



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

March 14, 2016

16-05

No Charge Approved in IIO Investigation of Motor Vehicle Collision in Coquitlam

Victoria – The Criminal Justice Branch (CJB), Ministry of Justice and Attorney General, announced today that no charge has been approved in connection to a motor vehicle collision involving an off-duty member of the R.C.M.P. on April 5, 2015. An adult male suffered injuries when the vehicle he was driving was struck by the officer's personal vehicle. The incident was investigated by the Independent Investigations Office (IIO), which subsequently submitted a Report to Crown Counsel to CJB.

Following an investigation, where the Chief Civilian Director of the IIO determines that an officer may have committed an offence, the IIO submits a report to CJB. The Chief Civilian Director does not make a recommendation on whether charges should be approved.

In this case CJB has concluded that the Branch charge assessment standard for proceeding with a prosecution has not been met. A Clear Statement explaining this decision in greater detail is attached to this Media Statement.

In order to maintain confidence in the integrity of the criminal justice system, a Clear Statement explaining the reasons for not approving charges is made public by CJB in cases where the IIO has investigated the conduct of police officers and forwarded a report to CJB for charge assessment.

Media Contact: Dan McLaughlin
Communications Counsel
Criminal Justice Branch
(250) 387-5169

To learn more about B.C.'s criminal justice system visit the British Columbia Prosecution Service website at:

<http://www.ag.gov.bc.ca/prosecution-service/>

Branch Vision

Courageous, Fair and Efficient – A Prosecution Service that has the Confidence of the Public.

Office of the
Assistant Deputy Attorney General
Criminal Justice Branch
Ministry of Justice

Mailing Address:
PO Box 9276 Stn Prov Govt
Victoria, BC V8W 9J7

Office Location:
9th Floor, 1001 Douglas Street
Victoria, BC V8W 9J7
Telephone: (250) 387-3840
Fax: (250) 387-0090

Summary of Decision

On April 5, 2015 an off-duty member of the R.C.M.P. who was driving home was involved in a motor vehicle collision when he struck a vehicle that crossed the road in front of him. As a result of the collision the driver of the second vehicle experienced significant injuries. The matter was investigated by the IIO. The Acting Chief Civilian Director subsequently submitted a Report to Crown Counsel to CJB for review.

Although the available evidence indicates that the officer was travelling above the posted speed limit prior to the collision, the CJB has concluded that a prosecution for speeding, contrary to the *Motor Vehicle Act*, is not required in the public interest.

The charge assessment was conducted by a senior prosecutor with no prior or current connection with the officer subject to investigation.

Charge Assessment and the Standard Applied

The Charge Assessment Guidelines applied by the CJB in reviewing all Reports to Crown Counsel are established in Branch policy and are available online at:

http://www.ag.gov.bc.ca/prosecution-service/policy-man/pdf/CHA1_ChargeAssessmentGuidelines.pdf

This policy includes both an evidentiary and a public interest component. Where Crown Counsel is satisfied that the evidentiary test has been met, Crown Counsel must still determine whether the public interest requires a prosecution. In making this assessment Crown Counsel will consider the particular circumstances of each case.

In any charge assessment, Crown Counsel must review the evidence gathered by investigators in light of the legal elements of any offence that may have been committed. Crown Counsel must also remain aware of the presumption of innocence, the prosecution's burden of proof beyond a reasonable doubt and the fact that under Canadian law, a reasonable doubt can arise from the evidence, the absence of evidence, inconsistencies in the evidence, or the credibility or reliability of one or more of the witnesses. The person accused of an offence does not have to prove that he or she did not commit the offence. Rather, the Crown bears the burden of proof from beginning to end.

Branch policy also recognizes the well-established legal principle that not all criminal offences which meet the evidentiary test must automatically be prosecuted. Branch policy sets out a number of public interest factors to be considered by Crown Counsel in assessing whether a prosecution is required in the public interest. These include factors weighing in favour of prosecution, as well as factors which weigh against prosecution. Among additional factors to consider in assessing the public interest is the need to maintain public confidence in the administration of justice.

The Circumstances of the Incident

On April 5, 2015 an off-duty member of the R.C.M.P. was traveling home along David Avenue in Coquitlam in his personal vehicle. At the intersection of David Avenue and Riley Street a collision occurred between his vehicle and a second vehicle which entered David from a 'Stop' sign on Riley and crossed in front of him.

At that location David Avenue is a paved two lane roadway, with one lane in each direction and centre markings. There is no traffic control at the intersection for vehicles travelling along David Avenue. The speed limit for both roads is 50 km/h and traffic on David Avenue has the right of way. Traffic on Riley Street is controlled entering David Avenue by a 'Stop' sign and road markings.

Prior to the collision the officer was driving east on David. The collision occurred when the driver of the second vehicle, which was travelling north on Riley, attempted to turn left at the intersection, crossing the eastbound lane in front of the officer's vehicle. The front driver's side of the officer's vehicle collided with the driver's side door of the second vehicle.

Both vehicles were heavily damaged, and the driver of the second vehicle received significant injuries. The officer was also taken to hospital, however was released later in the evening.

Electronically recorded data from the officer's vehicle indicates that it was travelling 59 km/h 2.5 seconds before air bag activation. This data provides a speed of 57 km/h at the time of activation. A collision reconstruction expert estimated the speed of the officer's vehicle at the time of collision as 45 km/h. The reconstruction calculations were completed without the use of data from the vehicles' Event Data Recorders, and relied on physical evidence gathered by the reconstruction expert.

Electronically recorded data from the second vehicle indicates that 5 seconds prior to air bag activation it was travelling at 25 km/h and slowed to 14 km/h, before accelerating up to 23 km/h at the time of the activation pulse. The data shows a sudden throttle application at the time of the pulse. The data showing that the vehicle never slowed to below 14 km/h is evidence indicating that that the second vehicle did not stop as required before entering the intersection.

The collision reconstruction expert calculated the speed of the second vehicle as 19 km/hr at the time of collision.

Analysis

CJB's review of this matter focussed on whether the officer ought to be charged with speeding, contrary to section 146 of the *Motor Vehicle Act*. The available evidence is not sufficient to prove to the necessary standard that the officer committed any more serious offences than speeding, or that his driving pattern caused the injuries experienced by the second driver.

The most reliable evidence of the circumstances of the collision comes from the data downloaded from the two vehicles. This data was downloaded by an engineer, and to utilize it to prove the speed of the officer's vehicle beyond a reasonable doubt would require further evidence from the manufacturer of the vehicles, the engineer who downloaded it, or both. Given this, establishing the speed of the officer's vehicle, a required element in proving responsibility for a speeding offence, would be a potentially complicated and relatively lengthy matter.

As indicated, to approve a charge, Crown Counsel must be satisfied that both the evidentiary and public interest components of CJB's Charge Assessment Guidelines have been met.

Among the factors to consider in assessing whether a prosecution is required in the public interest, are the following:

- *The length and expense of a prosecution when considered in relation to the social benefit to be gained by it;*

as well as whether

- *A conviction is likely to result in a very small or insignificant penalty;*

It is common experience that a certain degree of driving above the posted speed limit will reflect the natural flow of traffic. The available evidence does not establish that the officer's speed in this case was excessive in the circumstances.

CJB has concluded that even though there is available evidence which might be sufficient to prove the officer exceeded the 50 km/h speed limit, a prosecution is not required in the public interest. Notwithstanding that the investigation related to a collision in which the second driver experienced significant injury, the available evidence would only be capable of establishing that the officer was driving somewhat over the speed limit. The time, effort and expense of pursuing a prosecution outweigh what could reasonably be justified on the circumstances of this case for a relatively minor motor vehicle infraction, with its attendant penalty.

Material Reviewed

The charge assessment in this matter included consideration of the following materials:

- Report to Crown Counsel Executive Summary and Detailed Narrative.
- Summaries, recordings and transcripts of statements of the civilian witness and investigating officers.
- Police officers' notes and "will says."
- Collision Reconstruction Report.
- Photographs.
- Vehicle examination and inspections report.