



**IN THE MATTER OF THE DEATH OF A MALE
IN A MOTOR VEHICLE INCIDENT INVOLVING
A MEMBER OF THE RCMP IN
THE TOWN OF SQUAMISH, BRITISH COLUMBIA
ON MARCH 13, 2018**

**DECISION OF THE CHIEF CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATIONS OFFICE**

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2018 – 033

Date of Release:

April 15, 2019

THIS PAGE INTENTIONALLY LEFT BLANK

Facts

On March 13, 2018, at 10:27 p.m., the Affected Person (AP) was on foot westbound in Squamish and crossed a highway at an intersection controlled by traffic lights (the Intersection). AP was in the southern crosswalk (the Crosswalk) when he was struck by a southbound vehicle driven by Officer 1 (who was off duty) and was seriously injured in the collision (the Collision).

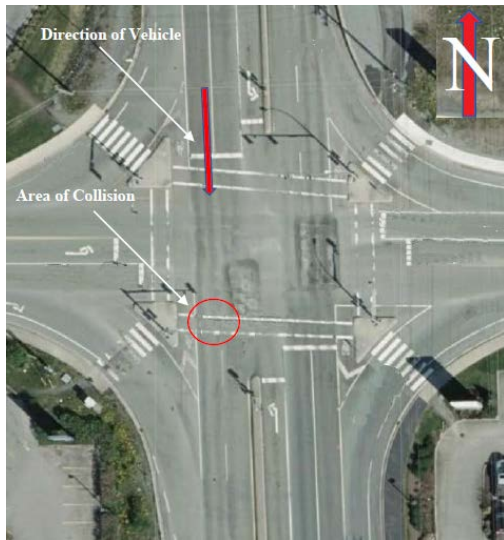
The Independent Investigations Office (IIO) was notified about 90 minutes later by the RCMP. The IIO commenced its investigation as the injury to AP was within the definition of “*serious harm*” as defined in *the Police Act* and an officer was involved. Off duty police officers are specifically included within the IIO’s jurisdiction pursuant to the *Police Act*.

AP did not recover and was unable to provide a statement. He later died in August of 2018.

Evidence collected during the investigation included the following:

- 1) Statements of 15 Civilian Witnesses (CWs);
- 2) Statements of four police officers;
- 3) CCTV from a nearby business;
- 4) Till receipts from two nearby businesses;
- 5) Officer 1’s vehicle Event Data Recorder (EDR);
- 6) Officer 1’s Mobile Work Station (MWS);
- 7) Emergency Health Services (EHS) records; and
- 8) Medical records.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, and consistent with the *Canadian Charter of Rights and Freedoms*, officers who are the subject of an investigation are not compelled to provide a statement, nor submit their notes, reports or data. In this case, the Subject Officer, Officer 1, declined to provide a statement, notes, reports or data to the IIO.



Speed limit through the Intersection is 70 km/h.

AP was living and working in Squamish, BC. At the time of the Collision, AP was wearing a black hoodie, blue jeans and black running shoes.

CW 1 works at a food and beverage business (the Establishment) across the highway and approximately 200 metres southeast of the scene of the collision. CW 1 recalled serving AP who was by himself, very normal, very quiet, well-spoken and showed no signs of intoxication.

Time stamps on the printout of a till receipt from the Establishment, with CW 1's information and bearing AP's first name, indicate AP placed an order at 9:40 p.m. and settled his tab at 10:25 p.m. Till receipts obtained by the IIO from a beer and wine store next to the Establishment do not bear AP's name but do reflect the sale of three different types of beer, in bottles, at approximately the same time. For reasons set out below, it is believed AP made that purchase. The Collision occurred minutes after the purchase.

IIO investigators conducted a timed walk from the Establishment to the southeast corner of the Intersection and noted that it took just under two minutes.

CCTV collected from a nearby business shows the Intersection where the Collision occurred; however, the Crosswalk is to the immediate right of the frame of the video and AP is never visible. The northbound traffic signals (from the top down coloured red, amber and green) are visible in the CCTV and show the traffic signal lights were operating normally at the time of the collision. The Eastbound traffic signals were also visibly operating normally.

The CCTV showed that while the north/southbound highway traffic had a green light, Officer 1's vehicle entered the Intersection. The traffic signal is clearly shown on CCTV to be green and remained green for approximately eight seconds after Officer 1's vehicle cleared the Intersection.

As Officer 1's vehicle passed through the Intersection, the headlights can be seen to dip down in the CCTV, which is consistent with sudden braking. Officer 1's vehicle then moved out of the Intersection and left the view of the CCTV.

The aftermath of the Collision at the Intersection was examined in detail by a forensic collision reconstructionist, under the supervision of IIO forensic personnel, and concluded that AP was travelling east to west when he was struck by Officer 1's vehicle and the "...area of impact [Area of Impact] was near the center of the southern crosswalk where it intersected with the center of the southbound slow lane," as shown by the circle in the photograph above.

Officer 1's vehicle's Event Data Recorder (EDR) was examined under the supervision of IIO forensic personnel. EDRs are components installed in vehicles for monitoring sensors and operating parameters. Should collision forces be great enough, some data prior to the collision can be collected. In this case, when the EDR was checked, it revealed the collision forces were not severe enough to activate the recording function. Officer 1's Mobile Work Station (MWS) was also examined under the supervision of IIO forensic personnel and was found to be inactive at the time of the Collision, which is not surprising as she was off duty at the time.

Although EDR and MWS data was not available, other physical evidence from the scene was used to determine the speed range of Officer 1's vehicle. The reconstructionist concluded that Officer 1 was travelling between 53 to 68 km/h at the area of impact. The posted speed limit was 70 km/h.

Examination of the CCTV could not produce a reliable estimate of Officer 1's speed; however, Officer 1's speed was comparable with numerous other vehicles captured by the CCTV, and thus consistent with the reconstructionist's conclusions.

Evidence collected from the scene of the Collision included two broken beer bottle necks with the caps still on, along with several pieces of broken glass. The caps on the broken bottles were of the same type that had been purchased minutes earlier at the beer and wine store.

A brown paper bag was found on the grill of Officer 1's vehicle, although no receipt for the beer was located.

Several Civilian Witnesses (CWs) were at a coffee shop approximately 75 metres from the Area of Impact. CW 2 and 3 went to where AP was and are captured by the CCTV as they went by. CW 2 said the driver (Officer 1, who was not in uniform and unknown to CW 2) was attending to AP and said that Officer 1 said that she "...*didn't see anything coming at all, it was a complete surprise...*"

CW 2 said there were broken beer bottle pieces scattered along the scene and it smelled like beer. CW 2 saw a bag on the grill of Officer 1's vehicle. CW 2 said that moments after they arrived, two off duty paramedics got out of a car and started attending to AP. CW 2 said it was "...*lightly raining. It was very dark...I wouldn't say the road conditions were bad, but they were wet.*" CW 2 said AP was wearing a black hoodie and jeans. These weather conditions at the time of the Collision are confirmed by the CCTV.

CW 3 was with CW 2 at the time of the Collision and on hearing "*the impact,*" CW 3 turned and saw "...*a guy [AP] fly...and tumble down the road.*" CW 3 went with CW 2 to where AP was lying on the road. CW 3 also said AP was wearing dark clothing and recalled seeing a "...*bag of beer stuck on the grille of the vehicle.*"

CW 4 saw Officer 1's vehicle in the slow lane "...before it hit the intersection" but did not see AP "...because he was wearing all black with a black backdrop."

CW 4 said:

...there was no sound of brakes, so [Officer 1]...couldn't have been going fast enough to skid...And [Officer 1] stopped pretty fast...the light was still green when [Officer 1] entered...[the Intersection and Officer 1] smacked...[AP who]...was standing in about the middle of the slow lane.

CW 4 was familiar with the traffic signals at the Intersection and did not hear them beeping as they do when the walk signal is activated.

CW 5 told the IIO that while driving southbound on the highway a police vehicle with the lights activated was on the roadway just south of the Intersection. CW 5 is a paramedic and stopped to assist. CW 5 said they did a head to toe assessment of AP, who was unconscious and breathing. CW 5 told the IIO that Officer 1 said that while she was driving in the slow lane at normal speed AP "...came out of nowhere and walked in the crosswalk." She slammed on the brakes and tried to swerve around AP, but AP stopped and she hit him. Officer 1 also told CW 5 that if AP had kept moving she would have skimmed by and avoided him, but he stopped.

Relevant Legal Issues and Conclusion

The purpose of any IIO investigation is to determine whether an officer, through an action or inaction, may have committed any offence in relation to the incident that led to the injury to AP.

More specifically, the issue to be considered in this case is whether Officer 1 may have committed the criminal offence of dangerous driving causing death or bodily harm to AP or the *Motor Vehicle Act* offences of careless driving or not complying with the duty of a driver to a pedestrian in a crosswalk.

The test for dangerous driving includes whether the driving in question "...viewed objectively was dangerous to the public in all of the circumstances."

Careless driving is when a driver drives a motor vehicle on a highway without due care and attention or at a speed that is excessive relative to road or weather conditions.

The duty of a driver to a pedestrian in British Columbia requires that a driver yield to a pedestrian in a crosswalk; however, a pedestrian also has a duty not to leave the curb "or other place of safety" and move into the path of a vehicle that is approaching a crosswalk where that vehicle is so close it would be impracticable for the driver to yield the right of way.

In this case, Officer 1 was driving in the slow lane under the posted speed limit. She entered and went through the intersection on a green light, when it was reasonable to expect the intersection would be clear of pedestrians. She then saw AP and applied the brakes shortly before colliding with him. While AP was in the crosswalk when he was hit, the evidence is clear that he was crossing contrary to the traffic signal, at night, in the rain and was wearing dark clothes. He would have been very difficult for a driver to see.

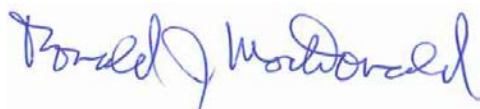
The evidence of CW 4 corroborates what Officer 1 told CW 5 regarding AP's visibility and with respect to the fact AP stopped in the centre of the slow lane. The accident reconstructionist likewise concluded that AP was at or near the centre of the crosswalk in the centre of the slow lane when he was struck.

There is nothing in the evidence collected that suggests Officer 1 was driving in a manner that would appear to a reasonable person to be way dangerous or without proper care and attention. To the contrary, all the evidence shows she was driving as a reasonable driver would.

There is no evidence to suggest that AP was in anything other than a sober state. Unfortunately, perhaps because his vision was affected by the weather conditions (he wore glasses), AP made a tragic error when he crossed the highway, against the traffic signal, on a dark and rainy night, in dark clothing. This placed him in front of Officer 1's vehicle. The collision was unfortunately unavoidable.

Thus, the evidence collected does not provide grounds to consider any charges against any officer.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that an officer may have committed an offence under any enactment and therefore the matter will not be referred to Crown counsel for consideration of charges.



Ronald J. MacDonald, Q.C.
Chief Civilian Director

April 15, 2019
Date of Release