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INVESTIGATION REPORT

RAPPORT D'ENQUÊTE

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OTHER FILE REFERENCES AUTRES CONSULTATIONS DE FICHIERS	DIVISION B	DATE 2015-04-06	RCMP FILE REFERENCES CONSULTATIONS DES FICHIERS DE LA GRC 2015-376186
	SUB-DIVISION - SOUS-DIVISION Area Management Team East		
	DETACHMENT - DÉTACHEMENT Holyrood		

RE - OBJET
DUNPHY, Donald - Deceased
RNC Police Shooting
2015-04-05

Background

Sgt Joe SMYTH of the RNC was conducting investigative follow-up in the area of Mitchell's Brook, near Mount Carmel in Holyrood Detachment area. SMYTH is part of the Premier's protective detail, and had been made aware of a potential threat having been made toward politicians via twitter. En route to the community SMYTH was in contact with Cpl Doug NOEL of the RCMP, who is also posted to the premier's protective detail. They communicated via Blackberry and had cursory discussions about the threat and the planned inquiry.

The tweet of concern was the following : @SandyRCollins @PremierOfNL @ShermanDowney won't mention names this time, 2 prick dead MHAs might have good family members I may hurt #nlpoli

Before attending the residence, SMYTH contacted the Holyrood Detachment to advise them that he was in the area and would be making inquiries. He asked about any RCMP background information on DUNPHY, discussed the need for back-up from Holyrood members, and declined same.

A short while later, SMYTH advised he had been confronted by DUNPHY with a firearm and had used his service weapon to shoot DUNPHY. He contacted the RCMP via telecoms and also communicated this information to Cpl NOEL via Blackberry. SMYTH left the scene and awaited RCMP attendance.

Upon arrival, RCMP Detachment members entered the scene and found DUNPHY in the residence, deceased. Although ambulance services had been called, nothing could be done for DUNPHY and he was left at the scene. The scene was secured, cordoned off, and appropriate operational assistance was sought.

Response

S/Sgt Rod TILLER, NCO i/c of Holyrood Detachment was advised of the occurrence, as was Supt. Jamie ZETTLER, DPO East.

TILLER called Sgt Kent OSMOND of Major Crime Unit East and advised of the event. At the time of the call, TILLER was not sure if DUNPHY was deceased, knowing only that he had been shot. OSMOND and TILLER arranged for protocols for scene security, attendance of FIS, media strategy contact, seizure of the service weapon, and dealing with the RNC member.

OSMOND gathered resources for MCU response. While preparing to attend Holyrood Detachment, OSMOND was advised by Inspector Pat CAHILL that DUNPHY was deceased.

Sgt OSMOND was provided with all contact information for RNC liaison purposes.

OSMOND and other MCU members attended Holyrood and conducted a briefing. Roles and assignments were determined.

Sgt Kent OSMOND - Team Commander
Cpl Steve BURKE - Primary Investigator
Cpl Dion FOOTE - File Manager
Media - Sgt Greg HICKS
Family Liaison - Cst John GALWAY

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Follow-up

Members attended the general area of the event, and conducted neighborhood inquiries. It was learned that Sgt SMYTH had spoken with the brother and sister-in-law of DUNPHY before going into the residence.

Statements were obtained from these two individuals and the following was learned:

They have been estranged from DUNPHY for quite some time, not having spoken to him in approximately ten years. The relationship faltered due to a family dispute over land that was willed to the bothers. When speaking with them, SMYTH asked questions about DUNPHY's background. SMYTH specifically asked questions about whether there were any firearms in the residence. They told him there were not.

Directly following the conversation with SMYTH, they realized that there were in fact three firearms handed down from their parents, those being two shotguns and a 22 rifle. Although they didn't think the shotguns were in the house, they thought the 22 rifle might have still been there. However, SMYTH didn't have this information when he entered DUNPHY's home. Neither DUNPHY's brother or sister-in-law heard any shots fired, and had nothing else of significance to offer.

A statement was also taken from DUNPHY's daughter and the following was learned:

She is DUNPHY's only close contact amongst his relatives. She states they went to the Woodstock restaurant in Paradise for Easter dinner, then returned to his home at approximately 1300 hours. She states that DUNPHY can be difficult to deal with, and while she did not speak of specific mental illness, she stated he can be manipulative. She speaks with him two to three times per day and states that he was in good spirits of late, was not suicidal, and was looking forward to turning 60 years old.

She is concerned about why SMYTH went to her father's house alone at Easter, and states that her father couldn't have known SMYTH was a police officer, as her father would never have tried to hurt or shoot a police officer. She makes the assumption that SMYTH could not have identified himself to DUNPHY.

All other neighborhood inquiries have proven negative to date, in terms of hearing shots or witnessing any police actions. A statement is scheduled with a friend of DUNPHY's who was speaking with him just before the shooting incident.

Scene

DUNPHY lived alone in his residence. In the home was a marijuana grow operation of approximately 20 plants. DUNPHY had a permit for growing marijuana. Given this fact, S/Sgt Steven CONOHAN was assigned to inspect and safeguard the residence for the investigators. He has been delegated as responsible for the processing and dismantling of the grow operation.

The residence was in a state of squalor and contained more than 30 cats. The cats posed a scene control issue, and as a result a member was posted inside the residence to contain the animals and protect the scene from animal interference. The SPCA have been contacted but, as of yet, have not been able to respond to rescue the animals.

FIS attended and processed the scene. The body of DUNPHY was found seated in a chair in his living room, dead from several gunshots to the upper torso and head. A 22 caliber rifle was located near the body, on the floor, propped against a plastic container. The rifle was loaded with a 22 round in the chamber. Another round sits on a table in front of DUNPHY. DUNPHY was wearing a fleece style top, and pyjamas. Also in the room, near a couch, were a police notebook, a police file, and pen. Four 40 caliber casings were located in a grouping in the living room. Next to DUNPHY, on the floor, was a linear elongated 'void' of general debris that may indicate the rifle had been sitting / stored in that location for a while.

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DUNPHY's arms and hands were in a position seemingly consistent with having held a long gun. There is a single entry wound to the left temple area of the head, a glancing wound to the forehead area, and another hole noted in DUNPHY's jacket in the upper torso on the left hand side. Damage to the wall behind DUNPHY can be noted, as well as damage to the upper portion of the back of the chair DUNPHY was sitting in.

FIS have taken measurements, trajectory estimates and photos, and have sent information to Blood Spatter Section, although there is very little material for them to work with, as there isn't much blood stain pattern visible. FIS will be completing a planned drawing.

Inquiries were made with Cpl Oliver WHIFFEN regarding the use of the Total Station, however he advised that in a cramped interior scene of this nature, the FIS planned drawings would provide as good, or better, of a product than the Total Station.

Sgt SMYTH

Following the incident, Sgt SMYTH was escorted to the Holyrood Detachment in order to provide him a place to be away from the scene. He surrendered his service weapon to investigators, and consented to the seizure of his clothing. Although he did have general conversation with Cpl HENSTRIDGE, Sgt SMYTH declined to provide a statement regarding the event at that time. SMYTH stated that, through his training, he knows that better memory recall will occur several hours after the event and he wants to provide the most detailed and accurate account he possibly can. He has expressed a willingness to provide a statement in the very near future.

The head of the RNC Association visited Sgt SMYTH at Holyrood Detachment, as did an MEAP representative. SMYTH was eventually taken home by the RNC Association head. Sgt OSMOND was assured SMYTH had all the supports he required.

At 1500 hrs this date, Sgt SMYTH attended RCMP HQ to provide a statement. His account is as follows:

Statement Synopsis

- As part of his Premier's Protective Detail, SMYTH was made aware of a 'tweet of concern' on Friday, April 3rd. It took until mid-day Saturday, April 4th, to determine who likely tweeted the comment and to determine where the poster lived.

- The tweet was not considered to be a direct threat by SMYTH. His goal was to visit the poster of the tweet, ask him some questions about his comment, and get background information that would enable him to place context around the tweet to assess whether a threat might exist.

- He was aware the poster (DUNPHY) had been making critical comments for quite some time towards government and his treatment as a victim of a workplace accident.

- He conducted all available background checks, including CFRO, CPIC, ICAN etc and found no information of concern.

- He drove to the general area of DUNPHY's residence and called the RCMP OCC to let them know he was in the area conducting inquiries. He then contacted Holyrood RCMP and asked for PROS information on DUNPHY. There was no information that DUNPHY would be a threat and no information of mental health issues. He declined the offer of back-up from Holyrood RCMP members, feeling that the risk was low and that multiple members (particularly in uniform) might aggravate DUNPHY.

- He located DUNPHY's house, knocked on the windows and door, however there was nobody at home.

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- SMYTH left the property and visited the next door neighbor's house to make general inquiries. The neighbors were established to be relatives of DUNPHY's, a brother and sister-in-law. DUNPHY's relatives said they were estranged from him and, although they didn't fear him, he made them uneasy. They hadn't spoken to him in ten years. They stated he had no firearms in the home, and that he wasn't violent.
- Upon leaving the relative's home, SMYTH noted DUNPHY's car was in his driveway. He therefore re-attended the residence, knocked on a window, and DUNPHY came to the front door. SMYTH identified himself by name and occupation, and showed his police badge and I.D. to DUNPHY. SMYTH did not state to which policing unit he was assigned. SMYTH was invited inside the residence, and describes DUNPHY as cordial.
- Once inside the residence SMYTH had general conversation with DUNPHY about his back injury and his issues with Worker's Compensation and Government officials.
- SMYTH was asked to sit down, but he declined due to the dirty condition of the home. SMYTH states DUNPHY was insistent on him taking a seat, but he continued to decline. DUNPHY himself took a seat in a chair to the right of the entrance to the living room
- DUNPHY asked SMYTH why he was at his home and SMYTH told him it was due to his recent twitter comments. DUNPHY said he posts a lot of things on twitter and began talking about how SMYTH was a puppet of the Government. DUNPHY was agitated and hard to understand at times, and SMYTH states he did his best to keep him calm and stick to the topic at hand.
- SMYTH stated that, although DUNPHY was somewhat agitated, his threat assessment was low as DUNPHY was a small man and a physical confrontation was not something SMYTH thought would be difficult to control, if it came to that. SMYTH continued to speak to DUNPHY and keep him engaged and calm.
- SMYTH did notice a bat, or piece of wood, with duct tape on one end that was sitting on the left hand side of the chair in which DUNPHY was seated. He asked DUNPHY about it, and he said he had it for protection.
- SMYTH noted the home was in squalor, and when he moved some garbage with his foot, insects could be seen moving about. SMYTH told him he had concerns about the conditions in which DUNPHY was living and DUNPHY angrily said it was the government's fault that he had to live this way.
- SMYTH stated he was standing by the mantle in the living room, writing in his folder, when he noticed a movement in his peripheral vision. When he focused on the movement, he noted DUNPHY brandishing a long gun toward him. He remembers the weapon having a small opening and remembers seeing a bolt action. Although SMYTH was across the room from DUNPHY, they weren't very far apart.
- SMYTH stated he yelled "NO, NO, NO!" several times as he raised his left hand to protect himself instinctively. With his right hand, he reached for his service weapon and unholstered. SMYTH feels he lowered himself somewhat as he moved toward the living room exit, while simultaneously raising his weapon to shoot. Moving toward the exit meant he had to pass by DUNPHY and, as he did so, he fired his service weapon. He noted DUNPHY was following his movement with the long gun. SMYTH feels he shot two rounds into DUNPHY's torso, and two into DUNPHY's head.
- SMYTH went to a nearby area in the house and considered reloading, and began scanning for further threats.
- SMYTH then went slowly back into the living room and assessed DUNPHY as deceased. He called for assistance via the RCMP OCC and he called the RNC OCC as well to let them know what had occurred.

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- He decided to clear the house for any other threats, and did a cursory search of nearby rooms. It was then he discovered the marihuana plants.
- He checked on DUNPHY a couple of times but was certain he was deceased. He did not touch the body, but visually checked for breathing. He did not handle DUNPHY's firearm.
- When checking on DUNPHY, SMYTH noted an entry wound to the left temple area of the head, as well as a linear wound to the forehead area. He feels he saw brain matter on the lower part of the head. He did not note any indication that his torso shots had struck DUNPHY but said the shots occurred at such close range that he would be very surprised if those rounds missed DUNPHY.
- Eventually, SMYTH left the residence and went to his police car and activated the hazard lights so that responding RCMP members could find him more easily when they arrived.
- Once RCMP members arrived, he surrendered his firearm and was escorted to Holyrood Detachment.
- At the time of the event, SMYTH had his pepper spray, handcuffs, and firearm as intervention options. He was not wearing his soft body armour.
- During the statement, SMYTH drew a diagram of the room, the location of DUNPHY in the chair, and the various locations he was in when each shot was fired as he was exiting the room.
- SMYTH does not feel DUNPHY got out of the chair during the event, although he feels DUNPHY might have been beginning to stand from the chair when the first rounds were fired. He feels DUNPHY got the weapon from the right side of the chair in which he was sitting.

Statement Assessment

The autopsy has not yet occurred, therefore the number of shots that hit DUNPHY are not yet known, nor has the forensic assessment of the wounds been completed. In terms of the statement alone, SMYTH's description of the wounds to DUNPHY's head are very accurate when compared to scene photographs. The hand-drawn diagram provided by SMYTH is a very accurate depiction of the scene photographs, and the depiction of the direction of the shots taken by SMYTH seem to coincide with the scene photos as well. SMYTH's statement to Cpl HENSTRIDGE and Cpl BURKE could best be described as comprehensive and should provide considerable assistance to the OCME in determining the circumstances of DUNPHY's death.

SMYTH's statement includes his thoughts, reactions, observations, and rationale for his actions. His statement indicates that this event began as a routine inquiry to explore the nature of an ambiguous twitter comment. He states the comment was not a criminal threat in his opinion and that, as part of his duties, he completes assessments on such comments in order to determine if any risk exists. According to SMYTH, prior to visiting DUNPHY, he completed a thorough database search risk assessment and saw no cause for concern for his own safety. While inside the residence his risk assessment continued and, although DUNPHY's mood deteriorated during their interaction, he was not particularly alarmed by DUNPHY's demeanor.

In his statement, based on the routine type of duty he was performing and the threat assessment he completed, SMYTH does not appear to know how or why the situation evolved to a lethal use of force scenario.

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Autopsy

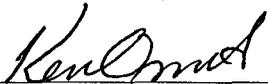
The body was brought to the OCME and secured. The autopsy was expected to occur this date, however the OCME advised it was waiting for the account of SMYTH before conducting the procedure. Also, scene photos from FIS had to be re-formatted for use by the OCME, and this would have to occur before the autopsy.

Both these issues have been resolved and the autopsy is scheduled for tomorrow morning.

Media

Media interest is very high, both Provincially and Nationally. Questions have been raised about the requirement for independent oversight of the RCMP investigation, and the nature of the threat toward politicians. Sgt Greg HICKS is conducting all media interviews and fielding questions. The Premier of the Province, and RNC Chief have held media scrums.

Please direct any questions to the undersigned,


Sgt Kent OSMOND
NCO i/c MCU East

Reviewed:

Insp Pat CAHILL
A/ Provincial Policing Officer


S/Sgt Chris FITZGERALD
Chief Reader, Criminal Operations

Supt Jamie ZETTLER
District Policing Officer


C/Supt Andrew BOLAND 150414
OIC Criminal Operations