



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

December 19, 2013

13 - 31

Dangerous Driving Charge Approved Against Police Officer

Victoria – The Criminal Justice Branch (the “Branch”) has approved a charge of Dangerous Driving against Constable Micah Chan of the R.C.M.P. in relation to an on duty incident on June 20, 2013 in Salmon Arm, in which he allegedly engaged in a high speed pursuit of another vehicle. The incident was investigated by the Independent Investigations Office (IIO) as the female driver and sole occupant of the second vehicle was killed when her vehicle crashed into a parked dump truck. A Report to Crown Counsel from the Chief Civilian Director was received by the Branch on November 13, 2013.

The Branch has concluded that the available evidence does not provide a substantial likelihood of conviction for Dangerous Driving Causing Death, as the prosecution cannot prove that the officer’s driving conduct factually and legally contributed to the crash of the second vehicle and the death of its driver. As such, a charge of Dangerous Driving has been approved under section 249(1) of the *Criminal Code*. The charge was sworn December 19, 2013 in British Columbia Provincial Court in Salmon Arm under file number 22645-1. The first appearance has been scheduled for February 4, 2014.

The available evidence indicates that the second driver failed to stop at a stop sign. Cst. Chan, who was monitoring traffic at the location, intended to pull the vehicle over for *Motor Vehicle Act* violations and began to follow it, in an attempt to catch up. The second driver accelerated to a high rate of speed and Cst. Chan allegedly pursued the vehicle at a high speed. The second driver ultimately lost control of her vehicle, resulting in the fatal collision. A short time later, Cst. Chan allegedly lost control of his police vehicle at approximately the same location, and slid off the road.

The available evidence, including the evidence of two civilian witnesses, indicates that Cst. Chan was a significant distance behind the other driver prior to the fatal crash. It is not possible to establish beyond a reasonable doubt what factors initially caused the other driver to engage in high speed driving, and/or what factors led to the loss of control that resulted in the fatal collision. In particular, Crown Counsel has concluded

Branch Vision

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Office of the
Assistant Deputy Attorney General
Criminal Justice Branch
Ministry of Justice

Mailing Address:
PO Box 9276 Stn Prov Govt
Victoria, BC V8W 9J7

Office Location:
9th Floor, 1001 Douglas Street
Victoria, BC V8W 9J7
Telephone: (250) 387-3840
Fax: (250) 387-0090

that the available evidence is not capable of establishing beyond a reasonable doubt that the other driver was responding to Cst. Chan's attempts to stop her.

Consistent with Branch policy, the same charge assessment standards are applied in all cases. The Branch applies a two part test to determine whether criminal charges should be approved and a prosecution initiated:

1. there must be a substantial likelihood of conviction based on the evidence gathered by the investigating agency; and
2. a prosecution must be required in the public interest.

Under Branch policy, a substantial likelihood of conviction exists where Crown Counsel is satisfied there is a strong, solid case of substance to present to the court. To reach this conclusion, a prosecutor will consider whether the evidence gathered by the investigating agency is likely to be admissible in court; the weight that would likely be given to the admissible evidence by a judge or a jury; and the likelihood that viable, not speculative defences will succeed.

In making a charge decision, Crown Counsel must assess the evidence gathered by investigators in light of the legal elements of the criminal offence that is said to have been committed. Crown Counsel must also remain aware of the presumption of innocence, the prosecution's burden of proof beyond a reasonable doubt and the fact that under Canadian criminal law, a reasonable doubt can arise from the evidence, the absence of evidence, inconsistencies in the evidence, or the credibility or reliability of one or more of the witnesses. The person accused of a crime does not have to prove that he or she did not commit the crime. Rather, from beginning to end, the Crown bears the burden of proving beyond a reasonable doubt that an offence has been committed.

As the circumstances of this incident are now the subject matter of an ongoing prosecution for dangerous driving, the Branch cannot release additional information or comment further at this time.

Media Contact: Neil MacKenzie
Communications Counsel
Criminal Justice Branch
(250) 387-5169

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<http://www.ag.gov.bc.ca/prosecution-service/>

or Justice B.C. :

www.justicebc.ca/en/cjis/index.html