



**IN THE MATTER OF A DEATH
RESULTING FROM A VEHICLE COLLISION
AFTER AN ATTEMPTED TRAFFIC STOP
BY A MEMBER OF THE RCMP IN
THE CITY OF ENDERBY, BRITISH COLUMBIA
ON OCTOBER 25, 2020**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

2020-266

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Introduction

In the early morning hours of October 25, 2020, an RCMP officer (Subject Officer 'SO') observed a stolen vehicle southbound on Highway 97A in Enderby, British Columbia. Shortly after SO activated his emergency equipment, the vehicle crashed. The Affected Person ('AP') was ejected from the vehicle and pronounced deceased at the scene, and the passenger was transported to hospital for non-life threatening injuries.

Because the death occurred in connection with the actions of a police officer, 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:

- statement of one civilian witness;
- statements of four witness police officers;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- police radio to radio transmissions and 911 call;
- mobile data terminal information from the Subject Officer's vehicle;
- photographs and drone footage of scene;
- a Forensic Collision Reconstruction Investigation Report;
- a Collision Reconstruction Analysis Report; and
- autopsy and toxicology reports.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, the Subject Officer has not provided any evidence to the IIO.

Narrative

At 3:03 a.m. on October 25, 2020, the Subject Officer ('SO') was on patrol in a marked police vehicle at Highway 97a, Enderby, B.C. when he queried a Mazda 6 car that had travelled nearby him. The Mazda 6 car came back on the query as 'stolen'.

Two minutes later at 3:05 a.m., SO said over the radio: "vehicle speeding away from me now. It's a stolen vehicle." SO reported that the vehicle was travelling southbound towards Vernon and he had the vehicle's plate number.

At 3:08 a.m., SO stated over the radio that he had his police vehicle lights on and there were "zero cars on the road". He also explained: "I'm doing 150 something just to try

catch, close the distance but he just went off the road.” SO then explained: “he was about a click in front of me and just went off the road, right.”

A Forensic Collision Reconstruction Report was prepared to assist the investigation. The Forensic Collision Reconstruction Report outlined that the Mazda 6 car was travelling southbound on Highway 97A, but moved into the northbound lane as it rounded the curve of the highway. The vehicle’s wheels lost traction, causing the Mazda 6 to rotate back into the southbound lane and then eventually hit the ditch, where it rolled several times. The speed of the Mazda 6 car was calculated to be between 149-160 kilometres per hour, at minimum, as it entered the curve of the highway.

The driver of the vehicle (Affected Person, ‘AP’) was not wearing a seatbelt. He was ejected from the vehicle and found deceased at the site of the collision.

A surviving passenger in the vehicle (Civilian Witness 1, ‘CW1’) was assisted from the vehicle by SO and other RCMP officers who had arrived. CW1 was taken to the hospital by Emergency Health Services where she was treated for a fracture to her right clavicle and bruising injuries.

Prior to encountering the Mazda 6, SO’s vehicle was travelling at a constant speed of 109 kilometres per hour. Once SO had discovered the Mazda 6 was stolen, he accelerated to catch up to the Mazda 6, travelling at an average speed of 168 kilometers per hour. The maximum speed SO reached was 192 kilometres per hour for a very short period (fewer than four seconds). Based on the evidence, there were 2 minutes and 24 seconds where SO was travelling at a high rate of speed to catch up to AP.

The highway where the incident occurred is single lane in each direction with a speed limit of 100 kilometres per hour. The highway runs primarily south to north but turns to accommodate the terrain. It was dark outside, but the visibility was good. The weather conditions at that time were dry but overcast and the temperature was -4.5 degrees Celsius. As this incident occurred late at night, very little traffic would be expected to be on the road.

The IIO interviewed four Witness Officers, but none of them witnessed the collision or the driving behaviour of the SO.

An autopsy confirmed that AP’s death was a result of the collision and that he had a number of intoxicating substances in his system, including methamphetamine.

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 any driving offence in the course of his attempted traffic stop of the Mazda 6.

SO was acting lawfully, in execution of his duty, when he activated his emergency lights to pull over the stolen vehicle.

Statutory law and regulation permit an officer to exceed the speed limit for specific legitimate purposes, as long as that speeding does not create undue risk to the public.

One of those legitimate purposes is for 'closing the distance' between the officer's police vehicle and a suspect vehicle. Another is for pursuit of a vehicle if the occupants of a vehicle are committing an offence, and the seriousness of the offence outweighs the risk to the safety of members of the public that may be created by the pursuit. There are a number of factors that must be considered before a pursuit is engaged, including the nature of the offence, the risk of harm, the nature condition, and use of the highway, and the volume of traffic and pedestrians expected.

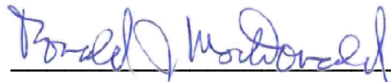
Police officers are trained and have experience in high speed driving. The data from SO's vehicle demonstrates that SO drove his police vehicle at speeds in excess of the speed limit, but only for a very short period of time, a period of less than three minutes. This took place on a dry highway in good condition, with clear conditions and very little traffic present.

In this case, it is not entirely clear from the evidence whether the officer was 'closing the distance' or pursuing the Mazda 6. What is clear, is that the SO's driving occurred within a short timeframe. Although likely, it cannot be proven that the driver of the Mazda 6 saw the officer during this timeframe as SO attempted to pull him over. There is no witness that can speak to this, as the SO did not provide a statement, the driver is deceased and the passenger was not aware of police presence because she was sleeping.

Although SO was speeding, he was travelling safely given the relevant legal factors that need to be considered when assessing an officer's driving. The Forensic Traffic Reconstruction Report provides evidence that this tragic collision was caused by the intoxicated driver of the Mazda 6, who lost traction of his vehicle travelling at a high rate of speed around a corner and then rolling into a ditch.

The SO's driving in this case is not a marked departure from the standard of care of a reasonable police officer, which is the level it must be to be considered an offence.

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

June 22, 2022

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