



**IN THE MATTER OF INJURIES TO TWO MALES
AFTER AN ATTEMPTED TRAFFIC STOP BY
A MEMBER OF THE RCMP IN
ARMSTRONG, BRITISH COLUMBIA
ON DECEMBER 1, 2021**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

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INTRODUCTION

On the evening of December 1, 2021, on Highway 97A north of Armstrong, the Subject Officer ('SO') attempted to pull over a vehicle that had just passed him at high speed. The suspect vehicle did not stop. Shortly after this, it was found to have left the highway on a bend and crashed. The two occupants, Affected Persons 1 and 2 ('AP1' and 'AP2') were seriously injured in the crash. Because of the potential connection between serious harm and 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:

- statements of AP2, other civilian witnesses and one witness police officer;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- audio recordings of police communications;
- GPS data download from SO's police vehicle;
- scene photographs; and
- medical evidence, including ambulance service records.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, neither SO nor AP1, said by AP2 to have been driving at the time of the accident, has provided any account to the IIO.

NARRATIVE

The vehicle in which the Affected Persons were travelling was first seen by SO in the 4700 block of Highway 97A. It was southbound, and reported as being driven erratically. SO activated his vehicle's emergency lights and siren and increased speed, attempting to pull the suspect vehicle over.

IIO investigators interviewed a Witness Officer ('WO') who was the RCMP Watch Commander in Armstrong that evening, and reviewed recordings of relevant police radio transmissions, cross-referencing them to location and speed data from SO's police vehicle as follows:

- 9:22:51 p.m.: SO asks if radio is up. Dispatch advises yes. *SO's speed is 98 km/h, speed limit is 100 km/h.*

- 9:22:59: SO advises a vehicle has failed to stop, southbound on 97A, “driving very erratically ... passing semis on right hand side ... No vehicle description, no plates.” *Speed now 125 km/h.*
- 9:23:21: Dispatch asks SO if he is pursuing. *Speed 163 km/h.*
- 9:23:25: SO states he is “trying to close the distance. He (the Affected Persons’ vehicle) even passed me.” *Speed 171 km/h.*
- 9:23:31: Dispatch asks WO if he has copied. *Speed 164 km/h.*
- 9:23:35: WO asks SO, “You pulled over?” *Speed 156 km/h.*
- 9:23:41: SO responds, “Yeah, I’m going to pull over now. He is just driving very erratically.” WO says, “10-4. I’m just on Highway by Armstrong. What kind of vehicle is it?” *Speed 139 km/h.*
- 9:23:53: SO replies, “Don’t know. He is coming into Armstrong now.” *Speed 127 km/h.*
- 9:24:09: SO states, “He just went through McLeod [Road] and he is just erratic.” *Speed 132 km/h.*
- 9:24:36: SO states, “[the vehicle] should be coming up to the 7-11 now [Smith Road and Hwy 97A – past the accident scene.]” *Speed 127 km/h.*
- 9:24:49: Dispatch is confirming that SO is pulled over. *Speed 154 km/h.*
- 9:24:55: SO states, “Emergency lights off, just driving down highway.” *Speed 130 km/h.*
- 9:25:04: SO states, “I don’t have a visual of him anymore. I don’t know where he went.” *Speed 94 km/h, speed limit has now dropped to 90 km/h.*
- 9:28:13: WO asks, “Which way did that guy go. Did you see him?” SO replies, “No I did not.” WO asks SO’s location.
- 9:28:34: SO advises he just went past Pleasant Valley Road [on Hwy 97A] [and well past both WO’s location and the accident scene].
- 9:28:44: SO asks to speak with WO on cell.
- 9:40:50: SO and WO are going to meet at the 7-11 to talk and get gas after negative patrols for the suspect vehicle.
- 9:49:42: Members are dispatched to the accident scene.

Neither SO nor WO witnessed the crash. Notified about the speeding car, WO parked his police vehicle, emergency lights flashing, beside the highway in a spot only a short distance south of the crash location. When SO arrived and the suspect vehicle had not

passed by, both officers searched the area for it. They did not become aware it had crashed until there was a call from a motorist who had been flagged down by AP2.

A civilian witness who heard the crash from premises close to the highway told IIO investigators that when he looked out, he did not see the crashed vehicle where it was now lying in the field. He also said that he did not see any police emergency lights at the time. The first time he was aware of the presence of emergency vehicles was about ten minutes after the crash when police, fire and ambulance arrived.

Both Affected Persons suffered a variety of injuries. Evidence obtained by the IIO suggests that AP1, who was a prohibited driver, was at the wheel of the car at the time of the crash. Upon admission to hospital, his blood tested positive for cocaine.

LEGAL ISSUES AND CONCLUSION

The Independent Investigations Office of British Columbia has been given the task of investigating any incident that occurs in the province, in which an Affected Person has died or suffered serious physical harm and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete they can trust the IIO's conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO's mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence in the police and in the justice system as a whole through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Chief Civilian Director reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

In a case such as this one, involving potentially unlawful driving behaviour by an officer, one of the threads of the IIO investigation will be the gathering of evidence about potential justifications for that behaviour. The CCD will then apply legal tests to the evidence to determine whether there are reasonable grounds to consider that the officer may have committed an offence, under either criminal law or a provincial statute.

The evidence available here does not give grounds to conclude that SO drove in a manner that was dangerous to the public in the circumstances. The highway was broad and flat,

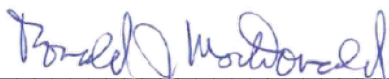
crossing agricultural land and comprising long straights and an occasional well-engineered bend. There was only very limited vehicular traffic. SO's speed, though at times significantly in excess of the speed limit, was not sufficiently high, in these circumstances, to amount in itself to dangerous driving.

It should also be noted that the evidence does not establish a link between AP1's driving behaviour (including the loss of control that led to the crash) and any action by SO. The suspect vehicle was already moving at high speed when it passed SO's marked police vehicle, and stayed a considerable distance ahead of him. The crash appears to have been the result of AP1 swerving hard to the left as he approached the town, when WO's parked police vehicle, its lights flashing, would have been clearly visible directly ahead of him.

What SO did, initially, amounted to 'closing the distance' with AP1's car in an attempt to conduct a traffic stop. For that purpose, as long as any risk to the public is minimal, a police officer is excused from liability for a speeding offence by provisions in the *Motor Vehicle Act* and the *Emergency Vehicle Driving Regulation*. The immunity granted by those provisions is limited, however, and does not permit an officer to continue into a pursuit if the traffic stop is not successful.

This was a case in which the officer failed to adhere to RCMP policy, which reflects provincial motor vehicle law. When the target vehicle did not stop, SO should have simply turned off his emergency equipment, pulled over and stopped. Canadian police forces have now recognized that continuing a high speed pursuit in response to a relatively minor offence by a suspect has the potential to create a greater risk of harm than it prevents, to everyone involved and to the general public.

As the Chief Civilian Director of the IIO, however, I have a discretion to refer a potential offence to Crown counsel for consideration of charges—in this case for a speeding ticket—or to refer the matter to the RCMP to be dealt with internally. I consider the latter outcome to be more appropriate in this case, and SO's driving behaviour will be referred formally to RCMP for a conduct proceeding. There will be no referral to Crown counsel.



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Chief Civilian Director

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