



SUPPLEMENTAL PUBLIC REPORT OF THE
CHIEF CIVILIAN DIRECTOR

Regarding the August 7, 2013 injury to an
adult female involving an off duty RCMP
officer in the city of
Chilliwack, British Columbia

IIO 2013-000040

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 supplemental public report related to the investigation into the injury of an adult female that occurred on August 7, 2013, in the city of Chilliwack. In my first public report, dated October 3, 2013, I indicated that IIO investigators had interviewed four civilian witnesses to this incident. In fact, one of the four civilian witnesses was interviewed by an IIO investigator, while the other three civilian witnesses were interviewed by RCMP officers. While it is important to note that the investigative findings and my conclusion remain unchanged, I regret this error and I have amended this report accordingly.

The affected person sustained serious injury to her left ankle and leg after her electric scooter collided with a vehicle driven by an off duty police officer.

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 the advice provided by the Information and Privacy Commissioner. In this report, I will not be using the name of the affected person or of any other person involved in this matter.

At the time of her injury, the affected person was 54 years old.

NOTIFICATION AND JURISDICTION DECISION

A motor vehicle incident occurred on August 7, 2013, at approximately 5:08 p.m. near the intersection of Airport Road and Young Road in the city of Chilliwack. An adult female was leaving her place of work and was operating an electric scooter. An off duty police officer was driving his personal vehicle after completing his shift. The electric scooter collided with the other vehicle near the intersection.

The IIO was notified about the incident at 6:24 p.m. and asserted jurisdiction as it appeared that the affected person sustained injuries that met the definition of serious harm as defined by the *Police Act*.

INVESTIGATIVE EVIDENCE CONSIDERED

Interviews were conducted with the affected person and civilian witnesses. The subject officer provided a voluntary written statement. An IIO Collision Reconstructionist examined photographic evidence obtained by the RCMP.

Affected Person

The affected person was interviewed by the IIO several hours after the collision. She stated she was leaving work and was operating an electric scooter. She was at the corner of Young Street and Airport Road, and the light on Airport was red. Traffic was stopped on the red light; the affected person proceeded to drive her scooter between two stopped vehicles in order to turn left onto Airport road.

She stated she initially did not see oncoming traffic from either direction however as she moved forward, she saw a car coming towards her left. She was unable to estimate the rate of speed but did not believe it was excessive. She did not hear sounds of a horn or braking.

The affected person was hit on her left side by the oncoming vehicle. She recalled lying on the ground in pain. The affected person stated: 'I believe it was...a pure and simple accident. I didn't obviously see him, he didn't see me.' She concluded "I strongly don't believe this person is guilty of any wrong-doing whatsoever. For what it's worth, in my opinion, this person meant no harm whatsoever; it was a pure and simple accident."

Civilian Witnesses

Four civilian witnesses to the incident were interviewed.

Civilian witness 1 (CW 1) reported that he was stopped facing eastbound in the centre through lane of Airport Road just west of Young Street. He noticed an electric bike cross through two lanes of stopped traffic, cutting in between cars and into the left turn lane directly in front of an

oncoming vehicle. According to CW 1, the vehicle ran into the electric bike and knocked it over. He stated he did not see the rider check for traffic and concluded the vehicle driver “didn’t have a chance...and didn’t even see her coming.” He estimated the speed of the vehicle to be less than 15 kilometres per hour.

CW 2 was stopped facing eastbound on Airport Road and was in the middle of three lanes. She reported she was the fifth or sixth vehicle back from the intersection. She observed a female on a scooter pull out from a drive way and proceed to cross in front of two eastbound vehicles stopped for the red light. She saw the scooter drive into the third lane immediately to her left where it was struck by an eastbound vehicle that was traveling in the left turn lane. She stated “I couldn’t believe she was going to pull across three lanes of traffic, it’s dangerous.”

CW 3 stated she was stopped at the red light in the middle lane facing eastbound on Airport Road. She recalled both the centre lane and right turn lane were backed up with traffic. She observed a female on a scooter exit a parking lot and cross in front of the vehicle on her right side and then past the front of her car. She reported that the female did not stop and it did not appear that she saw the vehicle in the left turn lane. When the scooter pulled into the left hand lane, it was struck by the vehicle.

CW 4 stated he was driving eastbound on Airport Road and was directly behind the vehicle driven by the subject officer. Both vehicles were moving into the left turn lane and approaching the red light at Young Road. He saw what he described as a moped come out of a parking lot into the right turn lane. He described the moped as “scooting quickly” in a straight line between two cars and across traffic. He stated that as the front wheel of the moped got in between the cars in the straight through lane, “she kinds picked up her tempo a bit...(suddenly) she’s in front of him, he’s on the brakes and she’s lying on the ground. He had no chance whatsoever.” CW 4 reported that the moped operator was looking to the east and was not looking at the vehicles coming through into the left turn lane. He estimated the subject officer was travelling under 30 kilometres an hour.

Subject Officer Written Statement

The subject officer provided a voluntary written statement on August 22, 2013. He acknowledged that at the time of the incident, he was off duty, driving his personal vehicle and had just completed an 11 hour shift. He was eastbound on Airport Road and had positioned his vehicle in the far left dedicated turn lane. He was driving toward the intersection and observed stopped vehicles in the straight through and dedicated right turn lane west of the intersection. He wrote “suddenly I observed a scooter transition across the centre lane into my left turn lane and I immediately braked. (I) did not have enough time to avoid hitting the scooter as it appeared the rider was intending to come out of the parking lot and turn left to go westbound on Airport Road.” He reported that the scooter was in the centre of the left turn lane when his vehicle collided with it.

Collision Reconstruction

An IIO traffic collision reconstructionist examined photographs taken of the scene by responding RCMP officers. He noted that the scooter was found very close to the subject officer's vehicle, consistent with a low speed impact. He observed that with the exception of a few minor scrape marks from the right side of the scooter contacting the road surface, there were no tire marks or other roadway evidence found.

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. There are two legal issues to be considered in this case: dangerous driving causing bodily harm and driving without due care.

Criminal Code

Section 249 (1) of the *Criminal Code* considers dangerous driving: "Everyone commits an offence who operates (a) a motor vehicle in a manner that is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place."

Motor Vehicle Act

In this case, I also 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."

The statements of all involved parties are basically consistent. The affected person, while riding an electric scooter, attempted to travel through stopped eastbound traffic, across Airport Road, in order to travel westbound. The affected person drove into the path of a vehicle being driven by an off duty police officer. The affected person was struck and sustained injuries to her ankle and leg. There is no reason to believe the officer was speeding or driving negligently in any way or that he may have committed an offence.

CONCLUSION AND DECISION

Since there is no reason to believe that the officer may have committed any offence in this case, no further action will be taken by the IIO.

Prepared for Public release this 15th day of May, 2014

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

Attachment #1: Diagram

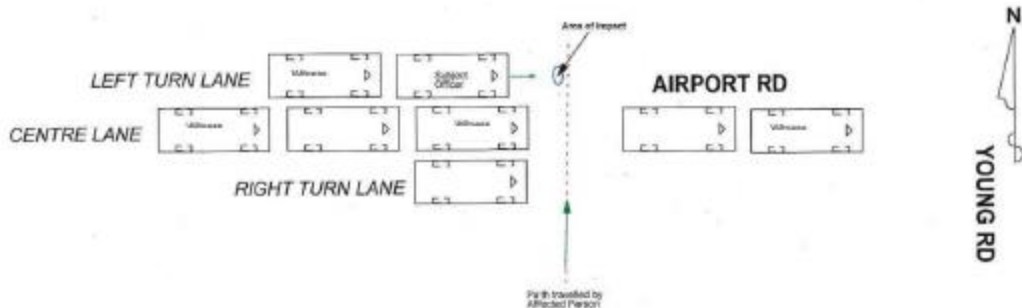


Diagram above shows the positioning of the involved parties in the collision and the approximate locations of the witnesses.

Attachment #1