel to Officer Moore's patrol car. Moore said he noticed

that the subject's attention was now on Officer Black. Moore said he saw Officer Black and his police K-9 exit the vehicle and he saw Officer Black point his Taser at the subject (evident by the red dot on the subject's chest.) After seeing this, Moore adjusted his camera towards Officer Black's direction, exited his car with his weapon drawn and moved directly towards Officer Black. Moore said he heard Officer Black identify himself as a Rapid City Police Officer with a K-9 and commanded the subject to stop. Moore described that Officer Black and his K-9 were positioned behind or near the open driver's door. Officer Moore said that the subject ignored the order and continued to advance towards Officer Black. Moore said when the subject was near the front of Officer Black's patrol car, Officer Black fired the Taser at the subject. This did not stop the subject and he continued to advance on Officer Black. At this point, Moore said that lights and light bar on Officer Black's patrol car prevented him from seeing exactly what occurred. Moore described it as a physical interaction, between Officer Black and the subject, near the driver's door that caused Officer Black, with his K-9 at his side, to fall onto the pavement. While Officer Black was on his back, kicking at the subject, the subject was leaning over him and slashing at him with the knife that was in his right hand. Officer Moore said that is when he began to fire his handgun at the subject's torso. Moore said he continued to fire at the subject until he stopped trying to stab Officer Black. When the firing stopped, Moore said the subject was lying face down on the pavement near the rear of Officer Black's patrol car. Afterwards, he covered the subject with his handgun while Officer Black kicked the knife away from the subject and handcuffed him. Moore said Black then advised dispatch that shots had been fired and requested medical for the suspect. Officer Moore said he believed he fired his handgun 4 times at the subject. He also said that he has never had contact with or heard Elijah White Magpie's name prior to the shooting incident.

Crime Scene and Witness Interviews

The shooting scene investigation conducted by the Division of Criminal Investigation produced items of evidence that confirmed the in-car camera video footage. Specifically, there were 6 shell casings found on scene. DCI forensic testing was conducted on the shell casings which confirmed that they were fired from Officer Jerry Moore's duty weapon. There were a total of four fired bullets recovered at shooting scene and one bullet recovered from White Magpie's body by hospital personnel. DCI forensic testing on these bullets revealed that they did not contain enough characteristics to determine that they were fired from a specific firearm. The sixth bullet remains in White Magpie's body. Also recovered from the scene was a large bladed knife that Whitemagpie had in his possession at the time of the shooting.

A canvass of the public library as well as the neighborhood identified several witnesses that observed events at the public library as well as at the shooting scene. There were a total of 19 witnesses interviewed as part of this investigation, including Officers Black and Moore. Witnesses identified at the library advised that White Magpie walked in and out of the library with a large knife in his hand. He requested employees and patrons to call law enforcement. These witnesses also observed a large rock being thrown through the library window, but could not state who had thrown the rock. The witnesses to the shooting event state that Elijah Whitemagpie did have a large knife in his hand and was acting very aggressively towards police in that he ran at a patrol car while the patrol car was backing up. He

also ran directly at an officer while wielding the knife, attacked the officer, and caused the officer to fall to the ground. White Magpie was observed on top of the officer and shortly thereafter, several shots were heard.

Video footage compiled from the Rapid City Library revealed White Magpie with a large knife in his hand going in and out of the library. He is then seen picking up a rock and throwing it in the direction of the library. White Magpie is last seen chasing a police patrol car down the street as the patrol car is backing away. Video footage obtained from the police in car cameras and library camera is consistent with the information obtained from the additional witnesses.

Elijah White Magpie was interviewed by DCI and provided a statement detailing the events that took place. His statement was considered as a part of this review; however it will not be released within this report based upon the pending criminal charges against Whitemagpie.

Toxicology results did show that Elijah White Magpie was positive for marijuana and blood alcohol content was .003.

The Division of Criminal Investigation conducted a criminal history check on Elijah White Magpie. It was determined that White Magpie has no criminal history.

Investigation Results

It is the conclusion of this report and the Attorney General that Officer Moore was justified in firing his weapon and using lethal force.

The crime scene investigation conducted by DCI is consistent with statements received from the officers, witnesses, the in-car video, and library video.