



PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding the serious injury of a male youth
on June 15, 2013 sustained in a Motor
Vehicle Collision involving an officer of the
RCMP in the city of Maple Ridge,
British Columbia

IIO 2013-000023

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.

This is a public report related to the investigation into the serious injuries sustained by a male youth on June 15, 2013, in the city of Maple Ridge. The affected person was jaywalking across a highway when he was struck by a marked police vehicle driven by a member of the Ridge Meadows RCMP.

Pursuant to s.38.11 of the *Police Act*, RSBC 1996 Chapter 367, I have reviewed the concluded investigation. I do not consider that any officer may have committed an offence under any enactment and will not be making a report to Crown counsel.

In my public report, 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 both the advice provided by the Information and Privacy Commissioner as well as the views of the affected person’s next of kin and family. In particular, I am cognizant that he is a youth, and consider his rights to privacy paramount. To that end, I will not be disclosing names of any persons involved in this case.

The affected person was 17 years old at the time of his injury and subsequent hospitalization.

NOTIFICATION AND JURISDICTION DECISION

The RCMP notified the IIO shortly after the incident on June 15, 2013. Jurisdiction was asserted immediately as the incident was clearly officer related and the youth's injuries met the definition of serious harm.

The youth was hospitalized and was medically cleared after five days. The treating physician diagnosed the youth with fractures to his pelvis, fractures to two vertebrae as well as a pneumothorax, a pneumatocele and lung contusion.

A pneumothorax is a collection of air between the outside surface of the lung and inside surface of the chest wall. A pneumatocele is an air filled cavity in the lung tissue that can result when a lung laceration, cut or tear in the lung tissue fills with air.

INVESTIGATIVE FACTS and EVIDENCE CONSIDERED

IIO investigators obtained information from the scene examination and from: dispatch records; interview with the youth; interviews with witnesses including the witness officer; in- car video and GPS data. In addition, a report prepared by the RCMP Integrated Collision Analysis and Reconstruction Services was reviewed.

General Timeline

On June 15, 2013, at approximately 12.30 a.m., a motor vehicle incident occurred on Lougheed Highway just east of the intersection of 216 Street in Maple Ridge. The collision involved a marked RCMP vehicle and a pedestrian, the youth.

Two marked RCMP vehicles were travelling 200-300 metres apart eastbound on Lougheed Highway, one driven by the subject officer and the other driven by the witness officer.

Based on the information gathered from the RCMP, the youth, several civilian witnesses, an RCMP witness and in-car video, it appears that the youth was crossing Lougheed Highway from the north to the south approximately 100 metres east of 216 Street. The youth was not in a marked crosswalk.

The subject officer's vehicle struck the youth. Immediately after the collision, the witness officer activated his vehicle's emergency lights which in turn activated the in-car camera system. This allowed for the recording of events starting at 30 seconds prior to the activation.

The youth was thrown approximately 24 metres to the southeast and landed face down. He was transported to hospital.

Civilian Witnesses: Driver and Passenger

The driver was interviewed by IIO investigators. She and her passenger were travelling westbound on Lougheed Highway, in the left hand lane. She recalled it was fairly dark with not many street lights and not much in the way of residential lighting.

She saw the youth on the north sidewalk begin to cross the street. This caused her to slow down. The youth crossed ahead of her; she described him as jaywalking, crossing diagonally and staggering. It appeared to her that he could have been “under the influence.”

The youth “cleared” her vehicle and started to enter the eastbound lanes. The driver saw a police vehicle driving eastbound travelling just above the speed limit. She estimated that at the time she first saw the subject officer’s vehicle, it was 10-15 metres from the youth. She recalled saying to her passenger “I hope that cop sees that guy.”

The driver continued westbound but was watching in her rear view mirror. As she approached the intersection of Lougheed Highway and 216 Street, she saw what she described as a body fly up in the air. She estimated the youth went about five feet in the air before landing.

The IIO reviewed the interview (of the driver witness) conducted by the RCMP immediately following the collision. During that interview, the driver witness stated the youth had been walking slowly and did not seem to notice the traffic. She recalled the subject officer did not slow down which gave her the impression the officer did not see the youth. She believed the vehicle was travelling between 65 – 70 kilometres per hour.

The IIO reviewed the interview with the passenger conducted by the RCMP. The passenger stated the vehicle she was in was travelling westbound on Lougheed Highway in the left hand lane. She saw what she described as a guy in the middle of the street, staggering. She believed he was intoxicated. She recalled saying to the driver – “I hope he gets off the street; he’s walking right in the middle of the street.” She saw the youth crossing from the south side to the north; he was wearing dark clothing.

She saw an eastbound police car heading toward the youth and hoped that the officer would see him. She turned away and heard the driver scream – the youth had been hit.

Pedestrian Witnesses

IIO investigators attempted to locate and interview these two witnesses but were unsuccessful. IIO investigators were however, able to review the interviews conducted by the RCMP immediately after the incident. Both witnesses had been walking in the area of Lougheed Highway and 216 Street at the time of the collision.

One witness indicated he heard what he thought was a tire blowing out. He heard a skid sound, impact, and then another skid sound. He recalled that one police vehicle had passed by him and seeing the youth dart out on the street from north to south. A second police vehicle came along and struck the youth with the right front of the vehicle. He stated: "obviously it was the pedestrian trying to cross the street (and he didn't make it)...he jumped right in front of the cop car." The witness recalled it happening very fast and stated it was an accident. He reported the youth had been wearing dark clothing. He was not able to determine the speed of the police vehicle but felt it was not excessive.

A second witness stated she initially thought the tire of the subject officer's vehicle had blown and that the vehicle was steering out of control toward her. She saw that it was the youth running across the road in a northbound direction across all four lanes. She saw him hit the front side of the police vehicle, fly into the air and land partially on the sidewalk and partially on the road. She indicated she was about 20 feet from the incident and thought the subject officer's vehicle was travelling between 30 -50 (she could not specify if she meant kilometres or miles per hour.) She stated: "there was no way that officer was going to be able to stop, there's absolutely no way...I hope that officer knows it wasn't his fault." The witness recalled seeing the youth: "he kinda hesitated and tried to turn around but he didn't make it...he didn't see the cop car, he saw the first cop car... he didn't see the second cop car."

Affected Person: The Youth

The youth was interviewed by IIO investigators. He stated he was walking home from a friend's house and was on the north side of Lougheed Highway near 218 Street. He looked to his left and then right and saw cars in the distance. He believed he could make it across the street and double-checked before walking across the road.

According to the youth, he was crossing the median lane when "a cop came out of nowhere and just smoked me." He said when he turned to his right, the police vehicle was instantly there. He estimated the police vehicle was going 50 or 60 kilometres per hour, or possibly faster. The vehicle did not have its emergency lights or siren activated. The youth stated he was "knocked out" and woke up just as the ambulance was arriving.

Subject Officer

IIO investigators requested the subject officer provide a voluntary statement. On July 8, 2013, the subject officer advised that he would not be providing a voluntary statement, as is his right under the Charter.

Witness Officer

The witness officer was interviewed by IIO investigators. The witness officer was travelling in a marked police vehicle eastbound on Lougheed Highway. He was approximately 200 – 300 metres ahead of the subject officer.

The witness officer was driving in the right hand lane as he went through the intersection of Lougheed and 216 Street. He recalled seeing the youth dressed in completely dark clothing standing on the median that separated the eastbound and westbound traffic. The witness officer noted that he was very hard to see.

The witness officer moved over to the left lane and continued eastbound. He could see the youth in his rear view mirror and watched to see what he was going to do. He saw the silhouette of the youth illuminated in the head lights of the eastbound traffic and saw that the youth was crossing the street southbound. The witness officer knew the subject officer was behind him.

According to the witness officer, all of a sudden the subject officer's vehicle swerved sharply to the left and the passenger side headlight went out. He knew then that the youth had been struck. He made a U-turn and activated his emergency lights. He drove back to the scene and observed the youth lying prone with his head toward the sidewalk. The witness officer was able to convince the youth to lie down while he was "holding c-spine" on the youth to stabilize his neck.

The witness officer indicated he could smell alcohol on the youth's breath. He recalled the traffic being light at the time of the incident; the road was dry. The location was poorly lit with a lack of street lighting but otherwise, he did not recall any impairment to visibility.

Audio Recordings

Audio recordings containing all RCMP dispatch radio transmission made in the Ridge- Meadow Detachment area from 12:15 a.m. to 6:00 a.m. on June 15 were obtained and reviewed.

The first radio transmission occurred at 12:30 a.m., from the subject officer stating: "I need EHS (Emergency Health Services) here now at 216 and Lougheed."

The witness officer advised: "updating, it's going to be a ped[estrian] struck." There were no 911 calls made after the incident.

In-Car Video – Witness Officer's Vehicle

The video showed the witness officer travelling eastbound through the intersection of Lougheed Highway and 216 Street in the right hand lane. As the witness officer's vehicle passed by a cement median on the east side of the intersection, the youth is seen standing on the east side of that median.

The witness officer continued to drive for 16 seconds and then activated the emergency lights. He made a U-turn and returned to the incident scene where the subject officer's vehicle is seen stopped in the inside eastbound lane. The youth is seen on the ground on the south side of Lougheed Highway.

In-Car Video – Subject Officer’s Vehicle

The video showed the subject officer’s vehicle travelling through the intersection of Lougheed Highway and 216 Street in the right hand lane. The youth is seen walking in a southeast direction with his back to the vehicle. The youth crossed from the left lane into the right lane when he appeared to look over his right shoulder, see the on-coming vehicle and attempt to run. The vehicle swerved to the left striking the youth with the front right of the vehicle. The subject officer’s vehicle stopped in the left hand eastbound lane. The witness officer’s vehicle arrived 28 seconds later.

GPS Data

The GPS data from the subject officer’s vehicle was downloaded and reviewed. An examination of the data indicated the speed just prior to the incident to be between 74 and 75 kilometres per hour.

ICARS Report (Integrated Collision Analysis and Reconstruction Services)

According to the ICARS report, based on the distance that the youth was thrown at the time of impact, the speed of the subject officer’s vehicle was estimated to be between 62.22 and 70.57 kilometres per hour. A second calculation, based on a review of the in-car video, estimated the speed at 70.62 kilometres per hour at .16 seconds prior to impact.

As such, it appears the subject officer was travelling between 62.22 and 75 kilometres per hour at the time of impact.

ISSUES

The general issue in any IIO investigation is whether or not there is evidence that a police officer may have committed an offence under any enactment. In this case, I considered specifically whether the subject officer may have violated Section 144(1) of the *Motor Vehicle Act* which provides: “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, visibility or weather conditions.”

ANALYSIS

The evidence in this case indicates that the youth was jaywalking across Lougheed Highway at nighttime, in a poorly lit area, while wearing dark clothing. It is also a possibility that his judgement was impaired. I do however have to consider the subject officer’s speed at the time of the collision; in the absence of this, there clearly would be no reason to believe that he was at fault with respect to this motor vehicle incident.

In order to support a violation of s. 144(1), it must be established that the driving at issue, in consideration of “all the surrounding circumstances, **departs from** the accustomed sober behaviour of a reasonable man...” (See *R. v. Funk*, 2005 BCSC 1873.)

None of the witnesses to the incident indicated any belief that the subject officer’s vehicle was travelling at a dangerous or reckless speed. While it appears evident that he was travelling as much as 15 kilometres above the posted speed, given the other factors, I cannot conclude that the officer’s actions were a departure from what the law considers is the “accustomed behavior of a reasonable man” as referenced above.

DECISION

Based on the evidence obtained during the course of this IIO investigation, I do not consider that the subject police officer may have committed an offence in relation to the collision that resulted in serious injury to the youth. Therefore the IIO will take no further action in relation to this case.

FURTHER COMMENTS

I will be forwarding the IIO file to the RCMP for supervisorial review and follow up with respect to evidence that the subject officer was travelling in excess of the posted speed at the time of and immediately preceding the collision.

Prepared for release 19th day of August, 2013 by

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