



**IN THE MATTER OF THE INJURY OF A MALE
WHILE BEING APPREHENDED BY MEMBERS OF THE
RCMP IN THE CITY OF LANGFORD, BRITISH COLUMBIA
ON APRIL 23, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-072

Date of Release:

September 25, 2019

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Introduction

On April 23, 2019, two RCMP members (“Officer 1” and “Officer 2”) were just completing dealing with a traffic accident at the intersection of Veterans’ Memorial Parkway (“VMP”) and Kelly Road in Langford when they were notified by radio that two vehicles were speeding north on VMP in a dangerous manner, possibly street racing. Both officers started their police vehicles and activated emergency lights and sirens, intending to proceed in a direction likely to intercept the suspect drivers. While Officer 2 was still within the intersection, the suspect vehicles arrived, approaching from the south on VMP. One sped through the intersection but the other attempted to turn right onto Kelly Road. The driver lost control and the car crashed head-on into a stationary commercial truck. The car’s driver, the Affected Person (“AP”) in this case, was seriously injured. Because of an apparent connection to police actions, the IIO was notified and commenced an investigation.

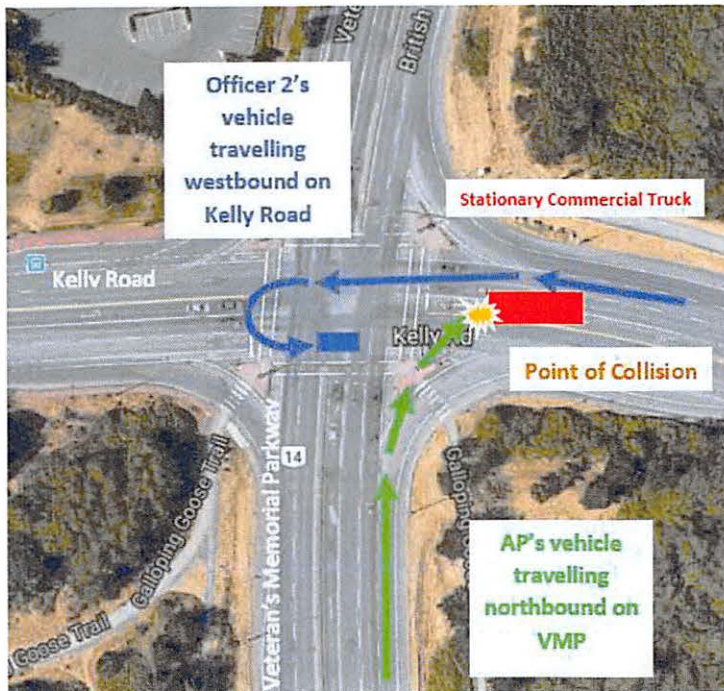
The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements from AP, several civilian eyewitnesses and three witness police officers;
- Computer-Aided Dispatch (“CAD”), Police Records Information Management Environment (“PRIME”) and Mobile Data Terminal (“MDT”) records;
- police dispatch audio recordings;
- police vehicle dashcam recordings;
- scene examination, analysis and photographs;
- Event Data Recorder (“EDR”) data from a civilian vehicle;
- medical records, including Emergency Health Services reports and a toxicology report.

Pursuant to section 17.4 of the Memorandum of Understanding between the IIO and BC Police Agencies, officers who are the subject of an investigation are not compelled to submit their notes, reports and data. In this case, the IIO investigation had the benefit of the notes and duty reports of all involved officers.

Narrative

At 11:07 a.m. on April 23, 2019, Officer 3 was parked at the side of VMP approximately three kilometres south of the intersection with Kelly Road. He saw two vehicles, a Cadillac and a Kia, pass northbound at high speed and in a dangerous manner, swerving across the centre double yellow line to pass other traffic on a winding road. Officer 3 turned to follow the suspect vehicles and broadcast his observations on the dispatch channel, but almost immediately lost sight of them as they sped away.



Officers 1 and 2, who were just completing their investigation of an unrelated traffic accident at the intersection of VMP and Kelly Road, heard the broadcast and returned to their vehicles, intending to proceed southbound on VMP, in a direction likely to intercept the speeding cars. Both officers turned their marked police vehicles back towards the intersection from where they were parked just east of VMP.

Officer 1 entered the intersection against a red light, after pausing at the stop line and with emergency lights and siren activated, and turned southbound on VMP. About three seconds later, Officer 2 also entered the intersection against the red light, in the same manner. As she did so, though, she saw the two suspect vehicles approaching at high speed from the south on VMP. The traffic light for VMP traffic turned red, and the light on Kelly Road then turned green. Officer 2, who was already most of the way across the intersection, executed a U-turn to her left, bringing her car around to face east again.

In the area of the intersection with Kelly Road, VMP northbound has two through lanes plus a left turn lane and a right turn lane that curves away behind a small triangular pedestrian island at the intersection itself. The leading suspect vehicle—the Cadillac—sped straight through the intersection, northbound on VMP, in front of Officer 2's turning vehicle. The second suspect vehicle—the Kia—did not. Dashcam video from Officer 2's vehicle clearly shows that, while Officer 2's vehicle (proceeding now at a very low speed, on a green light and with lights and siren activated) was still turning, in line with the northbound left turn lane on VMP, the Kia, driven by AP, was attempting a turn to the right into the right turn lane. It failed to negotiate the turn, striking the curb of the pedestrian island and lifting onto its two right wheels. Out of control, it then crossed the eastbound lanes of Kelly Road and drove head-on into the front left corner of the cab of a large commercial eighteen-wheeler truck. The truck was facing westbound on Kelly Road and was stopped slightly east of the intersection.

An EDR download from the Kia indicated that, five seconds before the crash, AP was travelling at 109 km/hr. Immediately before hitting the truck, and after an attempt to slow

for the corner, his speed was 46 km/hr.

The driver of the commercial truck was not injured in the crash. AP, the driver of the Kia, suffered serious injuries including a broken arm and three cervical spine fractures. He was initially helped from the Kia and was sitting on the rear bumper of a nearby civilian van. After a short time, though, an officer discovered a firearm in the Kia, and AP was taken to the ground and placed in handcuffs. AP did not provide IIO investigators with a statement, but no eyewitness described any excessive force by the arresting officers. One civilian witness described the arrest as “gentle.”

A toxicology report indicated the presence of amphetamines, methamphetamines, ketamines, norketamines, opiates, fentanyl and norfentanyl in AP’s blood.

Legal Issues and Conclusion

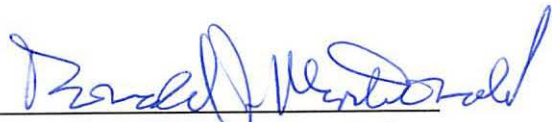
The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed an offence in relation to the incident that led to the injury to AP. In this case, the manner of driving of Officers 1 and 2 and the manner of AP’s arrest must be considered.

With respect to both Officer 1 and Officer 2, they entered an intersection controlled by traffic lights, against a red light. The B.C. *Motor Vehicle Act* permits the driver of an emergency vehicle to proceed past a red traffic control signal if they do so in accordance with the requirements of the *Emergency Vehicle Driving Regulation* (“the EVDR”). The EVDR limits the exercise of that privilege to situations where the risk of harm from exercising it is outweighed by the risk of harm from not doing so. It also requires the use of both emergency lights and siren while doing so. In this case, both officers were responding to a call to deal with drivers who were clearly creating significant risk to the public; both officers were using emergency lights and sirens; and video evidence demonstrates that both officers exercised considerable caution in entering the controlled intersection. Neither officer, then, committed any offence by proceeding into the intersection against a red light.

With respect to Officer 2’s action in turning back within the intersection, she neither impeded the forward path of the Cadillac or the Kia, nor caused the crash of the Kia or the injuries suffered by AP. The only reasonable interpretation of the evidence is that AP, approaching a red light at the intersection ahead and seeing the emergency lights of police vehicles there, decided to make a high-speed evasive turn onto the cross street. That decision, and his failure to execute it successfully, caused the crash and the injuries.

Finally, nothing in the evidence suggests any unjustified or excessive application of force by any officer in the arrest of AP, following the discovery of a suspicious firearm in the vehicle he had just crashed while trying to evade police.

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.

A handwritten signature in blue ink, appearing to read "Ronald J. MacDonald", written over a horizontal line.

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

September 25, 2019

Date of Release