



**IN THE MATTER OF THE INJURY OF A FEMALE  
IN A MOTOR VEHICLE COLLISION  
INVOLVING A MEMBER OF THE RCMP  
NEAR CLINTON, BRITISH COLUMBIA  
ON FEBRUARY 19, 2023**

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

Chief Civilian Director:

Ronald J. MacDonald, KC

IIO File Number:

2023-042

Date of Release:

July 6, 2023

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## **INTRODUCTION**

On the evening of February 19, 2023, the Subject Officer ('SO') was off duty, and was driving his wife's private vehicle southbound on Highway 97 near Clinton. The road was snow-covered and slippery. On a long right-hand curve, SO lost control of the vehicle, which slid into the northbound lanes and collided with an oncoming tow truck. Both SO and his wife, the Affected Person ('AP') in this case, were seriously injured. The truck driver was not injured.

Pursuant to statutory requirements under the B.C. *Police Act*, 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 from two civilian witnesses, two first responders, two witness police officers and the Subject Officer;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- records of B.C. Emergency Health Services and the Clinton Fire Department;
- driver history of SO;
- Government of Canada weather data;
- data download from AP's vehicle;
- scene examination and photographs; and
- mechanical inspection of AP's vehicle.

## **NARRATIVE**

On the evening of February 19, 2023, AP was driving her spouse, SO, home from a family gathering in Williams Lake. The road surface along Highway 97 was snow-covered. Shortly before the collision, AP pulled over to change places with SO so he could drive.

SO told IIO investigators that he estimated he was driving at approximately 70 km/h just before the accident. The speed limit on that stretch of the highway is 100 km/h.

Driving northbound was Civilian Witness 1 ('CW1'), the operator of a flat-bed tow truck. He later told the IIO that he estimated he was driving at about 70 to 90 km/h. He was rounding a gentle right-hand curve on a slight uphill grade when he saw the headlights of the vehicle driven by SO "do a wide arc, like they had lost control going round the corner". SO had just rounded a right-hand curve coming southbound, and the vehicle had lost traction on the slippery surface. It slid across into the northbound lanes until it was travelling head-on towards the approaching tow truck.

CW1 did what he could to avoid a collision by pulling to his right onto the shoulder, and told investigators that SO also swerved to the right just before the crash. As a result, the impact between the two vehicles was largely driver's side to driver's side. CW1 stated that in his estimation, the vehicle driven by SO was traveling at a speed higher than that of the tow truck.

CW2 told the IIO that she had arrived at the scene of the accident as a passenger in a Ford F-150 with studded snow tires, driving southbound at approximately 35 km/h because of the poor road conditions. She said that she assisted SO and AP and waited with them about twenty minutes until an ambulance arrived. She said that she felt the maximum safe speed for the conditions would have been about 60 km/h.

Witness Officer 1 ('WO1') told the IIO that conditions had been "pretty treacherous" on the weekend in question, and that he had attended "numerous" other traffic incidents because of the weather. He observed that weather conditions were changing rapidly throughout the area, shifting between "freeze, thaw, freeze, thaw", with a risk of black ice. He said that when he was notified of the accident, he drove there at "60, 70 maybe". He said that SO identified himself as an RCMP member, and that he was extracted from the vehicle with the assistance of arriving fire department members.

WO2, who also went to the scene, told investigators that he felt he could only drive "like, 55 kilometres an hour on that highway because of how bad the roads were. I remember I was almost fishtailing around corners going at that speed, just – so how bad the roads were". He said he was told at the scene that SO had been driving "well below the speed limit because of the road conditions". He said that he had found no evidence of any impairment of SO's ability to drive. He described his assessment of the incident as "a routine MVI with injuries", and laid the blame on "a failure to maintain the roads".

The vehicle SO was driving was subsequently subjected to a mechanical inspection. Other than damage caused by the collision, the only defects noted related to the tires. The left rear tire had been damaged and was completely deflated, but the other three tires were found to be inflated to pressures that were only approximately two thirds the

recommended pressure for the vehicle, and only about half the maximum pressure for the tire. The evidence suggested that they had been driven at this reduced pressure for a significant period, as the treads were worn noticeably on the outer edges. The tread depth was within the lawful range for summer conditions, but below the 3.5 mm tire tread depth required for winter use by regulations under the *Motor Vehicle Act*.

The Event Data Recorder from the vehicle retained a record of vehicle operation over a period of five seconds before the impact. During that period, recorded vehicle speed (based on wheel rotation speed) was in the range of 28 down to 20 km/h. Since the anti-lock braking system ('ABS') was activated throughout the same period, it seems highly probable that the actual vehicle speed was higher, though it is not possible to say by how much. The data also indicate that the brakes were initially engaged, but that SO then released the brakes and attempted to turn and power away from the collision at the last second.

## **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 a discretionary 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 the nature of that behaviour, and any possible justifications or excuses for it. 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.

SO was driving in weather and road conditions that dictated a certain level of caution, and a reduction in speed below the normal maximum of 100 km/h. The evidence regarding his actual speed is mixed: CW1's statement would suggest it was something in excess of 80-90 km/h. SO's account is that it was approximately 70 km/h. Recorded vehicle data is only useful to the extent that it suggests the speed was in excess of 28 km/h.

Meanwhile, witness evidence would place the appropriate speed for conditions as somewhere between about 35 and 90 km/h – a very wide range.

While the evidence is not conclusive about the speed at which SO was driving, it does suggest that he was attempting to modify his driving to account for the poor conditions. There is nothing in the evidence which suggests that SO was driving in a manner that was a marked departure from the standard of care a reasonable person would follow. As a result the evidence does not support a finding of reasonable grounds to believe that the criminal offence of dangerous driving occurred.

An argument could be made that the fact of the accident itself provides reasonable grounds to believe SO may have been driving at a speed that was excessive "relative to the road, traffic, visibility or weather conditions", contrary to paragraph 144(1)(c) of the *Motor Vehicle Act*. On the other hand, there is also evidence that road conditions were changing from time to time, and perhaps also from place to place. Anyone who has driven on Canadian roads in winter knows that a driver can be taken suddenly unawares by driving onto a section of highway affected by black ice, ice under new snow, or another sudden transition in surface condition and traction. The loss of control here occurred where the highway curved on a downhill grade, which may also have played a role.

It also seems very likely that the condition of the vehicle's tires contributed to the accident. The evidence is that they were under-inflated to an extent that reduced their effective area of contact with the asphalt, and that their tread was inadequate for winter conditions. This implies a failure in proper maintenance on the part of the owner or usual driver of the vehicle, but also to some extent of the driver in the moment. The vehicle was registered to AP, and it would appear that she was the usual driver, since she had driven all the way from Williams Lake to a point south of Clinton before handing off driving duty to SO.

Technically, though, it was SO's duty, when he took on that role, to assure himself that the vehicle met regulatory safety standards. It could be argued that he may have

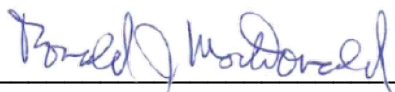
committed a regulatory offence under the Motor Vehicle Act by failing to examine the vehicle, including its tires, in the snowy darkness, before getting behind the wheel.

However, my statutory mandate allows me a discretion, on occasion, to decline to refer a matter to Crown for consideration of charges, even were I to consider that reasonable grounds exist to belief that an officer may have committed an offence.

A prosecution for a regulatory offence is appropriate in many cases to bring home to the offender and the public the significance of their actions and to encourage all to operate vehicles safely on our public highways. But every case turns on its own facts. In this case, no third party was injured and both SO and AP, his wife, suffered serious injuries that have had a significant impact on them. In such circumstances, SO has already received a clear message about the significance of what occurred.

As a result, even were I to conclude that reasonable grounds exist to find an offence under the *Motor Vehicle Act* was committed, I do not consider that it is in the public interest to refer the matter to Crown, and I shall not be doing so.

I would like to note that in the course of this investigation it was suggested by at least one person spoken to that this was a routine case of an accident occurring in bad winter conditions and did not require the significance of the investigation carried out by this office. Such comments offer the opportunity for me to stress that the IIO is statutorily mandated to conduct an investigation in any situation where an officer, whether on duty or off, may have caused serious harm to any person. Such an investigation must be fulsome, to assure the public that the conclusions we reach are ones they can trust.



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Ronald J. MacDonald, KC  
Chief Civilian Director

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