

## Joshua Rogers shooting

by Dave FEATHERLY

An incident that reached the boiling point at about 9:30 the night after this past Thanksgiving brought hurt and heart-break to many. It must be so hard to explain to a boy not yet in grade school that his father won't see him again. Rogers' parents, who tried so hard, in vain, to keep Josh out of harm's way that night, now have the conflicting memories this tragedy brought into their lives.

As most in the area know, 20-year Joshua (Josh) Rogers was shot and killed by police officers responding to a domestic disturbance call that Wednesday night.

I have been called by a handful of people and asked if the Herald would look into the matter and write about it. I told callers that I would wait for the DCI investigation to be complete and their report made public and then could decide whether or not to go further. That report was made available on January 25th and I reviewed the 91 pages on the 26th.

A letter dated January 13, 2006 was sent to the Division of Criminal Investigation (DCI) by Laramie County District Attorney Jon Forwood. In it, Forwood concluded:

**"It is our judgment that the shooting incident, while tragic, was justified under the circumstances as they evolved that evening, and thus the homicide is deemed to be justifiable by law. Neither officer involved is subject to any criminal charges. ..."**

After review of the investigation documents, which include witness statements - law enforcement, citizens and persons involved - and the autopsy report, I can find no fault with the conclusion reached by Jon Forwood.

While I agree that it would be hard to make a criminal case against either of the two police officers who fired their guns that night, there were some unusual happenings before, during and after the incident.

The unfolding of events that day and night was as follows:

The son of Josh Rogers and an ex-girlfriend (KM) - reported as four years old in some places and five in others - was with his father that day. During the day, according to statements, Rogers was trying to reach KM but she was at work and couldn't take personal calls. Her sister (KB) spoke with Josh and became concerned for the welfare of the boy because of Josh's demeanor on the phone. She and her stepfather went to the house where Josh Rogers was living (with his parents) to see the boy.

KM said in her statement that the custody agreement allows her to take their son from Josh "if she believes Rogers has been drinking or doing drugs."

KM said she had spoken with her son and he wanted to leave his Dad's. He

didn't want to stay with his father - he wanted to be with her and her new boyfriend.

According to her new boyfriend's statement, Josh Rogers still wanted to be with the mother of his son (KM) and only when he realized that it was not going to happen did he become more aggressive. He said that Josh Rogers had followed them on November 19th when they were driving toward Burns (her parents) and repeatedly called her cell phone - which she would not answer. Finally she did and told Josh she was calling the police and he broke off the pursuit, according to both KM and her current boyfriend.

That night, the sisters went into the Rogers home and Josh began yelling at KM about his son calling her boyfriend "Daddy." The sister of KM picked up the boy to remove him from the scene and they (the sisters and the boy) tried to leave the area. Both Josh Rogers' father (TR) and mother tried to calm him down and his father got him back into the house. TR got Josh into a bedroom and put a chair under the door handle to keep him in the room. Josh went out a window. When the father checked on him a few minutes later he was out the window and gone in his Mercury Mountaineer.

Josh Rogers father said that Josh had been drinking. Toxicology results showed that young Rogers had a B.A.C. of over twice the legal limit for driving (.163). The father and Josh "shoved each other" during this time and one witness reported that Josh "took a swing at his father." (According to statements.)

Josh Rogers father said that Josh told him "there ain't nothing left to live for if I don't have my son."

When Josh was found to have left the house by the window, his brother called 911 and asked for help to locate his brother (Josh).

According to 911 tapes, the first call about this incident was taken at 9:15 pm. The ex-girlfriend of Josh Rogers called to say that he (Josh) was trying to block them from leaving the area in their vehicle. He was using his own vehicle for that purpose. The call from Josh's brother was logged at 9:18 pm.

At 9:18 pm, the first officer (JP) arrived on the scene where the two vehicles (one with Josh Rogers and the other with the two sisters and the young boy) were together. One minute later, at 9:19 pm, the second officer (HE) arrived. At 9:21 pm, JP radioed that "shots had been fired."

JP was working part-time for the Cheyenne Police Department at the time (Friday and Saturday nights, 4:30 pm - 2:30 am) but he conducted himself in a manner that seems proper and appropriate under the circumstances, in my opinion.

*The questioning of the two police officers involved in the shooting was odd. By 10:00 or close, Wyoming Division of*

*Criminal Investigation (DCI) personnel were on the scene and took over the investigation.*

*After their work at the scene, they sought to interview the two officers involved. They were not permitted to that night by the Police Protective Association lawyer, Thomas Lee. The interviews were conducted on Sunday afternoon (November 27, 2005), the second day following.*

At 3:00 pm on that Sunday afternoon, JP was interviewed. His recounting of what transpired that night, which was unchallenged by other witnesses or evidence, was that he walked up to the idling SUV Josh Rogers was in and told him to put both hands outside the vehicle, which was done. He told Josh to take one hand and reach back to the ignition and turn off the engine, which was done. Rogers told the officer, "they took my son."

The police officer said he holstered his gun and put a handcuff on one wrist of Rogers and told him to get out of the vehicle. Rogers said, according to this officer, "no, go ahead and kill me now."

The driver's door was open and the officer was in the "wedge" of the open door. He and Josh Rogers "tugged" at the handcuff. Rogers started the vehicle and put it in reverse. The officer shot out the back tire on that side - he said he could hear and feel the air escape.

According to JP's statement, the vehicle was then driven forward. He, the officer, "didn't know if he fell or moved out of the way." He wrote that it appeared the vehicle "was moving toward" the second officer (HE) and that officer was "an arms length from Rogers when firing."

He said he fired two more shots at the rear of the vehicle. Not into the cab.

From all indications, this officer used every preventive measure he could to avoid shooting into the passenger compartment of the vehicle Josh Rogers was in. He came across as one who just did not want to shoot another human being, even though he was almost within reach of his target. These are my opinions.

The second officer (HE) was interviewed at 4:15 pm on that same Sunday. He said he was closer to the area than another officer who was assigned the call and he responded. He thought the gunshot that the first officer (JP) used to flatten the tire was at the officer and when he saw that officer fall or move backward, he thought JP was shot and the driver

had either a gun of his own or the other officer's. As the vehicle moved "toward" him and he had nowhere to avoid it, he opened fire, he said. The SUV did avoid him and he said he "fired into the driver's area as the vehicle moved past him."

Neither officer had their overhead lights on and they are what activates the in-car camera. So that record is missing. Either could have also manually activated the cameras - neither did. When asked by a DCI agent if there was a written policy about activating the camera, HE said, "as far as he knew, there was no [written] policy regarding the use of car cameras."

*Another oddity: When the officers went to the UMC-West emergency room to have blood drawn to be tested for drugs or alcohol, the ER did not have the proper vials. "They were currently out." The vials used could not be tested by the usual police lab but was done by another. Neither officer had the presence of drugs or alcohol in their blood that night.*

The third officer on the scene did activate his in-car camera. He came upon the vehicle with Josh Rogers after he had been shot. Orders to exit the vehicle, tap the brake lights to acknowledge the order, and put his hands out the vehicle could not be obeyed because Josh Rogers had been fatally hit with one of the six or seven rounds fired by HE.

As stated earlier, Josh Rogers had a blood alcohol content of .163 g/DL. He also tested positive for amphetamine (commonly called "speed," but also includes Ritalin), methamphetamine and benzoyllecgonine (cocaine) - at low levels - according to the autopsy.

His t-shirt and jeans also tested positive for oleoresin capsicum (pepper spray). I don't recall reading in the 91 pages that pepper spray had been used on him. I may have missed that. The autopsy also remarked that all organs were unremarkable and "needle marks [were] not observed." Not observed. The autopsy report said the fatal shot traveled from "front to back, left to right, downward."

In summary, it seems that JP did everything he possibly could to bring the incident to a conclusion without fatality. Is it possible that more or better training could have prevented this tragedy? Only those at the scene could answer that question. But it should be asked.

*Note: DCI was on scene until about 5:45 am. They called upon the CFD for lights and the CPD for a trained K-9 to sniff for bullets, fragments, shell casings, etc. They were thorough.*

thru Thursday, February 2nd

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