

believe that the subject officer used a top-up method in this case, nor is there any reason to believe that there are any unaccounted for rounds based on the whole of the evidence.

C. Officer Notes

Officers' notes can be very important in any given case for a variety of reasons. In this case, although overall, the investigation could be described as extremely well-documented, there were some missing notes.

a. Monitor Notes

It is standard practice to have an officer monitor an interview between a subject officer and another officer. It is also a standard practice for the monitor to make "monitor notes". These notes can be a form of back-up documentation of the context, gist and /or key portions of an interview. RCMP followed best practices in the digital video recording of the April 8, 2015 interview with the subject officer. That is the gold standard. Unfortunately, investigators encountered something all investigative agencies have at one time or another. The digital video equipment failed. Technology is fantastic when it works but can be extremely problematic when it doesn't. In this case, the equipment failed. Monitor notes, if they existed, would have provided at least some documentation as to what was said during the interview but no monitor notes were located on the file. Monitor notes should be considered especially during pivotal interviews.

b. Witness Officer Notes

Cpl. O'Keefe was one of the first RCMP officers on scene that the subject officer presented himself to upon arrival. The notes and subsequent PROS report provided by Cpl. O'Keefe's documenting his encounters and discussions with the subject officer are extremely limited and, respectfully, inadequate.

As the sole witness to the critical incident, any spontaneous statements made by the subject officer could be of paramount importance. Although not always the case, spontaneous statements at the time of a traumatic event can have greater reliability than statements made at a later time. They could be assessed against the physical and forensic evidence for consistency and accuracy. They could be useful in establishing correlations to facts and evidence obtained during the investigation. Observations of his physical appearance, movements, and demeanor of the subject officer at the scene could have value in piecing evidence together. Careful and detailed documentation of these statements and observations in notes could be critical. It should have been paramount that Cpl. O'Keefe recorded in his notebook, at that time or contemporaneously to the event as time presented itself, as accurately as possible, the actual words that the subject officer used to convey what had happened and his observations regarding the subject officer's appearance and/or condition. Cpl. O'Keefe also made minimal notes of his seizure of the subject officer's

sidearm and provided little additional detail in his PROS report. Detailed notes should have been made regarding the unloading of the subject officer's service weapon, including whether a live round was ejected from the chamber, the removal of the magazines, and any bullet count, etc. Investigators should consider whether, notwithstanding the considerable passage of time, Cpl. O'Keefe should be interviewed to capture his observations of the subject officer and what, if anything, the subject officer might have said regarding the incident.

No notes from ██████████ who transported the subject officer from the scene to the detachment, were contained in the investigation. The officer may have made notes or it may be that the PROS report submitted by ██████████ constituted his notes. Either way, it is recommended that investigators confirm whether there are notes, whether the PROS report is what the officer utilized for the purposes of his notes or whether he elected to make no notes.

D. Physical Re-enactment/Experiment

The subject officer described holding a file folder and dropping it when the affected person pointed the rifle at him. The file folder was found on the table intact, with the papers still secured within the file folder. A question arose as to whether the file folder and contents would fall so neatly if dropped as described by the subject officer, a totally legitimate question. RCMP investigators attempted to conduct an experiment to re-create the file folder drop and videotaped a re-enactment of sorts dropping a similar file folder (with contents) to see if it would land in the condition that the folder was found on scene. Various drops resulted in the file folder landing on the table in a condition consistent with the scene, however, others led to the scattering of the papers and/or folder.

While the intention was good, this type of experiment is of dubious assistance, in my opinion, in assessing the veracity of the subject officer's statement unless the conditions can be recreated. This occurred in a dynamic environment in circumstances that would likely be impossible to recreate to provide any significant evidentiary value that would allow an inference to be drawn one way or another as to the veracity of the subject officer's information.

E. The Investigation of Officer-involved Incidents involving Death or Serious Injury

Investigations into incidents involving police conduct that may have resulted in a person's death or serious injury are different from standard investigations. Police officers are authorized, pursuant to the *Criminal Code*, to use force in certain circumstances, including lethal force. These investigations are always sensitive, high-profile, potentially complex and important not just to the individual case but also to the maintenance of public confidence in policing.