



**IN THE MATTER OF THE INJURY OF A FEMALE
IN CONNECTION WITH THE ACTIONS OF MEMBERS OF THE
B.C. COMBINED FORCES SPECIAL ENFORCEMENT UNIT ('CFSEU')
IN THE DISTRICT MUNICIPALITY OF MAPLE RIDGE,
BRITISH COLUMBIA, ON JUNE 8, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-108

Date of Release:

January 9, 2020

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Introduction

On June 8, 2019, CFSEU members on patrol in Maple Ridge noticed that a passing vehicle driven by a young male was not displaying a mounted licence plate. They closed the distance to the vehicle and determined that a licence plate in its rear window was registered to a middle-aged female. The suspect, apparently becoming aware of the following officers, accelerated away and swerved onto the wrong side of the road. It collided head-on with an oncoming vehicle driven by a civilian witness ('CW1') whose passenger, the Affected Person ('AP') in this case, was seriously injured. The Independent Investigations Office ('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 of AP and four other civilian witnesses;
- statement of a witness police officer ('WO');
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- Mobile Data Terminal ('MDT') data from the involved police vehicle;
- scene examination and photographs; and
- medical evidence.

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, SO did not provide any evidence to IIO investigators.

Narrative

At about 5:10 p.m. on June 8, 2019, SO was driving an unmarked police SUV eastbound on 113B Avenue in Maple Ridge. WO was riding as passenger with him, and both officers were in full police uniform.

WO told IIO investigators that a grey Nissan with no front licence plate passed them, travelling west. SO executed a U-turn and followed the Nissan, and the officers noted that it had a licence plate in its back window. WO ran a check on the plate and received information about a connection with previous suspicious activity, and that the plate was registered to a female born in the 1960's. This roused additional suspicion, as the driver of the Nissan appeared to be a young male.

WO said the Nissan proceeded westbound into a roundabout at the Golden Ears Bridge on-ramp, but drove around it and exited back the way it had come, eastbound. This too was unusual behaviour. As the Nissan passed the police vehicle, WO said, it appeared

as if the driver looked over at the officers. SO followed the path of the Nissan around the traffic circle and sped up to close the distance to the suspect vehicle.

The posted speed limit along this section of 113B Avenue is 70 km/h. GPS data from the police vehicle's MDT show that as he approached the on-ramp roundabout SO was driving at speeds no higher than about 55 km/h. As he exited, his speed increased momentarily to about 94 km/h, then dropped to 57 km/h as he passed through a second roundabout a little to the east of the first, at the off-ramp for the Golden Ears Bridge. After exiting the second roundabout, SO's speed increased briefly to a maximum of about 104 km/h.

CW2 told investigators about having seen the police SUV pass through the second roundabout. He described driving northbound from the bridge, towards the off-ramp roundabout, behind a motorcyclist who turned east onto 113B Avenue. He said he then saw a grey SUV (the police vehicle) approach from his left and drive rapidly through the roundabout, exiting eastbound on 113B. As it was halfway through the roundabout, he said, he saw blue and red emergency lights turn on in its front grill area and then heard a siren.

CW3, riding in CW2's vehicle, first noticed the Nissan speed across the roundabout, and then saw the police SUV following. She said she saw the emergency lights on the police vehicle switched on, and saw the Nissan speed up "quite substantially."

WO said that as the police SUV left the second roundabout, he saw the Nissan move out into the westbound lane to overtake another vehicle. SO activated the emergency lights and siren, said WO, and the Nissan increased speed but stayed on the wrong side of the road. WO then saw a red Mazda coming round a bend ahead, directly in the Nissan's path.

From his perspective, about 150 metres east of the roundabout and about 250 metres behind the police SUV, CW2 saw "mist and [car] parts" flying up in the air ahead as the Nissan collided head-on with the red Mazda. CW3 estimated that when the collision occurred the police SUV driven by SO was about 100 metres behind the Nissan.

CW1 was the driver of the red Mazda. He recalled coming around the bend on 113B Avenue, westbound, at between 40 and 50 km/h. AP was with him as his front seat passenger. He saw the Nissan coming towards him in his lane and remembered saying something like "what's that idiot doing" before the Nissan and the Mazda collided. CW1 did not recall seeing any other vehicle.

CW4, who had been driving behind CW1's Mazda, said that the Mazda had been travelling at an unremarkable speed. CW4 saw the collision, and then saw the young male

driver of the Nissan exit the car and run away. CW4 estimated that it was about fifteen seconds after the crash that the police SUV pulled up to the scene.

AP was transported to hospital and was subsequently diagnosed with a fractured rib, minor collapsed lung and a fractured finger.

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 any offence in relation to an incident resulting in serious harm or death. More specifically, the issue to be considered in this case is whether SO may have committed an offence in the course of the incident, whether or not that offence contributed causally to AP's injuries.

On the evidence, it initially appears as though SO breached two provisions of the B.C. *Motor Vehicle Act* ('the Act'): when he first saw the Nissan, he performed a u-turn in a business district; and he also significantly exceeded the posted 70 km/h speed limit on two occasions.

However, the *Act* provides exemptions with respect to many of the *Act's* rules. Relevant in this matter is that, in the right circumstances, the driver of an emergency vehicle may exceed the speed limit, and can also disregard rules that govern the direction of movement or turning in specified directions.

To be entitled to the *Act's* exemptions, the driver must only drive in this manner when he does so in accordance with all regulations and ensures he is still driving "with due regard for safety."

In particular, the driver is required to constantly balance the risks to the public from driving contrary to usual rules against the risks of not doing so. His actions must be reasonable in all the circumstances.

The relevant provisions also require that where an officer speeds or executes an unauthorized U-turn he must use an emergency light and siren. However, where the officer is "engaged in the lawful execution of his duty" and reasonably believes it is safe to drive in the otherwise illegal manner without using the warning equipment he can do so.

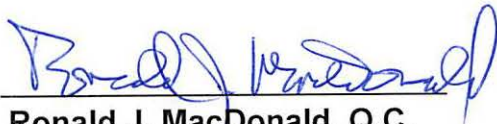
Applying those rules to the circumstances of this case, SO's driving was justified under the provisions of the *Act* and regulations. The U-turn and the brief periods of speed over the posted limit were for a legitimate purpose, as the officers were investigating a vehicle for possible *Motor Vehicle Act* offences, and perhaps other matters. On the evidence,

there was only light traffic in the area at the time, roads were dry, and visibility was good. Thus SO was engaged in the lawful execution of his duty and his actions did not create danger for other road users.

In addition the actions of the SO covered a short period of time, as he tried to position his car to attempt a traffic stop of the Nissan. At the time of the collision SO's SUV had not yet caught up to the Nissan. The injury to AP was caused by the dangerous driving of the Nissan driver, not by SO. That dangerous driving may have been the result of the Nissan driver noticing that he had attracted police attention and reacting to it, but it was not SO's fault.

SO did not commit any chargeable offence under any enactment, and did not cause the harm to AP.

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



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

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