

This nomination stems from a 2017 officer involved shooting. This nomination is being submitted now, for the 2019 calendar year, due to the case being stalled out in the court process/confidentiality phase of an OIS case. The decision passed down by the Hennepin County Attorney's Office in this case is as follows:

"Criminal charges are not supported by evidence or appropriate under law in this case"

### **Incident Details:**

On November 2, 2017, a 62-year-old Crystal man who shall be referred to as R.K., went to check on his brother in Brooklyn Park. R.K. had not heard from his brother for quite some time, so he was concerned about him. R.K. entered the home and found that his brother had committed suicide with one of R.K.'s firearms. R.K. called police from the scene of the suicide. He was so distraught about his brother's suicide, that when they arrived he was talking about killing himself. R.K. was sent to the hospital for an evaluation. R.K. was declared NOT suicidal, or a threat to others, and was therefore released back out in to the public.

Four days later, on November 6, 2017, police responded to the home of R.K. after he approached his wife in a threatening manner with a bottle of booze in one hand, and a firearm in the other. He told her to get out of the house and that he wants to be shot by the police. She left the residence and police were called. Additional information was that he had 2 handguns that he put up to his own head before she left, one 9mm and one revolver.

The wife, who was relaying information to dispatch, stated the following:

- He wants to die with his arsenal by officers shooting him
- He sounds very unstable
- When the police come, he will shoot them thru the door and blow the place up
- He wants a western style shootout with police
- He has an automatic gun – an M14, a 9mm, and a .45 colt
- He says he has more firepower than the police do

- If the cops didn't come, he was going to start shooting at houses in the neighborhood

Officers on scene heard a shot ring out as they were starting to set up on the incident. This prompted them to begin evacuating homes around R.K.'s residence. There were additional calls to 911 from R.K. and at one point he stated to the dispatcher that he was coming out shooting, and he abruptly hung up. They took this to heart, as officers had already heard him fire off the round when they first arrived. Two minutes later, R.K. appeared in the garage. He was smoking a cigarette and yelling at officers. R.K. then retreated into the house and called a hospice he knew of, asking to speak with a chaplain. As we all know this can be a clear indication that this was not going to end up being peacefully resolved, especially coupled with the fact he had already discharged one of the firearms. About 10 minutes later, R.K. appeared in the garage a second time. He again had a cigarette in his right hand, but in his left he held something else. It was an object that was of an unknown nature, until the beam of a red laser could be seen illuminating the ground near him. R.K. was again yelling something in an agitated manner, when he fired a shot from the gun in his left hand. R.K. again retreated back in to his home.

Around this point in time, the page went out requesting response by the West Metro SWAT Team. As the SWAT Team members were receiving the page out, Officer Ben Harty, a West Metro SWAT Team sniper, was already en-route to the call to assist. At the time the call came out, Officer Harty was working his patrol shift and overheard the call, so he quickly responded directly to the scene and deployed with his sniper rifle. He was one of two West Metro SWAT Team members on scene, one of which was fully immersed in the call itself and unable to deploy in a SWAT capacity. The suspect residence was on a cul de sac, which gave R.K. a clear line of sight to almost all of the other houses in the area. With Officer Harty providing sniper cover with his rifle, it provided a sense of ease for officers on scene to be able to get additional resources in to place. As he maintained sniper over watch, focused on R.K.'s residence, dispatchers and family members attempted to reason with R.K. He refused to answer most of their calls. The suspect could be seen for more than 10 minutes moving around in the house by Officer Harty, as R.K. passed by windows throughout the home. Then, he came to a larger bay window of the home and the laser sight became visible in the

window. He again had brief contact with dispatchers and various family. He continued to ramble on about having killed some family members. He also said he would shoot anyone he sees, and repeated numerous times that this was the end for him. He again made an appearance in the bay window, and Officer Harty picked him up there, tracking him with his rifle. R.K. did not stay there long, as he again disappeared away from the window into the residence. R.K. again called and said he wants to be killed, he was going outside, and he was going to shoot everyone dead. The call taker also said he was very upset and kept screaming about wanting to be killed. R.K. came out into the garage again and fired shots from his handgun. At the time, Officer Harty did not have a viable shot. R.K. began waving his firearm around, causing the laser beam to move rapidly through the air in an agitated manner as he was yelling at officers. At this time, there were several officers on the E-team, in a front yard of a residence 2 houses away trying to remain in somewhat close proximity in case their immediate response was needed. This kept the officers in a location that had them concealed to R.K. so long as he didn't come out shooting beyond the threshold of the garage. R.K. was still very agitated, and was now walking toward the front of the garage as though he was going to exit. R.K. again fired his pistol indiscriminately. R.K. then raised his gun with laser toward Ofc. Harty and other officers near him. Knowing that his LEO partners were in immediate harm's way by R.K. indiscriminately firing as he was exiting the garage, and now raising it up towards where Harty and other officers were positioned, Harty figured they had been spotted and were now being targeted by R.K. Harty squeezed the trigger on his sniper rifle firing one shot, and effectively neutralized the threat. When the E-Team reached R.K. in the garage, he was found deceased from one shot from Officer Harty's sniper rifle, with 3 loaded handguns next to his body, along with several loaded magazines.

Officer Harty should be commended for his ability, proficiency, and willingness to act in the manner in which he did by choosing to prevent others from death or great bodily harm. This is a tough personal decision that very few of us in law enforcement will ever have to make. Knowing the great personal sacrifice that comes with being involved in an OIS, such as the personal demons that he will have to fight with for the foreseeable future, any scrutiny that may come from a suspect's family, as well as from the media, the courts, and other facets of the public, Officer Harty chose to take all of those things upon himself in order to

ensure the safety and protection of others. For this reason, he is being nominated for 2019 Tactical Operator of the Year.

Thank you for reviewing this nomination. If the reviewing parties should need any additional information on this incident, or West Metro SWAT Sniper/Operator Ben Harty (New Hope PD), please do not hesitate to reach out to me.

Sincerely,

Sergeant Justin Tourville (Crystal PD)

Co-Team Leader – West Metro SWAT

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