



**IN THE MATTER OF THE DEATH OF A MALE
AFTER AN ATTEMPTED TRAFFIC STOP
BY A MEMBER OF THE RCMP
IN KAMLOOPS, BRITISH COLUMBIA
ON SEPTEMBER 26, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, Q.C.

IIO File Number:

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INTRODUCTION

On the afternoon of September 26, 2021, on Highway 1 just east of Kamloops, the Subject Officer ('SO') was passed at high speed by a motorcycle operated by the Affected Person ('AP'). SO activated his emergency lights, but AP did not stop. Approximately 1.5 km farther along the highway, AP failed to stop for a red light and collided with a pick-up truck. He was declared deceased at the scene. Because of the connection with police action, 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 eleven 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 traffic;
- scene photographs;
- ICARS (Integrated Collision Analysis and Reconstruction Services) report;
- records of B.C. Emergency Health Services; and
- Coroner's report.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, SO filed a written report in PRIME, but declined to permit its use in the IIO investigation.

NARRATIVE

The Incident

At 6:50 p.m. on September 26, 2021, the Subject Officer ('SO') was driving a police van eastbound in the left lane on Highway 1, east of Kamloops. Civilian Witness 1 ('CW1') was beside SO in the right lane, and told IIO investigators that his speed at the time was about 70-80 km/h. The posted speed limit in the area is 80 km/h. A motorcycle driven by the Affected Person ('AP') approached from behind at high speed, and passed between the two vehicles. CW1 estimated that the motorcycle was traveling at 120 km/h or more. "Within seconds", he said, he saw the emergency lights on the police vehicle light up.

Approximately 750 metres east of the spot where the motorcycle passed, the highway starts a sweeping curve to the right, and CW1 said he quickly lost sight of the motorcycle,

though the police vehicle remained in his field of view the entire time, with its emergency lights still activated.

When CW1 reached the intersection with Highland Road, he saw that the motorcycle had been involved in a collision with a pick-up truck, and stopped. The police vehicle, he said, had also stopped at the intersection, in the left lane. CW1 said that SO remained in his vehicle. CW1 approached him and offered to provide a statement, but said that SO responded, "No, I saw everything".

CW2 told IIO investigators that at the time of the incident he was driving westbound on Highway 1, preparing to stop at the Highland Road traffic light. He saw the light of the motorcycle approaching, and said he would not be able to estimate the motorcycle's speed. He said he also saw emergency lights, either at the same time as he saw the motorcycle or a split second later. He heard an impact, and when he looked up, did not see the police vehicle. About five seconds later, he said, as he exited his truck, he saw SO's police van stopped. He said he went over to it, and spoke with SO, who was on his phone. CW2 said he told SO, referring to the motorcyclist, "I think he's dead", to which he said SO responded, "Ya, he is".

The pickup truck involved in the collision was being driven by CW3. She had approached the highway northbound on Highland Road, and had moved out into the intersection to turn left when her traffic light turned green. She said she stopped when she saw a motorcycle approaching fast from her left, but the motorcycle hit the front driver's side of her truck. She said she did not see any police emergency lights or hear a siren. She said she then saw a police van at the intersection, and said the officer (SO) came over to see if she was alright.

CW4 told the IIO that as she was about 200 metres from the intersection, approaching it westbound, she noticed police lights eastbound on the highway, "in the distance" about 300-400 metres to the west. She said that, since she could see the lights, the police vehicle must have been past the curve of the highway and onto the straight leading to the intersection. CW4 said she came to a stop at the intersection, and saw a truck starting to turn left from Highland Road. She said she then saw a motorcycle approaching at about 120-140 km/h and about "ten seconds" later saw it collide with the truck. CW4 also said that she did not recall seeing any police lights or hearing a siren prior to the crash. She said she went to check on the driver of the pickup truck, then turned around and saw that a police van "had pulled up" at the intersection with its emergency lights activated. She said she offered to make a statement to the police officer, but he declined. She said she was "stunned" by that response, but was even more surprised when she saw and heard another driver approach SO, saying he was driving right behind the motorcycle at the time

of the collision, and could give a clear account of what happened, but SO told him, “the best thing you can do is get in your car and go home”.

Several other civilian witnesses who observed the collision said they did not recall seeing police emergency lights or hearing a siren before the crash.

Subject Officer Statements about the Incident

SO initially called Dispatch to report a “fatal MVI motorcycle versus truck”. Asked by Dispatch if it was a new file, SO said, “I literally showed up at a fatal MVI in Kamloops on my way back from ‘Tac’ on Highland Road on the highway”.

Shortly after the call, Witness Officer 1 (‘WO1’) arrived on scene. Upon arrival, he found SO’s police van parked at the intersection in the left lane with its emergency lights flashing. WO1 said he spoke with SO, who “didn’t really say too much”, other than that he was going to “get going” and go home. WO1 asked SO what had happened, and SO said he had been passed by the motorcycle and then “came across this MVI”. WO1 asked SO to file a written police report as soon as possible, and received one three days after the incident.

WO2, an RCMP union representative, was interviewed later by the IIO. WO2 had not been involved in the incident, but had been made aware of it when SO telephoned him after leaving the scene. WO2 said that SO told him in the call that a motorcycle had passed him at an excessive speed, and SO had subsequently observed the aftermath of a collision. WO2 stated that SO told him he thought he might have forgotten to tell WO1 that he activated his emergency lights when the motorcycle passed him. WO2 also said that SO told him he did not increase speed and turned his lights off after a short time without pursuing. WO2 said he told SO that he would pass on that information to WO1, and did.

SO’s police vehicle was equipped with a mobile data recorder (‘MDT’) from which data related to speed and location, etc., can usually be downloaded for investigative purposes. It was subsequently determined that SO’s MDT was not turned on at the time of the incident, as he was traveling home from an assignment, and was not on duty.

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 there is reason to believe that SO may

have engaged in an unjustified pursuit or other driving behaviour that could amount to a driving offence under either the *Motor Vehicle Act* or the *Criminal Code*.

Police officers are subject to restrictive departmental policies and provincial standards with respect to vehicle pursuits. Those policies and standards flow from statutes and regulations governing the operation of motor vehicles generally. In British Columbia, if serious harm or death occurs in a motor vehicle accident that may be connected to an attempted traffic stop by a police officer, the officer knows that the IIO must be notified and that there will be an investigation of the officer's actions to determine if an unjustified pursuit may have been involved, and/or if a driving offence may have been committed by the officer. Because of this, it is an important duty for any such involved officer either to notify the IIO personally or to ensure that notification is made by the involved police department. The police department, of course, can only be aware that notification of the IIO is needed if the involved officer acknowledges his or her involvement.

That is a long way of saying that SO should have immediately told WO1, not just that the motorcycle had passed him and that he had then "come across" the accident scene, but also that he had activated his emergency lights in an attempt to have the motorcyclist slow down or pull over. It is concerning that he mentioned what had happened immediately before and immediately after he 'lit up' the motorcyclist, but failed to mention the most important part of the narrative (most important, that is, with respect to any potential liability accruing to himself). It is also somewhat concerning that when SO did pass on that important detail to WO1, the investigating officer, he did it initially via a union representative, rather than immediately and directly as was his duty. He was also late in filing his written occurrence report.

The evidence, however, does not rise to the level of grounds to believe that SO's delayed report of his involvement was wilful, or any more than inadvertent or negligent. Further, with respect to SO's actions before the collision, the evidence does not lead to a conclusion that they were in any way improper.

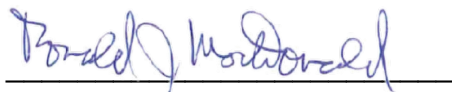
SO has stated that he only activated his emergency lights briefly, and did not attempt to pursue AP. Almost all the accounts collected from eyewitnesses support this statement, with the sole exception of CW4. As set out above, CW4 told the IIO that she saw SO's flashing police lights while she was still 200 metres back from the intersection, and said that the police vehicle was 300-400 metres from Highland Road and had already rounded the bend in the highway (which is approximately 500 metres west of the intersection). She stated that she then came to the intersection as the light was turning red, and stopped. She saw a pickup truck move out onto the highway, noticed the motorcycle approaching at 120-140 km/h and then, about ten seconds later, saw the collision. Curiously, during the time the motorcycle was racing towards the point of the collision, CW4 says she did

not see the lights of SO's police vehicle, which by her account would have been immediately behind the motorcycle.

The bend in the highway to the west of Highland Road is not lined with buildings or other obstacles close to the road that would make it impossible to see past the curve from east of the intersection, particularly when one considers that SO was driving a taller vehicle, the emergency lights of which would have been visible at a greater distance, and over the top of much of the other traffic on the road. On the balance of the evidence, it has to be concluded that when CW4 saw the police lights in the distance, SO was close to the location where he first saw AP, well over a kilometre from the Highland Road intersection. It appears that neither CW4 nor any other civilian witness saw them again until SO pulled up at the accident scene and re-activated them.

The evidence as a whole, then, leads me to the conclusion that SO did not engage in a pursuit, but simply lit his emergency lights for a brief time in an unsuccessful attempt to signal to AP, and then switched them off and proceeded normally and safely.

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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