



**IN THE MATTER OF THE INJURY OF A MALE
AFTER CONTACT WITH MEMBERS OF THE RCMP
IN THE CITY OF KELOWNA, BRITISH COLUMBIA
ON SEPTEMBER 23, 2019**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2019-182

Date of Release:

May 6, 2020

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Introduction

On September 23, 2019, an RCMP member attempted to pull over a vehicle driven by the Affected Person ('AP') in this case. AP did not stop, and sped away southbound on Highway 97 in West Kelowna. Soon afterwards, he was involved in a motor vehicle collision and was seriously injured. Because the accident occurred shortly after an interaction with police, 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 two witness police officers;
- statements of seven civilian witnesses and civilian vehicle dash camera video;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- recordings of 911 calls and police radio dispatch transmissions;
- police vehicle Mobile Data Terminal ('MDT') download;
- scene examination and photographs;
- Closed-Circuit Television ('CCTV') recordings from commercial premises and from the William Bennett Bridge; and
- an accident reconstruction report and a vehicle inspection report.

Narrative

On the afternoon of September 23, 2019, AP was seen by plain-clothes police officers driving a motor vehicle while prohibited from driving. Instructions were given to Officer 1, an RCMP General Duty ('GD') member in a marked police vehicle, to execute a traffic stop. Officer 1 was told that AP might "take off," and was instructed specifically not to pursue him. The sequence of events that followed was recorded and recounted to IIO investigators by several eyewitnesses, video and vehicle data downloads.

Officer 1 followed AP across the William Bennett Bridge towards West Kelowna. Just before the Westside Road exit from Highway 97, Officer 1 turned on his vehicle's emergency lights in an attempt to have AP pull over and stop. Civilian Witness 1 ('CW1') told investigators that he saw AP's vehicle cut quickly across traffic lanes and take the exit ramp at high speed, almost colliding with a concrete barrier. CW1 said he then saw a police vehicle follow AP up the ramp, its emergency lights flashing. AP, though, did not stop, and as CW1 continued past Westside Road he saw AP's vehicle speed down the 'on' ramp from Westside and merge back into traffic on the highway. The police vehicle, CW1 said, pulled over and stopped as AP's vehicle continued along the highway ahead. Officer 2, operating a surveillance vehicle, said that the police vehicle operated by Officer 1 turned off its emergency lights when it pulled over and stopped.

What happened next was recorded by the dash camera on a vehicle driven by CW2. AP's vehicle, travelling along the shoulder lane, appeared to clip another southbound vehicle and then immediately swerved left across the southbound lanes and the median, colliding with an oncoming northbound vehicle. CW2 said that she did not see any police vehicle or emergency lights at the time, and did not hear a siren.

For his part, AP told investigators that he was not aware that he was being followed by a police vehicle at the time, and denied being involved in a police chase. He said he believed his vehicle had been "tapped" by a flat-bed truck that had come racing up behind him. He believed he lost control of his vehicle, and after that only remembered waking up in the hospital.

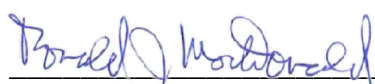
AP said he suffered a fractured skull, broken arm, shoulder, femur, pelvis, knee and ankle.

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 an officer may have engaged in an unjustified chase and caused the traffic accident.

The evidence does not support any such conclusion. Officer 1 was told to try to pull AP over, but to let him go if he fled, and that is exactly what Officer 1 did. The evidence demonstrates that the police vehicle's emergency lights were turned on only over a short distance, and that Officer 1 pulled over and stopped with his lights turned off as soon as it was clear that AP was not going to comply. This behaviour is fully consistent with RCMP policy and the British Columbia *Emergency Driving Regulations* that suggest a pursuit should not be continued in these circumstances. The accident was caused by AP's behaviour in speeding and losing control of his vehicle, not by any inappropriate act of a police officer.

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 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

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