

December 30, 2022

REPORT ON AUGUST 2, 2022, OFFICER INVOLVED SHOOTING

In the evening of August 2, 2022, members of the Fairfax County Police Department Street Crimes Unit conducted an undercover operation that led to an officer shooting the target of the operation, a suspected drug dealer (“the suspect”). The operation was arranged such that the suspect would meet an undercover detective at a Wendy’s parking lot in a Seven Corners’ strip mall and sell crack cocaine. Other officers, including the shooting officer—Sgt. Moser—were positioned in other cars in the same strip-mall parking lot as part of this undercover operation. Because this was an undercover operation, pursuant to Fairfax County Police Department protocol none of the involved officers were wearing body-worn cameras, nor were any of their vehicles equipped with dashboard cameras.

Prior to the arrival of the suspect, the Street Crimes Unit—including Sgt. Moser—met as a group and briefed the situation. The officers were given different tasks as part of the operation: some were assigned to surveil the drug buy (Surveillance Vehicle), some were assigned to transport individuals arrested as part of the operation to jail (Transport Vehicle), and seven officers were split into three vehicles that were responsible for approaching the suspect at the conclusion of the drug deal and making arrests (Arrest Vehicles). Sgt. Moser was assigned to be the front-seat passenger in Arrest Vehicle 2. Arrest Vehicle 2 was a Ford F-150 equipped with running boards under the truck doors.

The suspect’s use of firearms during drug deals was discussed in depth, both during the briefing and before the undercover officer made contact with the suspect. According to both Sgt. Moser and the undercover officer, during the briefing, the officers discussed intelligence they had that the suspect was known to have firearms and may carry a firearm during drug interactions. After the briefing, but before the undercover officer made contact with the suspect, the undercover officer told investigators the team was provided with information that the suspect on multiple occasions admitted to possessing weapons. Sgt. Moser told investigators he heard the conversation wherein this information was relayed.

At 2238 the suspect drove his car into the parking lot and parked next to the undercover officer’s vehicle. The suspect had a passenger with him, seated in the front passenger seat. The suspect did not go through with the drug sale and backed out of his parking spot.

Although no drugs exchanged hands, the Street Crimes Unit had reasonable suspicion that narcotics were present inside the suspect’s vehicle and therefore decided to stop his vehicle. As the three Arrest Vehicles and the Transport Vehicle started to converge on the suspect’s vehicle, the suspect drove through the parking lot without headlights, disregarded stop signs, and appeared to be driving over the speed limit. Although verified by multiple officers engaged in this operation, it is put most succinctly by Sgt. Moser who told investigators that the suspect was “trying to get out of the area quickly.” Arrest Vehicle 2 attempted to immobilize the suspect’s vehicle via a Tactical Vehicle Intercept but was unsuccessful due to the suspect driving over a

curb. At this point, according to Sgt. Moser (Arrest Vehicle 2 front seat passenger), Det. Taormina (Arrest Vehicle 2 driver), and Det. Fletcher (Transport Vehicle/Lead Detective), Arrest Vehicle 2 and the Transport Vehicle activated their lights and sirens. The suspect sped up and continued to flee. At 2240, Arrest Vehicle 1 made intentional contact with the rear of the suspect's car (via a Precision Immobilization Technique) causing it to rotate and stop in a service road on Arlington Blvd. Photos from the scene show that the three Arrest Vehicles positioned themselves such that the suspect's vehicle could not move: Arrest Vehicle 1 pulled alongside the passenger's side of the suspect's vehicle; Arrest Vehicle 2 positioned its nose into the suspect's driver's side doors and did so at an angle such that a line from the passenger's side back wheel to passenger's side front wheel would intersect with the driver's side doors of the suspect's car at an angle measuring between 45 and 90 degrees; and Arrest Vehicle 3 positioned itself at the rear of the suspect's car. The front of the suspect's car was blocked via a hilly grass median. The driver of Arrest Vehicle 2—Det. Taormina—was in a direct line with the suspect. The front passenger of Vehicle 2—Sgt. Moser—was behind the suspect, roughly in line with the driver's side rear passenger seat.

According to Sgt. Moser, as Arrest Vehicle 2 was coming to rest, Sgt. Moser opened the passenger door, placed one foot on the running board, stood up with his upper body positioned between his vehicle's frame and the open door, issued commands to the suspect to put his hands up, and pointed his firearm at the suspect's vehicle. Det. Taormina confirmed that instructions were given to the suspect to put his hands up. Det. Taormina and Sgt. Moser noted that their vehicle's siren was off, but their emergency lights were on at the point of intercept. Sgt. Moser's firearm was equipped with a flashlight, and he told investigators he could see into the driver's side portion of the vehicle. A recreation of the scene confirms that Sgt. Moser would have been able to see into the suspect's car. According to Sgt. Moser, in response to Sgt. Moser's commands for the suspect to show his hands, the suspect looked to his left in the direction of Det. Taormina and then moved his body to reach towards the glovebox area. According to Sgt. Moser, this movement was a "roll of the body." Sgt. Moser told investigators that based on his knowledge that the suspect admitted to carrying firearms, when the suspect moved towards the glovebox, Sgt. Moser believed the suspect was reaching for a firearm. Sgt. Moser further stated he knew that Det. Taormina was in a vulnerable position with relation to the suspect and therefore he discharged one round to protect Det. Taormina. Sgt. Moser fired the round at 2243 and it struck the suspect in the rear upper left arm.

Other detectives on scene were interviewed by investigators, and they indicated that everything happened very quickly. Some detectives were not aware that Sgt. Moser discharged his firearm, and others heard Sgt. Moser issue commands for the suspect to show his hands, and heard a pop, but were unaware a weapon was fired. Detectives extracted the suspect's passenger from the passenger seat and once a shield was obtained, they were able to extract the suspect and provide first aid. It was at this time that law enforcement noted the suspect's right arm was in a sling. Drugs were located inside the vehicle; however, no firearm was recovered.

The physical evidence in this case supports Sgt. Moser's telling of events. The bullet's trajectory was evidenced by damage to the driver's seat of the suspect's car. Given the trajectory of the bullet, the location of the suspect's injury, the suspect's height, and the suspect's position inside the vehicle, the only way for the suspect's upper left arm to be struck, would be for the suspect to have been reaching to the right—the "roll of the body" towards the glovebox indicated by Sgt. Moser. If the suspect had not been reaching in that direction, he would have been struck in a different location.

My investigation of this incident included a review of reports, interviews, physical evidence, and a reconstruction of the scene. This investigation leads me to conclude that Sgt. Moser was reasonable in fearing that the suspect intended to obtain a firearm to either kill an officer on scene or cause serious bodily injury to one of the officers on scene, and it was therefore legally permissible for Sgt. Moser to use the level of force he employed. The fact that no firearm was recovered does not negate this conclusion because Sgt. Moser's perception was reasonable based on the facts and circumstances known to him at the time. Accordingly, I find no violations of criminal law on the part of Sgt. Moser and decline to bring any criminal charge against him.



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