

RISK MANAGEMENT

June 12, 2006
File # 2005-00568
CONFIDENTIAL

**To: J. Mauws
C.A.O.**

**Submitted by:
Norman D. Carter
Chief of Police**

CIRCUMSTANCES

This is related to our Police Incident Report # 2005- 00568
(Fatal Motor vehicle accident – February 25, 2005)

As per our Police Risk Management Policy, please be advised of the circumstances surrounding the above noted incident.

On February 25, 2005 at approximately 7:10 a.m. Police responded to a three vehicle collision on Hwy.59 at Hwy 101. Cst Woychuk, Cst. Pedersen, Cst Graham and Chief Bakema all attended to the scene. A 40 year old female succumbed to her injuries at the scene. Chief Bakema was the senior ranking officer on scene and took charge at the time. Cst Graham remained with Chief Bakema while Cst Pedersen and Cst Woychuk conducted traffic control. Cst Krawchuk later attended to the scene to assist with traffic control. The accident involved a chain reaction rear end collision. The driver who caused the collision was an off duty Winnipeg City Police Officer . Chief Bakema approached this person who had later declined medical attention and escorted him to Cst WOYCHUK's vehicle at 7:42 a.m. placing him in the rear seat. It was later learned that Chief Bakema knew this off duty officer. Chief Bakema noted in his report that this driver appeared to be distraught. Sgt. Carter was advised of the accident at his residence by telephone at 7:38 a.m. and was requested by dispatch to attend the scene. Upon arrival at the station at 8:00 a.m., Sgt. CARTER upon instruction of Chief Bakema was told to remain at the station. At 8:12 a.m. Cst Woychuk attended to the station with a male subject in his Police vehicle. Cst Woychuk briefed Sgt Carter, advised that he detected a slight odour of liquor on the subjects breath and said that he was instructed by Chief Bakema to turn the subject over to Sgt. Carter to deal with. Cst WOYCHUK said that he had not arrested the subject nor had the subject been read his rights.

Sgt CARTER subsequently took control of this subject, noted signs indicating impairment, placed the subject under arrest and advised him of his rights under the Charter. After consultation with the Crown prosecutor, the subject was subsequently released on a promise to appear in court. This subject was later charged by Sgt. Carter with refusing to provide a breath sample, Impaired driving causing death, Dangerous driving causing death and Criminal negligence causing death.

Sgt. Carter took over the investigation at this time, although Chief Bakema continued to be involved and to give instructions to members.

There had been some rumours in the department about how the actual scene was handled by Chief Bakema as the senior officer and more specifically the repercussions because of the delay in the arresting this off duty officer and failure to read his rights to this off duty officer as soon as possible.

On February 24, 2006 after consultation meeting on the case with special prosecutor Marty Minuk, Cst Woychuk disclosed to Sgt. Carter that the notes he had written were not his notes. When Sgt. Carter questioned this further, Cst Woychuk advised that he had been instructed by Chief Bakema what to write as his notes in order to coincide with what Chief Bakema and Cst Graham had written as notes. Cst Woychuk explained to Sgt. Carter that he was a new constable at the time, had never dealt with anything serious like this and at the time was taking instruction from Chief Bakema. Cst Woychuk also disclosed that when Chief Bakema turned the off duty Winnipeg Police Officer over to Cst Woychuk, Chief Bakema had made the comment to Cst Woychuk that this individual was "pissed". As a result of the disclosure by Cst Woychuk, Sgt. Carter re-examined the report and notes of the officers involved. Chief Bakema's written reports and notes were lacking details of what took place and did not coincide with each other in every respect. There was a Winnipeg Police uniform seized at the scene by Cst. Graham, but no further notation in any notes or reports as to what happened to this uniform. A comparison of Chief Bakema and Cst Graham's notes showed the content and wording to be very similar and not normally as it should reflect, an independent recollection. On April 10, 2006 Sgt. Carter again spoke with Cst Woychuk who confirmed what he had told Sgt. Carter in February. On April 12/ 2006 Sgt. Carter spoke with Special prosecutor Martin MINUK and made the disclosure to him. As a result of this disclosure, the Crown prosecutors Office has ordered an RCMP investigation into the conduct of officers involved in this matter to determine if there was any obstruction on the part of Police. Also since this time, a previously undisclosed set of notes by Chief Bakema has surfaced. These also have been turned over to the crown prosecutors office and the RCMP. To date, a number of our officers have been interviewed by the RCMP in regard to this incident. I am currently awaiting results of the RCMP investigation. In addition, as a result of these disclosures, a two week preliminary hearing for the accused that was set to start on June 5, 2006 has been cancelled.

ACTION TAKEN/TO BE TAKEN

At this time, there is no course of action to be taken until the results of the RCMP Investigation into Police conduct is complete and submitted to the Crown prosecutors for opinion. Should the RCMP investigation recommend that there is criminal liability on the part of one or more officers, then appropriate action against these officers will be taken upon the advice of the Crown Prosecutors Office.

Should the charges laid against the off duty Winnipeg officer as a result of the accident investigation be dismissed because of the actions of one or more officers involved, then it is likely that civil liability could become a possibility as a result of any lawsuits initiated by the family of the victim.

COMMENTS:

In January 2006, the East St. Paul Police Service underwent a managerial review by Robert Tramley, Policing Services consultant. I have attached a copy of the March 29, 2006 report submitted by Mr. Tramley as it pertains to this particular case.

N. Carter
Chief of Police