



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Investigation into the death of
an adult male involving a Motor Vehicle
Incident and the RCMP on
December 27, 2012 in the city of Surrey,
British Columbia.

IIO 2012-12-0199

INTRODUCTION

The Independent Investigations Office (IIO) is responsible for conducting investigations into all officer-related incidents which result in death or “serious harm” (as defined in Part 11 of the Police Act) within the province of British Columbia. As the Chief Civilian Director of the IIO (CCD), I am required to review all investigations upon their conclusion, in order to determine whether I “consider that an officer may have committed an offence under any enactment, including an enactment of Canada or another province.” (See s.38.11 of the Police Act). If I conclude that an officer may have committed an offence, I am required to report the matter to Crown counsel. If I do not make a report to Crown counsel, I am permitted by s.38.121 of the Police Act to publicly report the reasoning underlying my decision.

In my public report, I may include a summary of circumstances that led to the IIO asserting jurisdiction; a description of the resources that the IIO deployed; a statement indicating that the IIO, after concluding the investigation, has reported the matter to Crown counsel; or a summary of the results of the investigation if the matter has not been reported to Crown.

I am only permitted to disclose personal information about an officer, an affected person, a witness, or any other person who may have been involved if the public interest in disclosure outweighs the privacy interests of the person. Prior to disclosing any personal information, I am required, if practicable, to notify the person to whom the information relates, and further, notify and consider any comments provided by the Information and Privacy Commissioner (s.38.121(5) of the Police Act).

In this case, I have considered all of the factors and will not be disclosing the identities of the affected person or any other person. The affected person was 72 years old at the time of his death.

CIRCUMSTANCES LEADING TO NOTIFICATION TO THE IIO

On December 27, 2012, at 1:35 p.m., an on duty officer assigned to RCMP “E” Division Headquarters was driving an unmarked police (passenger) van eastbound on Highway 10 towards 184th Street in Surrey.

An adult male was driving a car westbound on Highway 10 and was in the left lane preparing to turn left (southbound) onto 184th Street. The traffic control lights were green for traffic on Highway 10. There was an ambulance approaching the intersection southbound on 184th Street with its lights and siren activated.

The male driver turned left in front of the on-coming unmarked police van, causing the collision.

The male driver sustained a number of injuries including fractured ribs and lacerations to his lung. Although the injuries were not believed to be life threatening at the time, over the following days, the driver's medical condition continued to deteriorate. He did not survive his injuries.

NOTIFICATION AND IIO JURISDICTION

The IIO was initially notified of the incident at 3:00 p.m. on December 27, 2012. As the injuries were not believed to have met the definition of serious harm, jurisdiction was not asserted.

Between December 27 and December 31, 2012, both the IIO and the RCMP were monitoring the male driver's medical status. During that period of time, his condition continued to deteriorate and on December 31, 2012, the IIO was notified he had not survived his injuries.

The IIO asserted jurisdiction due to the fact that the motor vehicle incident involved an on duty officer from the RCMP.

INVESTIGATIVE EVIDENCE CONSIDERED

IIO investigators interviewed the involved officer driving the unmarked police van; a second officer driving an unmarked police vehicle who witnessed the incident; an ambulance driver and passenger; and two civilian witnesses.

In addition, prior to his death, information was obtained from the male driver in an interview with the RCMP.

At the time of his interview, the male driver acknowledged he had suddenly turned left in front of the unmarked police van in order to avoid the ambulance. According to the witness officer, the male driver had taken a quick glance to his right (in the direction of the ambulance) and then saw him "hang a really sharp left" turn into the path of the unmarked police van. According to a civilian witness, he observed the male driver prior to the collision looking "confused and startled." A paramedic at the scene advised that the male driver had told him that he had "made a bad decision."

The involved officer participated in a voluntary interview with IIO investigators. He stated that he did not hear or see the ambulance. As he approached the intersection, he noticed an unmarked police vehicle that was stopped at the red light. He recalled he was travelling below the posted speed. He saw the car driven by the male suddenly appear from his left and was starting to brake when the collision occurred.

The witness officer stated the unmarked police van was travelling along with the traffic at the posted speed limit.

The ambulance driver and passenger were both interviewed. Both stated that they did not witness the collision nor realize a collision had occurred until they arrived at the intersection.

Two civilian witnesses were interviewed. They confirmed seeing the male driver turn in front of the unmarked police van. They believed however, that the involved officer was travelling above the posted speed limit.

Crash data from the unmarked police van was downloaded and examined. The vehicle data recorder indicated that 4.4 seconds prior to the collision, the unmarked police van was travelling at 72 KPH. From 3.4 seconds to 1.4 seconds prior to the collision, the speed was recorded at 70 KPH. At the exact time of the collision, his speed was recorded as 60 KPH. The posted speed limit was 70 KPH.

Environmental conditions at the time of the collision were described as overcast with light rain. There was no evidence of alcohol or cell phone use by either driver.

ISSUES

The general issue in this case, as it involves the IIO, is whether or not there is evidence that a police officer may have committed an offence under any enactment.

The specific question I must consider is whether or not the involved officer had any causal role in the deceased's death, namely was there any evidence to suggest that the involved officer was driving without due care and attention.

Section 144 (1) of the Motor Vehicle Act reads: "A person must not drive a motor vehicle on a highway (a) without due care and attention, (b) without reasonable consideration for other persons using the highway, or (c) at a speed that is excessive relative to the road, traffic, and visibility or weather conditions."

REASONS and DECISION of the CHIEF CIVILIAN DIRECTOR

In this case, there was evidence, including the deceased's own statements, that he was distracted by an ambulance travelling southbound on 184th Street and quickly turned in front of the unmarked police van.

Regardless of whether other traffic may have stopped for the ambulance, I can not conclude that the involved officer impeded the ambulance due to the fact that neither the ambulance driver or passenger witnessed the collision prior to arriving at the intersection.

The data recorder in the police van indicates that it was travelling at the speed limit of 70 KPH from 3.4 to 1.4 seconds prior to the collision. As such, when the unmarked police van entered the intersection, he was not travelling in excess of the posted speed limit.

I have also considered the observations made by the civilian witnesses. Based on the evidence, I do not consider that the involved officer may have committed an offence, in particular, an offence under s. 144 (1) of the Motor Vehicle Act.

I have directed that notice of this public report be provided to the Royal Canadian Mounted Police, the BC Coroners Service and the Commission for Public Complaints against the RCMP, as each may have an interest in this investigation and my findings in that regard. I have further directed that this report be posted to the Independent Investigations Office public website in order to ensure transparency through public reporting.

This public report was derived from a reviewable decision made by myself, Chief Civilian Director Richard Rosenthal. A copy of the reviewable decision is available upon request.

Submitted this 21st day of February, 2013 by

Richard A. Rosenthal
Chief Civilian Director
Independent Investigations Office of BC