



VICTORIA POLICE

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Chief Commissioner of Police

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Coroner Darren J Bracken
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

Subject: Rachel Mihail - Finding into death without inquest
Court Reference: COR 2017 5903
Date of Receipt: 6 February 2020

Dear Coroner Bracken,

Victoria Police response to recommendation arising from Finding without inquest into the death of Rachel Mihail

This document provides the response to your recommendation to Victoria Police, arising from the Finding into the death of Rachel Mihail without inquest, delivered on 6 February 2020.

The Finding raised issues relating to the urgency afforded to a welfare check that may have impacted the response time in police members attending to Ms Mihail on 22 November 2017.

Victoria Police's response to the recommendation is set out below.

RECOMMENDATION

The Chief Commissioner of Police consider reviewing the extant processes, policies and procedures applicable to police responding to requests for conducting 'welfare checks' and attendance to tasks similar to the task allocated to Senior Constable Mark Smeaton and Constable Mark Squire in this case to include a requirement that the urgency of police response be proportional to the facts made known to police to whom such tasks are allocated and the threat to life evidenced by those facts.

The Coroner's recommendation is under consideration by Victoria Police.

As set out in the written submissions of the Chief Commissioner of Police dated 19 August 2019 in this matter (**Submissions of the CCP**), there is no prescriptive structure or procedure for a welfare check as the range of circumstances that may be encountered by police members when conducting a welfare check are very broad.

Following receipt of your recommendation, Victoria Police Corporate Policy commenced a review of Victoria Police Manual (**VPM**) instructions which address general policing procedures that support members in responding to welfare checks (**Review**). In conducting the Review, Corporate Policy consulted the following key stakeholders: Crime Command, State Emergencies and Support Command and the Centre for Law and Operational Development within People Development Command.

Consistent with the Submissions of the CCP, Corporate Policy concluded that the task of responding to a welfare check cannot be addressed through policy alone, due to the range of outcomes and courses of action that may be encountered by police members when conducting a welfare check, and the need to ensure police responses reflect contemporary organisational and community expectations. In addition to the direction provided by the VPM, members receive 'on the job' training and guidance to inform their responses to welfare checks. Responses to welfare checks are dictated by risk assessments, with training provided to members and recruits regarding information gathering and the processes used to conduct an appropriate risk assessment.

As such, Corporate Policy is satisfied that the VPM provides adequate instruction for members to undertake their general duties, including the processes and responsibilities involved in responding to a request for a welfare check, when coupled with training, particularly 'on the job training'. For example, the VPM Policy Rules titled 'Operational duties and responsibilities' includes instructions that members are responsible for prioritisation of attendances on patrol tasks once an event is allocated, and includes guidance that while all employees are responsible for their own actions and conduct, the senior employee on patrol is responsible for ensuring that all messages or tasks are responded to promptly. The VPM Procedures and Guidelines titled 'Patrol responsibilities and communications' describe the situations in which an 'urgent' response, an 'as soon as possible' response or 'an attend when able' response is required. Members can seek advice from the Mental Health and Police Response¹ when a person appears to have a mental illness, and can liaise with mental health clinicians in circumstances where there is a serious and imminent threat to life, health, safety or welfare. Further, the VPM Policy Rules titled 'Professional and ethical standards' state that where a particular circumstance is not provided for in the VPM, given the varied and complex situations members face, professional and ethical decision-making is to be undertaken. Members are encouraged to use the organisational values and the 'SELF' test to make decisions in such situations. The 'SELF' test involves a four-stage test to assist members to consider if their decision will stand up to public scrutiny, is ethical and in compliance with Victoria Police policies, practices or procedures, is lawful and considers human rights, and is fair on the community and individuals.

In the course of the Review, Corporate Policy, in consultation with other key stakeholders within Victoria Police, identified minor amendments that could be made to the VPM that may further clarify processes for members when responding to welfare checks. Although the amendments arising from the facts and circumstances of this Finding were not deemed to be currently required, other areas of possible improvement in the VPM were identified. Those proposed amendments have been drafted and may be progressed in the future if supported during the next stage of consultations and as part of the ongoing holistic review of all operational policies. The purpose of the holistic review is to consolidate and simplify operational level policies and procedures contained in the VPM as the sole reference guide for members.

Yours sincerely



Graham Ashton AM
Chief Commissioner

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¹ The Mental Health and Police (MHaP) Response team is a team consisting of a mental health practitioner and a police member who provide advice, support and assistance to members and can respond to a mental health crisis, rather than escalating unnecessarily and involving an emergency department.