



**IN THE MATTER OF THE INJURY OF A FEMALE
AFTER AN ATTEMPTED TRAFFIC STOP BY A MEMBER OF THE
ABBOTSFORD POLICE DEPARTMENT IN
ABBOTSFORD, BRITISH COLUMBIA
ON APRIL 26, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2021-105

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INTRODUCTION

In the early morning hours of April 26, 2021, on McCallum Road in Abbotsford, the Subject Officer ('SO') attempted to conduct a traffic stop of a speeding vehicle. The Affected Person ('AP'), who was driving the vehicle, did not stop. Shortly after the attempted traffic stop, AP crashed the vehicle and 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, two other civilian witnesses and two witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police radio transmissions;
- forensic scene examination and Integrated Collision Analysis and Reconstruction Service ('ICARS') report;
- analysis of Closed-Circuit Television ('CCTV') recordings from several locations;
- data downloads from the vehicles driven by AP and SO;
- Emergency Health Services records; and
- medical evidence.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO provided access to his written PRIME entries.

NARRATIVE

In the early morning of April 26, 2021, AP came home after being out socializing with friends, and took her father's vehicle, a Hyundai Tucson SUV, without consent. She had been consuming alcohol and other substances. The night was clear and dry, and there was very little traffic on the streets.

At approximately 1:25 a.m., AP was driving east on Maclure Road when she came to the attention of SO, who was stopped in his marked police vehicle, facing north, at the intersection of Maclure and McCallum roads. In his written report, SO states that he saw the headlights of the vehicle driven by AP approaching "at an extremely high rate of speed". The vehicle's tires, SO says, were squealing as it came around the corner

towards him, and it was “fishtailing”. SO records believing that the driver was about to lose control and potentially collide with his stopped police vehicle. He writes

“At the last moment, it appeared as though the driver regained control of the vehicle enough to stop fishtailing and continue navigating the bend. [SO] observed the vehicle to pass mere inches from his front bumper and complete the bend... As it came out of the bend, [SO] observed the vehicle to be significantly swerving as it corrected itself to continue travelling straight.”

SO estimated the speed of the Tucson to be “well over 100 km/h, possibly close to 150 km/h”, and continued:

While the entire interaction had just been a few seconds, [SO] determined that the driver of the vehicle had either just stolen the vehicle and was attempting to flee or was significantly impaired by alcohol or drugs. In either event, [SO] felt that the driving behaviour was so extreme that there was a high chance of a crash causing serious injury or death with the next vehicle the driver encountered on the roadway. [SO] felt as though attempting to conduct a traffic stop was absolutely necessary in the hopes that by activating his red and blue emergency lights, [SO] would initiate the driver of the Tucson to correct their driving behaviour and provide more safety for others on the roadway, and ideally pull over. Immediately as the Tucson passed by the front of [SO's] police vehicle, [SO] activated his red and blue emergency lights as well as his siren and accelerated north after the Tucson. Given the Tucson's speeds, [SO] was already well behind it.

At 1:27 a.m., SO radioed that he had a “fail to stop” on McCallum Road approaching Highway 11 at a high rate of speed. Witness Officers 1 and 2 (‘WO1’ and ‘WO2’) heard the broadcast and started to drive in that direction with the intention of assisting if possible. “A few seconds later”, WO1 told IIO investigators, there was a second call from SO, saying the Tucson had crashed attempting to make a right turn at the intersection with Highway 11.

The recording of SO’s radio traffic discloses the following transmissions, with virtually no breaks:

I've got a fail to stop, McCallum and Highway 11, approaching Highway 11 ... It's a grey Hyundai Tucson, it's gonna right turn, uh, southbound Highway 11, uh, oh, it's just crashed.

The siren of SO’s police vehicle can be heard in the background.

When the two witness officers arrived at the accident scene, they found that the Tucson had been “torn in half” after having evidently collided with a utility pole, and AP had been ejected onto the pavement. SO was kneeling beside her, clearly upset, trying to reassure her and telling her that an ambulance was on the way.

CCTV recordings were downloaded from several locations along the route travelled by AP. One recording shows AP speeding past the intersection of Maclure and McCallum, and also shows SO pulling out to follow her, activating his emergency lights. Both vehicles accelerated away from the intersection and 90-degree corner.

Data downloads from the Tucson and from SO’s police vehicle were obtained. The data demonstrate that the Tucson was travelling at 136 km/h approximately 162 to 181 metres (5 seconds) prior to the crash, and was still travelling at 89 km/h at the time of the crash. The duration of SO’s attempt to conduct a traffic stop of AP was just over 30 seconds. The distance travelled by SO from the intersection of Maclure and McCallum to the crash site at the intersection of McCallum with Highway 11 is approximately 1.1 km, and SO briefly reached a highest recorded speed of 150 km/h at a point approximately 500 metres before the crash location. Shortly after that point, roughly half way from his starting position to the location of the crash, SO’s police vehicle was decelerating, and came to a complete stop at the intersection. The posted speed limit in the area is 50 km/h.

There is no evidence that either the Tucson or SO’s police vehicle was suffering from any mechanical defect at the material time, and no evidence of any contact or collision between the two vehicles.

Because of her injuries, it was not possible to obtain a statement from AP for a significant period after the accident. She was interviewed by the IIO in February 2022, but said that she had no memory of the incident, or of the few days prior to it.

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 AP.

On the evidence, SO was justified in believing that the manner of AP’s driving represented a significant danger to herself and to other road users, and so was acting in lawful execution of his duty in attempting to pull her over. While making that attempt, he drove for a very short time at a speed well in excess of the posted speed limit, with his


emergency lights and siren activated. The time involved was no more than was required to determine whether AP was going to respond or not. In doing this, SO was protected by an exemption in B.C.'s *Motor Vehicle Act* that permits the operators of emergency vehicles to exceed speed limits in certain circumstances. Specifically, the operator must weigh the risks involved, and ensure that the actions engaged in do not create risks greater than those the operator seeks to prevent or avoid.

In this case, SO was engaged in what is referred to in B.C.'s *Emergency Vehicle Driving Regulation* ('the *Regulation*') as 'closing the distance', that is: attempting to catch up to a speeding vehicle for the purpose of signalling with the police vehicle's emergency lights and/or siren that the speeder must pull over and stop. The data show that he accelerated over several hundred metres to a speed that was well in excess of the speed limit and then, having determined that the Tucson was failing to stop, he reduced his speed. There is no evidence that, if AP had managed to execute her attempted right turn onto Highway 11 and had sped away to the south, SO would not have simply discontinued his attempt, as is required by the *Regulation* and by Abbotsford Police Department policy.

The road over which SO drove at speeds in excess of the posted limit was broad, flat and dry, and the road surface was in good condition. There is ample artificial lighting in the area, and visibility was good. It was night-time in a commercial area, and CCTV coverage shows that there was virtually no other traffic. There is no evidence of any unusual manner of driving other than the excessive speed. It is also worth noting that there is no evidence that SO's action in attempting to pull AP over caused her own speeding to increase.

AP's loss of control of the vehicle she was driving, the crash and the resulting injuries to AP were not caused by SO and, as set out above, SO's action in exceeding the speed limit was justified and excused under provincial legislation.

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, KC
Chief Civilian Director

February 28, 2023

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