



**IN THE MATTER OF THE INJURY OF A FEMALE
IN AN INCIDENT INVOLVING MEMBERS OF THE
VANCOUVER POLICE DEPARTMENT IN
VANCOUVER, BRITISH COLUMBIA
ON NOVEMBER 8, 2023**

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

Chief Civilian Director:

Sandra J. Hentzen

IIO File Number:

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INTRODUCTION

On the morning of November 8, 2023, two Vancouver police officers in a marked police vehicle attempted a traffic stop after observing suspicious driving behaviour and a traffic violation. The suspect vehicle did not stop, and sped away. The officers quickly discontinued the attempted traffic stop, but shortly afterwards, the suspect vehicle ran a red light and struck a pedestrian, the Affected Person ('AP'), in a crosswalk. The suspect vehicle did not stop at that accident scene, but after continuing for several blocks, it was involved in a collision with another vehicle and was disabled. The driver fled on foot.

Because of the involvement of police shortly before the incident, 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, nine 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 radio transmissions;
- GPS speed and location data from the involved police vehicle;
- video recordings from several relevant locations;
- scene examination and photographs; 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, the Subject Officer ('SO') has not provided any explanation of his actions.

NARRATIVE

The Witness Officer ('WO') told the IIO that at about 7:34 a.m. on November 8, 2023, as he was patrolling in a police vehicle driven by SO, the officers noticed a Dodge Durango SUV ('the Dodge') turning southbound from West Georgia Street onto Thurlow, in downtown Vancouver. WO said the Dodge crossed multiple lanes in the turn, which is a traffic infraction. WO said that the Dodge also appeared to be driving in an "impatient" manner, its engine revving noticeably.

The officers followed behind the Dodge until stopping behind it at a red light, now northbound, at Burrard and West Georgia. Querying the licence plate, they noted that the registered owner was a female listed as the possessor of a 'novice' licence with previous convictions for impaired driving and driving without due care and attention.

As the traffic started to move across West Georgia on a green light, the officers activated the police vehicle's emergency lights, intending to conduct a traffic stop to check on the driver of the Dodge. Instead of pulling over, though, the Dodge pulled out into the southbound lanes to pass a car in front of it and drove away. SO turned on the siren and followed the same path. Based on the apparent attempt at evasion and the record, WO said, the driver of the Dodge became a possible impaired driving suspect.

SO followed the Dodge as it turned eastbound at Canada Place and then southbound on Howe Street. Less than thirty seconds after reporting the failure to stop, WO radioed that the Dodge had run "a couple of red lights" and that the officers were terminating the pursuit. At this point, the police vehicle was approximately at the intersection of Howe Street and Cordova Street.

At about the same time, though, the officers saw a crowd of pedestrians in the street a block ahead, at Howe and West Hastings, and were concerned that something had happened there. SO proceeded to that intersection, emergency equipment still activated. They found a pedestrian (AP) on the ground, seriously injured, and immediately called for an ambulance to attend.

The Dodge had run a red light at Cordova, and then again at Hastings as groups of pedestrians were already crossing Howe on a 'walk' signal. Witnesses described the Dodge as travelling at high speed, with estimates ranging from about 80 to 100 km/h.

Based on witness interviews, video coverage of the area and mapping produced from a GPS data download from the police vehicle, IIO investigators determined the following:

- The attempted traffic stop was initiated at 7:38:51 a.m., on Burrard Street, just after the police vehicle passed West Georgia Street northbound.
- Both the Dodge and the police vehicle crossed into the oncoming lanes briefly shortly after that. There was no oncoming traffic at that point.
- At Cordova Street, the Dodge again used the oncoming lanes to pass a vehicle, which the police vehicle passed on the right. The police vehicle was recorded travelling at 53.5 km/h on the northmost block of Burrard.
- At one point along Waterfront Road in front of Canada Place, the police vehicle reached its highest recorded speed of 61.4 km/h.

- Turning south from Canada Place onto Howe Street, the Dodge again drove in the oncoming lanes as it swung wide around the corner. At the corner, following more slowly, the police vehicle was recorded being driven at 49.2 km/h.
- Very shortly after that, as it proceeded southbound on Howe, the police vehicle slowed, and is recorded as travelling at 27.7 km/h. This was at 7:40:20 a.m., and appears to be the point where SO had decided to discontinue the pursuit.
- The police vehicle is then recorded as speeding up to 38.9 km/h as it approached the accident scene.
- The speed limit in the area is 50 km/h.

Only minutes after the Dodge struck and injured AP, it collided with another vehicle at the intersection of Robson Street and Cambie Street, and was immobilized. The female driver fled on foot. No one was seriously injured in that collision. The owner of the Dodge subsequently reported it stolen.

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 ('CCD') 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 starting point for the analysis is whether SO was acting within his lawful authority when he initially attempted the traffic stop. The provincial *Motor Vehicle Act* gives police broad authority to require a driver to stop when directed by a peace officer, and imposes a corresponding duty on drivers to stop when signalled to do so. The police power is not limitless, and has been interpreted as limited to purposes such as those related to traffic enforcement, safety and documentation. In this case, a previous impaired driving conviction for the registered owner would not, by itself, provide sufficient grounds for a stop, but observations of the manner in which the Dodge was being driven would, especially given that the officers had observed a specific driving offence. Those grounds were augmented when the Dodge ignored the signal to stop and was then driven in a manner that amounted to further traffic offences.

SO, for his part, as the operator of an emergency vehicle, enjoyed a degree of immunity under the *Motor Vehicle Act* with respect to exceeding the speed limit and crossing into oncoming lanes, but only within a range that did not create more risk of harm to the public than was justified by what the officer was attempting to achieve.

It is true that SO discontinued the pursuit, with its inevitable heightened risk to the public, within a fairly brief time and distance. It could be said, though, that any police pursuit for a minor traffic offence, in downtown Vancouver on a busy weekday morning, is not best practice. That is amply demonstrated by the fact that the driver of the Dodge appears to have been prompted by SO's pursuit to speed away recklessly, continuing to do so even after striking a pedestrian.

However, the ultimate question to be answered is whether SO's actions amounted to an offence, either provincial or criminal.

Regarding any potential provincial offence, the short answer is that, in the circumstances, the officer is entitled to rely on the *Motor Vehicle Act* exemption, mentioned above. The technical infringements of the *Act* were minor, and occurred in the lawful execution of SO's duty, without significant direct risk of harm to the public.

If a criminal offence were to be considered, the most obvious would involve dangerous driving – that is, an unjustified manner of driving that was objectively dangerous in the circumstances. Video evidence is available for almost the entirety of the short pursuit, and does not show behaviour on SO's part that would meet the objective criminal test for a dangerous driving offence.

Finally, as in any police pursuit case, an offence of criminal negligence might be considered if the evidence suggests that the officer recklessly 'pushed' the driver being pursued to drive recklessly herself. Liability for consequent harm might then be attributed to the pursuer as well as the pursued. This case, though, does not feature evidence of

that sort. The pursuit was conducted over a relatively short distance at relatively low speeds until the suspect sped away along Howe Street through red lights, at which time SO quite properly discontinued.

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.



Sandra J. Hentzen
Chief Civilian Director

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