



**IN THE MATTER OF THE SERIOUS HARM OF A MALE IN A MOTOR
VEHICLE INCIDENT INVOLVING A MEMBER OF THE
RCMP IN LANGLEY, BRITISH COLUMBIA
ON AUGUST 26, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, K.C.

IIO File Number:

2021-238

Date of Release:

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Introduction

In the early morning hours of August 26, 2021, an off-duty police officer ('Subject Officer' or 'SO') was travelling home from work when he struck a pedestrian who was walking on the Langley Bypass. The Affected Person ('AP') suffered multiple broken bones and was transported to hospital for treatment of his injuries.

Because the injury occurred as a result of the actions of 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:

- statement of AP;
- statements of five civilian witnesses;
- statements of six first responders;
- police Computer-Aided Dispatch ('CAD');
- Police Records Information Management Environment ('PRIME') records;
- police radio transmissions and 9-1-1 calls;
- CCTV from three nearby businesses;
- mechanical inspection of SO's vehicle;
- expert collision analysis; and
- AP medical records.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO did not provide any evidence to the IIO.

Narrative

On August 26, 2021 at 12:36 a.m., an off-duty officer (SO), the sole occupant and driver of a Subaru Outback SUV ('vehicle'), was travelling on the Langley Bypass approximately six minutes after finishing work. It was overcast and the weather conditions were clear and dry. There was light traffic.

SO was travelling eastbound in the 70 km/h zone of the Langley Bypass, under the 196 Street Overpass.

Approximately forty minutes earlier, Civilian Witness 1 ('CW1') had called 9-1-1 to report that an individual [Affected Person] was walking on the Langley Bypass in the middle of the road into oncoming traffic. CW1 felt that AP's behavior did not "*seem right*".

Civilian Witness 2 ('CW2') had also called 9-1-1 to report similar behavior. CW2 described a "suicidal person" in the middle of the Langley Bypass and said that she and another driver had to swerve and almost hit AP. CW2 had to change lanes and said that she honked at AP, but he smiled and kept walking. CW2 called 9-1-1 because she was concerned for AP's safety.

CCTV footage from a nearby business captured the incident which took place at 12:36 a.m. involving the SO. AP is seen on video walking westbound on the Langley Bypass in the middle of four lanes of traffic more or less under the 196 Street overpass. SO's vehicle struck AP as he was walking in the middle of the road. AP was hit on the vehicle's driver side, knocking AP to the ground.

After being struck, AP flipped over and landed face down as a result of being sideswiped by the vehicle. The vehicle's brake lights then illuminated, and the vehicle turned around. The SO came back to remain on the scene with AP.

Civilian Witness 3 ('CW3') arrived on scene immediately after AP was struck. CW3 said it was extremely dark as he approached and that he observed what he thought was "garbage on the street being flung up in the air". CW3 did not see SO's vehicle strike AP, and only realized it was a person once he had to swerve out of the way to avoid striking them.

CW3 described SO as being extremely shook up, and SO told CW3 "I didn't see anything, I didn't see him, I didn't even know what I hit". CW3 said that AP remarked "please just let me die, kill me" when he was attending to AP. A first responder on scene (Civilian Witness 4 or 'CW4') also described that AP said "Just kill me, just kill me, I just need to die."

AP's explanation of what happened that evening was consistent with the other evidence gathered. AP said that he was intoxicated and drank 10-11 drinks that evening prior to being hit by the vehicle. AP was having some personal difficulties and had spent the night walking for approximately five kilometres prior to being struck. The medical records confirmed AP's high level of impairment.

SO had just finished work prior to the collision. No witnesses reported any impairment of SO, nor was there any evidence on scene to suggest impairment. In contrast, Civilian Witness 5 ('CW5') described SO as "in control of his faculties, making common sense and making good choices".

SO's vehicle was subjected to an independent mechanical inspection and deemed to be in good condition.

An expert collision report was prepared related to the collision. The report noted four areas affecting visibility at the time of the collision.

First, the overpass did not have any lighting fixtures to illuminate the shadow the structure casts on the Bypass below. Second, there was 'visual clutter' from the light emanating from the commercial properties. Third, noticeably bright lights emanated from business signage on both sides of the overpass. And fourth, AP was wearing dark clothing.

Emergency Health Services transported AP to Royal Columbian Hospital. AP suffered a fracture to his left femur, rib fractures, and injuries to his abdomen and lungs. AP also suffered left knee and ankle fractures and lacerations to his left hand.

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 a driving offence by striking the pedestrian and causing them serious harm.

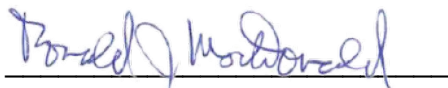
The CCTV provided compelling evidence of how the collision occurred. All accounts received from witnesses are consistent. AP made an error, being in dark clothing and walking in the middle of a fast-moving highway in darkness. It was not reasonably foreseeable that a pedestrian would be found walking down the middle of the Bypass in the early hours of the morning. Two civilian witnesses called 9-1-1 because they were concerned and found it unusual.

In addition to a driver not anticipating an unexpected pedestrian, the poor lighting and AP's dark clothing made it exceptionally difficult to see AP. The fact that SO's brake lights were not apparent until after the collision provide evidence that SO did not see AP at all. The video also showed that SO's headlights did not illuminate AP until just immediately before he was struck, well after he would have had any chance to react. As AP was intoxicated, it also would have been difficult for him to quickly move out of the way of a vehicle. This made the collision virtually unavoidable and very unfortunate in these circumstances.

Drivers must yield to pedestrians in crosswalks, but there was no crosswalk nor indication that AP was trying to cross the road in this case. Instead, the evidence is that AP was walking in the middle of a busy highway. There is nothing in the evidence collected that suggests SO was driving in a way that would appear to a reasonable person to be

dangerous or without proper care and attention. To the contrary, all the evidence shows that SO was driving as any reasonable person would, given the road and lighting conditions at the time of this incident.

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, K.C.
Chief Civilian Director

November 25, 2022

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