



**IN THE MATTER OF AN INVESTIGATION INTO A MOTOR VEHICLE COLLISION
ON TORONTO STREET ON MAY 30, 2017**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

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Decision made by:	Zane Tessler, Civilian Director
Report issued by:	Roxanne M. Gagné, Civilian Director

Introduction

On May 31, 2017, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit of Manitoba (IIU) of a motor vehicle incident that occurred on Toronto Street.

The written notification disclosed the following information:

“On May 30th 2017 at approximately 10:30 pm, a civilian was operating a black 2010 Ford Fusion, travelling southbound Toronto Street towards Ellice Avenue. The civilian was travelling at a high rate of speed down a narrow residential street. EH03 observed the vehicle and activated emergency equipment. As the civilian approached Ellice Avenue, he made no attempt to slow down and attempted to cross the street. As he crossed, he collided with the drive side door of a brown 1996 Toyota Camry being operated by the affected person (AP). The civilian immediately fled from his vehicle and ran off, making no attempt to check on the AP. As a result, the AP suffered two broken ribs on his left side. The civilian was arrested after short foot pursuit.”

As this matter concerned a serious injury as defined under the IIU regulations, the IIU assumed responsibility for this investigation in accordance with section 65(4) of the *Police Services Act* (PSA). IIU investigators were assigned to this investigation.

The civilian director assigned to this matter at the time, designated six witness officers (WO1-WO6). No subject officer was ever designated.

Facts and Circumstances

On the evening of May 30, 2017, WO1 and WO2, were in a white unmarked police vehicle #EH04, travelling northbound on Toronto Street, Winnipeg, approaching the junction of Wellington Avenue. At approximately 10:30 p.m., they witnessed a speeding black car driving erratically southbound on Toronto Street. The vehicle was later found to be a Black Ford Fusion driven by a civilian witness (CW1). The vehicle went through the intersection of Wellington Avenue and narrowly avoided an unknown vehicle travelling eastbound on Wellington Avenue. The Ford vehicle crossed the junction and came close to colliding with the driver side of the police vehicle occupied by WO1 and WO2. The Ford vehicle continued south on Toronto Street driving at a high rate of speed in the direct of Sargent Avenue.

WO2 activated his police vehicle emergency lights and sirens and turned his vehicle to face south on Toronto Street. At that point, CW1's vehicle was still travelling south along Toronto Street at the junction of Sargent Avenue; approximately one city block south of the police vehicle. CW1's Ford vehicle continued at excessive speeds south over Sargent Avenue toward Ellice Avenue. The police vehicle travelled in that same direction with its lights and sirens activated and exceeding the posted 50 km/h speed limit.

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The AP had been travelling in his Toyota motor vehicle eastbound on Ellice Avenue and was stationary at the junction of Ellice Avenue and Toronto Street. His vehicle was facing east on Ellice Avenue with the intention of turning north on Toronto Street once the westbound traffic had cleared. As he waited for an opportunity to turn, he recalled a vehicle colliding with the driver side of his vehicle.

Just seconds prior to the collision, CW2, who was driving his vehicle westbound on Ellice Avenue, witnessed the collision and had seen a vehicle exit Toronto Street and collide with the AP's stationary vehicle. CW2 had a 'dash cam' on his vehicle, which captured video footage of the collision of CW1's Ford vehicle and the AP's Toyota vehicle. The video was provided to IIU investigators. The video also recorded police vehicle #EH04 exiting Toronto Street toward the collision sight, with its lights and sirens activated, between six and seven seconds after CW1's vehicle had collided with the AP's vehicle.

Once the collision had occurred, CW1 fled from his vehicle but was located and apprehended by WO1 a short distance away. WO2 had remained at the collision scene and tended to the AP, awaiting for emergency services to arrive at the scene. The AP was conveyed by ambulance to the Health Sciences Centre (HSC) and was treated on an in-patient basis between May 30, 2017, and June 2, 2017, for pelvis and rib fractures, as a result of the motor vehicle collision.

Affected Person

IIU investigators attended HSC and interviewed the AP. The AP advised that he was the driver and lone occupant of a Toyota motor vehicle involved in the collision. The AP said that his vehicle was stationary at the junction with Ellice Avenue and Toronto Street. His vehicle was facing east on Ellice Avenue and he intended to turn his vehicle north on Toronto Street. As he waited for westbound traffic to clear, he recalled a vehicle colliding with the driver side of his vehicle. The next thing he knew was that he was in an ambulance being treated. He provided IIU investigators with his authority for the release of his medical records, which subsequently confirmed he suffered a left rib fracture and a pelvic fracture.

Civilian Witnesses (CW1, CW2)

On June 1, 2017, IIU investigators conducted a video interview of CW2. He acknowledged he was driving his vehicle westbound on Ellice Avenue at about 10:30 p.m. As he approached the junction of Toronto Street, he witnessed a dark colored vehicle travelling fast southbound along Toronto Street. That speeding car entered Ellice Avenue without stopping at the stop sign at Toronto Street and Ellice Avenue directly in front of his car and collided with another car on Ellice Avenue. CW2 stated no other vehicles were behind the speeding car as it entered the intersection of Toronto Street and Ellice Avenue. Once the collision had occurred, he saw a male run from the same dark colored vehicle. He said between five and six seconds after the collision, he saw a white colored police car with emergency warning lights on, travelling south from Toronto Street into Ellice Avenue. He pulled his vehicle over on Ellice Avenue and saw emergency services attending the scene after. CW2 provided IIU investigators a copy of the footage he had recorded regarding the incident. The video footage, which also had audio,

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confirmed there was a significant time difference from when CW1's vehicle exited Toronto Street and it colliding with the AP's vehicle to when the police vehicle (#EH04) was seen to approach Ellice Avenue from Toronto Street. The video footage confirmed that #EH04 had its emergency lights and sirens activated. The footage also recorded the collision.

On June 1, 2017, IIU investigators attended the Winnipeg Remand Centre and conducted an interview of CW1, who was the driver of the Ford vehicle, which collided into the AP's Toyota. CW1 did not recall what street he was driving on but thought it was Simcoe Street. He did remember driving and crossing south over Wellington Avenue and as he did, he said he stopped/idled because he saw a car coming (along Wellington Avenue) which had the right of way. His breaks slipped, he pulled in front of the oncoming car and continued straight on Toronto Street. This vehicle was 'honking' at him. As he crossed south over Wellington Avenue, he stated that he saw a 'white colored undercover cop car' just south of the junction with Wellington Avenue on Toronto Street facing north. He stated that he slipped his car in-between a parked car and the police car, which he said was coming to a stop just south of the Wellington Avenue junction. As he did, he looked in toward the police vehicle and saw police badges on 'their' shoulders. He stated that the police car did not have any emergency lights nor the siren on at that time. He continued south on Toronto Street but looked in his rear view mirror and saw the police car turn fast around at the intersection. CW1 accelerated his vehicle. As he was approaching Sargent Avenue, he looked in his rear view mirror and saw the emergency lights on the police car first activated. The police car was just finishing turning around toward his direction. CW1 said he was at Sargent Avenue when the police car was at Wellington Avenue. CW1 crossed south over Sargent Avenue toward Ellice Avenue. He was constantly looking in his rear and side mirrors. He said he was afraid to stop, as the breaks to his vehicle were not working properly. He stated that the police car was never close to his own car. It was one whole street behind his car.

CW1 stated that the police car 'flew' up to Sargent Avenue and stopped to check for traffic and then 'flew' up toward Ellice Avenue but by the time the collision happened the police car was in the middle of Toronto Street, between Ellice and Sargent and he had already jumped out his car. Even when he was on foot, he did not see the police car. CW1 described he had mechanical issues with the breaks to his vehicle but later said he fled from police, as he did not have a driver license. CW1 described that he first made off from police when he saw the police car when he passed them. He did not believe the police were actively looking for him before that moment. CW1 also stated he had consumed cocaine that morning and smoked a joint, but said he was sober and had a clear recollection of the events.

Other evidence

GPS data was received from the WPS on June 5, 2017. It details WO1 and WO2's police vehicle was located westbound on Notre Dame at 10:26 p.m. and at 10:31 p.m. on Toronto Street at the junction of Ellice Avenue. #EH04 travelled south on Toronto Street between Wellington Avenue and Sargent Avenue and recorded the vehicle speed of 18 m.p.h. which increased to 21 m.p.h. within two seconds; within a further five seconds the speed was 58 m.p.h. but slowed to 21 m.p.h. north of the Sargent Avenue junction meaning the vehicle decreased its speed. Eight

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seconds after, #EH04 travelled south along Toronto Street between Sargent and Ellice Avenue with a recorded speed of 47 m.p.h. Eight seconds later #EH04 slowed to 43 m.p.h. but six seconds later increased its speed to 47 m.p.h. Its next posted speed on the data recorded #EH04 with a speed of zero at 10:31 p.m. at Ellice Avenue. Police radio transmissions received confirmed that prior to the collision and foot chase involving WO1, there were no radio traffic or communication between #EH04 and other police units.

On May 31, 2017, a canvass for video and witnesses was conducted by IIU Investigators. No video was found along Toronto Street between Ellice and Wellington Avenues. Some members of the public saw a black car speeding in Toronto Street and saw or heard a police vehicle travelling on Toronto Street with emergency lights and sirens activated. Interviews were obtained. No witness' evidence suggests there had been physical contact between the two vehicles.

Witness Officers (WO1, WO2)

IIU obtained a copy of WO2's report. He stated that he and his partner were facing north at the junction of Wellington Avenue. He witnessed a car travelling south on Toronto driving at excessive speeds which passed through the Wellington Avenue stop sign without stopping. The vehicle caused an unknown vehicle to take evasive breaking action on Wellington Avenue. The speeding vehicle crossed the junction, continued southbound and narrowly missed the police vehicle. WO2 pulled into the intersection, did a multipoint turn and faced south on Toronto Street. He saw the speeding car now near to the junction with Sargent Avenue, which he described as one full city block from him. WO2 drove south on Toronto Street in order to catch up with the car. They attempted to alert AIR 1 (WPS air support helicopter) of the speeding car and other police units but were unable to, as they could not communicate on the police radio. WO2 was able to see from a distance of approximately three quarters of a city block away that the speeding car continued south on Toronto Street and across Sargent Avenue without stopping. He activated the emergency warning lights and sirens at that point and decided to exceed the posted speed limit to warn other road users and or pedestrians. The car continued to accelerate away from police. WO2 approached and stopped at Sargent Avenue and saw the car travelling at excessive speeds as it approached Ellice Avenue. WO2 continued south and from approximately ¼ of a block south of Sargent Avenue he saw the car collide on Ellice Avenue with another car. WO2 accelerated his police vehicle to get to the collision scene quicker. WO2 wrote that at no time did he attempt to stop the speeding car and at no time did he feel he was in a pursuit with the speeding car. On arrival, he dealt with the AP and WO1 gave chase on foot after CW1 who had fled the collision scene.

WO1's report reflected the above description of events documented by WO2.

On June 20, 2017, IIU investigators interviewed WO2. He described seeing a vehicle travelling south on Toronto Street, narrowly avoiding a collision with an unknown vehicle on Wellington Avenue and narrowly avoiding a collision with his police vehicle at the junction with Sargent Avenue. He believed the vehicle was travelling faster than the posted 50 km/h speed limit. He was not watching his speedometer but was concentrating on the road. He activated the

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emergency lights and sirens. He estimated his police vehicle was three quarters of a city block north of the speeding vehicle as it transitioned Sargent Avenue and Toronto Street. His intention was to close the gap on the speeding vehicle in order to obtain better information to pass onto other police units in the area. He described the speeding vehicle as a 'black blob' in the distance, and noted that at no time did his police vehicle come into physical contact with the speeding vehicle. He recalled travelling south on Toronto Street and saw the collision occur while his police vehicle was at an estimated one block north of the collision. His attention had not been drawn to this speeding vehicle prior to seeing it speed past his police vehicle at Sargent Avenue and he was adamant that no pursuit occurred. He did not believe the driver of the speeding vehicle knew he was a police officer in a police vehicle. His intention was to gather vehicle identity details so that the speeding vehicle could be further investigated. WO2 stated that at no point did he attempt to conduct a traffic stop of this vehicle.

On June 30, 2018, IIU investigators interviewed WO1. He recalled their police vehicle was northbound on Toronto Street approaching Wellington Avenue. While he was looking at the police computer in the car, he heard the sound of hard braking and looked up. He observed a vehicle proceeding south on Toronto Street at a rate of speed he believed was in excess of the posted limit of 50 km/h. He witnessed a near miss with that vehicle and another vehicle on Wellington Avenue. WO2 executed a four point turn in the intersection of Wellington Avenue and Toronto Street and started to proceed south after the speeding vehicle. He confirmed WO2 activated the emergency equipment on the police vehicle. WO1 was trying to engage the police radio but was prevented from communicating with Air 1 via the police radio due to other radio traffic at the same time. He could tell their vehicle was travelling above the posted speed limit. He stated they were not in pursuit of the vehicle as the speeding vehicle was too far ahead of their police vehicle. He stated that their vehicle was approximately 3/4 of a block north of Ellice Avenue on Toronto Street when the speeding vehicle collided with another vehicle at the intersection. The entire incident took twenty seconds to a minute.

WO3

On August 24, 2017, IIU investigators received a Collision Reconstruction Report in the name of WO3. The examination of CW1's vehicle revealed that it had a low brake fluid indicator illuminated on the dash at the time of inspection; however, WO3 states that the driver would still have been able to stop the vehicle even with some reduced braking power. There was no indication that the police vehicle involved made contact with CW1's vehicle. CW1's vehicle collided with the AP's vehicle at 55 km/h. Included in the report, there is an overhead scene image displaying a time of 10:31 p.m. believed to have been taken by WPS helicopter AIR 1.

On September 12, 2017, IIU investigators obtained video footage taken by WPS AIR 1 helicopter on the date of the incident. It only showed footage post collision at the scene.

Conclusion

It is the IIU's mandate to consider whether the serious injuries suffered by the AP may have resulted from the actions of the police officers who were at the scene of the incident. Civilian Director Zane Tessler, assigned to this matter at the time, gave due consideration to all the circumstances and did a thorough review of all evidence and material facts obtained in this investigation. He concluded that there was no evidence to support a finding of any level of contribution by any police officer to the cause of the collision. Further, he concluded that there were no grounds to designate a police officer as a subject officer.

As a result, the IIU investigation is now completed and closed.