

# ***FINAL REPORT: IIU concludes investigation into fatal motor vehicle collision in Winnipeg***

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On September 13, 2016, at 5:00 p.m., the Independent Investigation Unit (IIU) was notified by the Winnipeg Police Service (WPS) of a multiple vehicle collision that occurred that afternoon at the intersection of Boyd Avenue and Sinclair Street in Winnipeg, which resulted in the death of one of the occupants and injuries to five others.

According to this notification, on September 13 at 3:54 p.m., two members of WPS operating a marked police vehicle were attempting to stop a 2005 GMC Envoy (Envoy) that was travelling westbound on Boyd Avenue. The Envoy fled at a high rate of speed, proceeded through the intersection and collided with a Dodge Ram Quad Cab (Dodge) and then into a parked Chevrolet Equinox (Equinox). Both the Envoy and Dodge rolled because of these collisions. After the collisions, WPS officers apprehended the driver of the Envoy. Winnipeg Fire and Paramedic Service (WFPS) transported five injured persons to hospital. One of the occupants of the Envoy was pronounced dead on arrival and two others were admitted to hospital, for two days, as in-patients for observation.

As this notification involved a fatality and admissions to hospital, IIU assumed responsibility for this investigation in accordance with section 65(1) of the Police Services Act (PSA). IIU investigators attended to the scene of the accident.

Furthermore, in accordance with section 70(1) of the PSA, the IIU was required to seek the appointment of a civilian monitor as this matter involved the death of a person. On September 14, 2016, the IIU formally requested the Manitoba Police Commission to appoint a civilian monitor. The initial briefing with the civilian monitor took place on September 19, 2016 and the IIU conducted regular monthly briefings with the civilian monitor throughout the investigation.

The IIU civilian director designated the two WPS officers in the marked patrol vehicle as subject officers (SO1 - 2). The deceased and five injured individuals were identified as affected persons (AP1 – 6). IIU investigators also identified and conducted interviews with 10 civilian witnesses (CW1-10).

As outlined under the PSA, a subject officer cannot be compelled to provide his notes to IIU investigators or to attend an interview with them. In this matter, both SO1 and SO2 agreed to provide their respective notes to IIU investigators. SO1 agreed to an interview with IIU investigators but SO2 declined.

IIU investigators also received and reviewed:

- A complete file package from WPS;
- Medical Examiner's report and autopsy concerning AP4;
- Medical reports respecting the injured parties;
- All radio transmission recordings between the WPS Communication Centre and the marked police vehicle involved in the pursuit;
- GPS data recordings from the police vehicle;
- Video and photographs from the scene of the collision;
- Traffic accident reconstruction report.

The following facts have been determined:

Earlier in the day of September 13, 2016, AP1 had loaned her Envoy to AP2. At approximately 3:30 p.m., AP2 drove the Envoy to pick up AP1. Also in the vehicle were AP3 (in the right rear seat), AP4 (in the middle of the rear seat) and AP5 (in the left rear seat). AP1 sat in the front passenger seat. Through interviews and data from the police vehicle's GPS, IIU was able to establish the route of travel and sequence of events.

AP2 was driving south on Sinclair Street towards a traffic light-controlled intersection with Inkster Boulevard. A marked police vehicle was in the westbound portion of Inkster Boulevard at or near the Sinclair Street intersection. The Envoy turned eastbound on Inkster Boulevard and then southbound onto Arlington Street.

The police vehicle was operated by SO1 with his partner, SO2, as passenger. The officers noticed five people in the Envoy and a young male driving, though it was registered to a female. The officers decided to conduct a traffic stop to ensure the driver was properly licensed and in lawful possession of the Envoy. The police vehicle made a U-turn to travel eastbound on Inkster Boulevard and turned south on Arlington Street to catch up to the Envoy.

The Envoy continued southbound on Arlington Street, while the police vehicle was some distance behind. The Envoy stopped for a red light at Arlington Street and Mountain Avenue. The police vehicle was now directly behind the Envoy. Once the light turned green, both the Envoy and police vehicle drove through the intersection, southbound on Arlington Street. After one block, the Envoy moved from the centre lane to the right curb lane to pass a truck waiting to turn left. SO1 and SO2 saw a right turn indicator light.

The police vehicle moved into the curb lane behind the Envoy and the emergency roof lights were activated. AP2, seeing the police vehicle behind him with the roof lights activated, understood that the police wanted him to pull over and stop but did not do so. Instead, AP2 turned right, proceeding westbound on Boyd Avenue--the first intersection after the police signaled him. AP2 heard the police siren briefly activate, making a "chirping" sound. AP1 did not hear a siren and did not know how far back the police vehicle was during the short pursuit. AP3 did not look out the back to see what the police vehicle was doing and did not hear a siren. AP5 refused to discuss the events leading up to the collision.

AP2 accelerated the Envoy on Boyd and, according to his own estimate, drove between 70 to 80 kph on a residential street (with a speed limit of 50 kph). AP2 stated he was going fast in an effort to escape from the police. He did not stop for police because he panicked, as he knew there were illicit drugs in the vehicle. All the passengers were yelling at him to stop.

AP4 told AP5 to buckle his seatbelt and then assisted AP3 buckling his seatbelt. AP4 did not buckle her own seatbelt, as she was in possession of illicit drugs and was hiding them inside herself and her clothing.

As AP2 reached the intersection of Boyd Avenue with Sinclair Street, he proceeded to drive straight through, without stopping at a posted stop sign. At this time, the Dodge, operated by AP6, was driving northbound on Sinclair Street, with the right of way and lawfully entering the intersection with Boyd Avenue. The Envoy collided with the passenger side of the Dodge in a "T-bone" collision. AP6 did not see the police vehicle nor hear any siren prior to the collision.

The Dodge rolled on to the driver's side and came to rest on Sinclair Street. The Envoy proceeded westbound through the intersection and collided with the Equinox, which was stationary and parked on the north side of Boyd Avenue, west of Sinclair Street. The Envoy flipped onto its side and came to rest on a grassy area between the north curb and sidewalk of Boyd Avenue, west of Sinclair Street. The police vehicle continued westbound on Boyd Avenue, east of the Sinclair Street intersection, as SO2 radioed the Operational Communications Centre about the collisions. This occurred at 3:53 p.m. At that time, the police vehicle was travelling at 50 kph, according to the GPS data.

AP4, who was not wearing her seatbelt and was unsecured in the back seat, was partially ejected from the Envoy. Her head and upper body were pinned between the ground and the side of the Envoy. AP2 climbed out of the passenger door and was confronted by SO1. AP2 ran from the scene and was pursued by SO1. SO2 remained at the collision scene, called for ambulances and backup and assisted in extricating the other passengers from the Envoy. AP6 climbed out of his vehicle with the assistance of CW1.

AP2 was apprehended following a short foot chase and was taken into custody. AP4 was extricated from beneath the Envoy by WFPS. AP4 was transported to Health Sciences Centre but was pronounced dead on arrival. A quantity of oxycocet pills and cocaine were located in and around AP4's body and were seized.

AP1, AP2, AP3, AP5 and AP6 were transported to HSC. AP1 and AP3 were admitted to hospital for two days for observation. The rest of the APs were examined and released; none suffered any serious injuries. AP2 was detained in custody.

IIU investigators reviewed the Medical Examiner's report concerning AP4. The immediate cause of death was "blunt head trauma" with the antecedent cause noted as "motor vehicle collision."

CW1 was driving behind the police vehicle and stated that the emergency roof lights were activated but he did not hear any siren. He had seen the police cruiser and the Envoy turn onto Boyd Avenue. As he turned onto Boyd Avenue, he saw the aftermath of the collisions and the police car stopping in the intersection at Sinclair Street.

CW2, CW3, CW4 and CW5, whose residences were near the crash scene, all heard the collision but none heard a siren.

CW6, whose residence is close to the crash site, heard a siren and then two loud “booms.” He ran out of his home and saw the results of the collisions. He observed the police vehicle was parked in the intersection with the emergency roof lights on but no siren activated. He heard sirens approaching in the distance.

CW7 was working inside a nearby home with the windows open and heard the collision shortly before 4:00 p.m. He went outside and saw the aftermath of the collisions but did not notice a police car. He had not heard any sirens before the collision.

CW8 and CW9 were standing at the intersection of Boyd Avenue and Arlington Street when they heard a loud engine noise and saw a vehicle drive past them, westbound and at a high rate of speed. There was a marked police vehicle close behind the fast vehicle. The roof lights of the police vehicle were on but the siren was not activated.

CW10, seated outside her home on Boyd Avenue, heard the sounds of cars racing and sirens. She saw “a van” drive westbound on Boyd Avenue at a high rate of speed, followed closely by a marked police vehicle. She did not think that the emergency roof lights were on, and believed that the siren may have been on and off but was not certain. She did not hear the collision.

SO1 stated that he activated the emergency lights and siren of the police vehicle. The Envoy slowed and made a right turn from Arlington Street onto Boyd Avenue and appeared to be pulling over. However, instead of stopping, the Envoy accelerated at a high rate of speed “showing no regard for public safety.” SO1 turned off the emergency lights and siren and did not pursue, stating, “... it was a residential area with pedestrians at that time of day and I did not feel it would be safe to pursue.”

SO2 noted, “Due to the time of day and heavy vehicle and pedestrian traffic, this unit decided not to pursue the suspect vehicle. There are several schools in the area and with the vehicle already driving in an erratic manor (sic) we felt it would be unsafe to pursue the vehicle any further as it could possibly endanger motorist and or pedestrians.”

According to the traffic accident reconstruction report, the Envoy had accelerated quickly on Boyd Avenue and, at the point of impact with the Dodge, was travelling at 91 kph.

The conclusion in the report was that, "The high speeds involved, being approx. 91 kph in a residential 50 kph area further led to this collision. Failing to stop at a two way stop sign at this

speed led to an entirely avoidable collision. [AP2]...in my opinion is responsible for the death of [AP4], as well as the injuries sustained in this matter."

WPS pursuit policy was reviewed and I am satisfied that the actions of SO1 and SO2 were appropriate and in keeping with this policy.

AP2 has been in custody since the collision and is facing numerous criminal code charges.

### **Issues, Assessment and Conclusions:**

The purpose of this IIU investigation is to determine whether the actions of SO1 and SO2 contributed in any way to the collisions between the Envoy, Dodge and Equinox and the resulting death and injuries. If so, it must then be determined whether the facts justify any criminal code or other charges against SO1 and/or SO2.

Police pursuits of actual or suspected violators of the law are authorized pursuant to provincial traffic laws. Section 106 of the *Highway Traffic Act* details the privilege to peace officers in pursuit of an offender, including the authority to disregard traffic rules, the requirements for compliance, and the limitations to this authority. Police actions are also governed by existing police service pursuit policies.

The overriding requirement is that the driver proceed with due regard for the safety of other persons using the road, having regard to all the circumstances of the case.

Whenever a pursuit is necessary, a police officer must constantly analyze the circumstances of the driving, and weigh any risks to other persons against the need to apprehend those who are committing offences.

The safest option would be for the police never to chase offenders. However, if that were their policy, offenders would know that all they need to do is speed off and they would be able to escape the police. On the other hand, if an officer is on a busy street with a great deal of traffic attempting to apprehend someone for a minor infraction, a pursuit may not be appropriate. It is a very fine balance between the need to enforce laws and apprehend offenders on the one hand, and public safety and police safety on the other hand--not to mention the significant personal, psychological and economic impact that may arise from a pursuit gone wrong.

In these circumstances, SO1 and SO2 were in the lawful execution of their duties when they came upon the Envoy. They had reasonable, probable and sufficient cause to stop the Envoy and deal with the driver (see subsections 76.1(1) and (4) of *The Highway Traffic Act*, C.C.S.M. c. H60).

I am satisfied that the driver of the Envoy was unwilling to stop for police, was intent on fleeing from police, and accelerated the Envoy to excessive speeds to further that intent. AP2 entered the intersection at an excessive speed and failed to obey a stop sign, and without determining

whether it was safe to do so. I am also satisfied that AP4 failed to secure herself in the Envoy with a seatbelt.

The pursuit, in these circumstances, was minimal, if at all existent. Other than activating the emergency lights and chirps, the SO1 and SO2's police vehicle remained in its lane of travel and never accelerated to catch up to the Envoy.

SO1 and SO2 acted in full compliance of existing WPS pursuit policy. SO1 and SO2 properly assessed and analyzed all of the circumstances around commencing or continuing a pursuit, including the infractions under investigation, the time of day, the speed and manner in which the fleeing vehicle was being driven, the amount of traffic in the vicinity and safety of the officers and others on the roadway.

I am satisfied that the actions of SO1 and SO2 were careful, prudent, justifiable and appropriate, having regard to all of the circumstances. I am satisfied that the actions of SO1 and SO2 did not contribute in any way or in any degree to the circumstances leading AP2 to accelerate, fail to stop, or enter the intersection when unsafe to do so--all of which led to the collisions and the resulting death of AP4 and injuries to the others. I am satisfied that the full and sole responsibility for the manner of driving, collisions and consequent death and injuries is borne by AP2.

Therefore, I am not satisfied that any reasonable and probable grounds exist in these circumstances to justify the laying of any criminal code or other offence against SO1 or SO2.

This matter is now completed and the IIU will close its investigation.

**Final report prepared by:**  
Zane Tessler, civilian director  
Independent Investigation Unit  
May 10, 2017

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