

To: Chief Steve Hasler

From: Sgt. M. McDaniel

Date: 11/05/2021

Subject: Appeal Internal investigation Reference Jeremy Mitchell

Dear Chief Steve Hasler,

My intent of this letter is not to overshadow the tragedy in the loss of life of Jeremy Mitchell. My intent is to add clarity to the notes/suggestive actions outlined in the internal investigation summary.

I would like to start by addressing the secondary item in relation to my body worn camera not being activated during investigation/interaction. I own this mistake in its entirety. Only mitigation that I can reasonably proffer is coming from five years in investigations, I was still getting accustomed to wearing a body worn camera. This oversight shall not be repeated henceforth.

Concerning the unfortunate resulting tragedy of the call for service relating to Jeremy Mitchell, it was a horrendous tragedy; however, I stand by many of the decisions made that day based on my experience, training, and factors and options known at the time. I will state that I am quite curious on how a complete investigation transpired with only interviewing one of the two officers on-scene that evening. I

stand by Officer Sanchez's actions that evening, and believe he performed in a prudent manner; although, I am slightly questioning the principle of a completed investigation that fails to interview all involved and available witnesses for the best possible context.

Secondly, the investigative summary/analysis conducted by Municipal Police Consulting (MPC) LLC. fails to consider the size of WPPD, the resource availability, best practices, and other factors. In fact, the analysis suggests external factors that simply do not exist at this agency.

The analysis presented by MPC suggested the following: set up a perimeter, request TCSO SWAT respond with a negotiator, MAPS response for guidance, requested a department detective, a CIT trained officer and veteran. These resources were suggested on the premise that Mr. Mitchell would be willing to speak with said resources.

To the first point a perimeter was not considered as the time of day, 1945 hours on December 23, 2020, there are only two WPPD officers on shift: Officer Sanchez and myself. Secondly, this call was initiated as a welfare check, and officers were initially met by Mrs. Mitchell who advised she did not call, and did not want them present. Mrs. Mitchell further complicated matters in initially stating there were no weapons, then later correcting that Mr. Mitchell was presently armed with a handgun. With this information, the priority of life starts with Mrs. Mitchell, then officers, and then Jeremy. Officers did their best to consider the priority of life at the time of the incident and removed Mrs. Mitchell and themselves from the situation. To do otherwise would have turned the priority of life scale on its head.

Following the suggestion of MPC, I could have requested TCSO for more bodies for the perimeter; however, experience would suggest that I would have only received one deputy.

MPC also added in his investigation, Chapter 3, entitled "Review of Contemporary Protocols".

Savage Training Group on "When Should Law Enforcement Leave from an Armed Suicidal Barricade" Court cases and "The Tactical Withdrawal".

Vancouver PD Policy Manual #417 "Response to Suicidal Subject Calls" With Definitions to Disengage/Disengagement. Situational Guidelines with the consideration to disengagement.

Risk Management of Police Responses to Suicidal threats. Where many public agencies are training officers in the concept of tactical repositioning, or tactical withdrawal. Finally recognizing that the subject may harm themselves after police leave.

Force Science Institute, (not included in chapter 3 of MPC's investigation), in which an hour long webinar from three prominent police attorneys, produced by Lexipol, who we use for Woodland Park Police Policies. When you're confronting a suicidal subject, "who isn't committing a serious crime and isn't an active threat to anyone other than themselves, the best response may be to withdraw. Understanding the limitations of our legal duty, they stress we have no legal duty to keep a person from harming themselves.

Our own Policy, WPPD 430, has the definition of a Person in Crisis, Signs, and De-Escalation (430.6) Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis. 430.8 Supervisor Responsibilities, Consider strategic disengagement.

Concerning the calling of TCSO SWAT for a negotiator, the MPC mistakenly assumed that TCSO had a crisis and/or hostage negotiator in December of 2020. The only hostage and crisis negotiator in Teller County left WPPD in September of 2020, and there had not been a countywide replacement at that time. Furthermore, TCSO does not send ERT (SWAT) to armed-barricaded suicidal parties without charges in lessons learned from similar calls for service in the past. Nearly all surrounding agencies do not respond to calls for service of this exact nature with SWAT or ERT elements as tactical options are extremely limited due to an absence of criminal charges; and past experiences have shown that the presence of a tactical team typically exacerbates the situation rather than improves it. In consideration of a military veteran suffering PTSD, it was believed at the time tactical options would do just that; exacerbate the situation.

Regarding having a CIT trained and military veteran officer respond, WPPD Officer Sanchez is both a CIT trained officer and military veteran. The rule with CIT and armed barricaded suicidal is you never try to talk through a door, or face to face. A CIT trained officer or crisis negotiator can tell you that when intoxicants are on board a person in crisis, de-escalation tactics and reasoning abilities are difficult, sometimes impossible, to navigate. Lastly, I will never in good conscience place an officer in danger of attempting to contact a suicidal armed subject in person/close proximity. Based on information known and presented at the time, Mr. Mitchell did not appear ambivalent about taking his own life, especially in stating to Mrs. Mitchell "I have made peace with myself and I am not worried."

I read an article where "Tiny" from MAPS had stated WPPD routinely called MAPS for armed suicidal parties. This was a misnomer. Checking with officers and former WPPD supervisors, WPPD has never

and would never call in a civilian paramedic to the scene of an armed suicidal party until the scene was rendered safe, as it would interject one more layer into the priority of life scale. Could MAPS have consulted away from the scene? Absolutely, however it was not something that I had considered in the moment of the call for service.

Lastly, calling in a department detective on a welfare check or suicidal party call was not feasible at the time, and not sustainable moving forward. Detectives are great for intelligence gathering, but it would have been a duplication of efforts already in progress in interviewing Mrs. Mitchell.

Again, this was a tragic situation. Based on my 16 years as a police officer I have seen the gamut of these call types and they consistently end in one of three ways based on employed tactics. The first, and best option, is the subject surrenders and officers assist in getting the subject somewhere safe and into immediate treatment. The second, the subject has no ambivalence about taking their own life, and they do so without harming others (this case). Lastly, the worst option, the option I was concerned with the most, is the subject elects to either escalate law enforcement into taking their life, or they go further in their attempt and actively try to harm/kill responding officers to provoke immediate action in taking of their life.

In this situation, the subject was alleged to have been armed with a pistol according to Mrs. Mitchell, intoxicated, and stated that if she called law enforcement "I would end it, it would be over in a snap, it would happen so fast you won't know anything, or it will end by suicide by cop." Mr. Mitchell making the conditional threat of law enforcement involvement being a major factor in him taking his own life was heavily considered. All the suggested options by MPC failed to consider these statements made by Mr. Mitchell. I believed at the time, and still hold true, that contacting Mr. Mitchell would have contained the highest probability of him taking his own life. Did I wish to walk away? Absolutely not, but when someone who is heavily intoxicated, not ambivalent about taking their life makes a conditional threat, you do not add the condition. As stated in my report, my hope was that Mr. Mitchell would become so

intoxicated that he would pass out (fall asleep) and awake in the morning with a new mindset. This was also the hope of Mr. Mitchell's father. This was not fanatical thinking. It was rooted in 16 years of experience, and the experience of many other law enforcement officers where this is typically the result with heavily intoxicated-suicidal subjects.

I appreciate your time and consideration in reading this appeal. I cannot express enough that this letter does not detract from the tragedy that occurred. I believe that an experienced law enforcement officer such as yourself can understand that investigations after the fact, with the clarity of hindsight, can never truly appreciate the factors of an evolving situation.

Sincerely,

Sergeant Michael McDaniel.