



**IN THE MATTER OF THE DEATH OF A MALE
IN AN ACCIDENT INVOLVING AN OFF-DUTY MEMBER OF THE RCMP
ON OKANAGAN LAKE NEAR SUN-OKA BEACH, BRITISH COLUMBIA
ON AUGUST 5, 2021**

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

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
IIO File Number:	2021-217
<u>Date of Release:</u>	January 19, 2022

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

On the morning of August 5, 2021, there was a collision between two rented Seadoos on Okanagan Lake. The rider of one Seadoo was badly injured and was taken to hospital where he was subsequently declared deceased. Because the rider of the second Seadoo was an off-duty 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:

- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- recording of 911 call;
- B.C. Emergency Health Services records;
- photographic evidence;
- marine collision analysis report; and
- autopsy report.

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 provided a written statement to the IIO.

NARRATIVE

At 10:30 a.m. on August 5, 2021, in Penticton, the Subject Officer ('SO'), an off-duty RCMP member, rented a personal watercraft ('PWC', or 'Seadoo') for himself and his teenage son. The Affected Person ('AP'), a friend of SO's, rented a PWC for himself. The rentals were for a two-hour period.

At approximately 11:12 a.m., SO called 911 after a collision on the lake between his craft and the one operated by AP. A couple on another PWC had gone for help, but before they returned, a civilian arrived by boat from a nearby waterfront residence and transported AP ashore to meet with a responding ambulance.

When police officers arrived, SO gave them an account of what had happened. The written report in PRIME states that SO advised officers that he was an off-duty member, and told them that:

...he and his son were on one Seadoo traveling behind [AP] who was on another Seadoo when [AP] suddenly turned sharp left and [SO] consequently t-boned him. [AP] was unconscious and face down but [SO] was able to quickly turn him face up; however, he was unconscious

and foaming from the mouth. [AP] regained consciousness shortly after but was in extreme pain.

AP was transported to hospital, suffering a cardiac arrest while in transit. He was transferred into the care of hospital staff, and underwent surgery, but was subsequently declared deceased. The autopsy report confirmed the cause of death as severe blunt force trauma to the left side of AP's upper body.

No sign of intoxication in any of the involved individuals was noted, either by staff at the boat rental location or by investigating police officers.

A technical collision analysis was conducted by the RCMP's West Coast Marine Section, under IIO supervision. The two most significant bodies of evidence considered were damage patterns on the two PWCs and data downloads from their engine diagnostic systems. The mechanical damage patterns show that SO's craft struck AP's at an approximately perpendicular angle, roughly on its mid-line, and rode up and over it at the location of the operator's seat. Analysis of the engine data downloads is limited because of a number of technical ambiguities, but the data appear to be consistent with both craft having been operated at high speed shortly before the collision, and AP's craft having suddenly reduced speed before the impact. The technical report notes that water craft of this type are not equipped with any kind of braking system: if the throttle is closed and engine r.p.m. reduced, the craft's bow will drop and the craft will quickly lose forward speed, particularly if it turned sharply at the same time; there is no other way to bring a speeding PWC to a stop.

Prior to publishing this report, the IIO received a statement from SO through his legal counsel. SO states that the collision occurred when AP, riding ahead and to the right of SO, suddenly slowed and turned left, stopping his PWC directly in front of SO's craft. SO tried to stop but was unable to avoid the collision. He and AP were both thrown into the water. SO took steps to rescue the unconscious AP from the water, and then provided assistance to AP continuously until AP was taken into the care of paramedics and transported to hospital. SO's statement is consistent with the evidence already gathered in the IIO investigation.

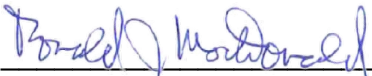
LEGAL ISSUES AND CONCLUSION

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 offence through negligent or otherwise improper operation of a watercraft.

The physical evidence available appears to be consistent with SO's statements about the tragic incident. It has to be concluded that both craft were traveling at relatively high speeds, SO following AP; the collision then occurred when AP abruptly slowed and turned, causing SO's PWC to 't-bone' AP's, riding up and over his craft and causing the injuries he suffered to the left side of his body.

It is, of course, not possible to determine what the reason was for AP's manoeuvre, but it would have left SO with few options and very little time to react. Apart from the requirement that the operator of a watercraft take reasonable care to avoid collisions, the maritime 'rules of the road' include two requirements potentially relevant to the circumstances of this case: firstly, it is the duty of an overtaking vessel to 'give way' to the vessel being overtaken; and secondly, a vessel must give way to another vessel approaching on the starboard bow (from ahead and to the right). Theoretically, both of those rules might be said to dictate that it was SO's duty to avoid AP's craft. Practically, though, it appears that he in fact tried to do so, but with no ability to brake and little space to manoeuvre, was unable to. There is no reason to conclude that any negligence or improper operation was involved, and no fault or blame can be attached to SO for what was, in fact, simply a very unfortunate accident.

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

January 19, 2022
Date of Release