

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

On October 10, 2017, at 1:44 p.m., the Independent Investigation Unit (IIU) was notified by the Winnipeg Police Service (WPS) of a pedestrian/motor vehicle collision that occurred that morning near the intersection of Portage Avenue and Langside Street in Winnipeg. According to the notification, at approximately 9:20 a.m. that morning, an off-duty member of WPS, operating his personal motor vehicle, was travelling in the curb lane eastbound on Portage Avenue, approaching Langside Street. A pedestrian was walking across Portage Avenue, in between cars, towards the south sidewalk. As the pedestrian stepped into the curb lane, she was struck by the officer's vehicle. She was transported to the Health Sciences Centre and was admitted to hospital due to injuries sustained in the collision, including a possible skull fracture, broken pelvis and broken wrist.

As this notification involved serious injuries and an admission 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. The IIU civilian director designated the off-duty WPS officer as the subject officer (SO). The injured pedestrian was identified as the affected person (AP). A member of WPS who attended the collision scene was designated as a witness officer (WO). IIU investigators also conducted interviews with four civilian witnesses (CW1-4).

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, SO provided a typewritten statement to IIU investigators but declined to attend for a formal interview.

IIU investigators also received and reviewed:

- a file package from WPS;
- videos of the collision;
- forensic analysis, including photographs and measurements of the collision scene;
- traffic accident reconstruction report.

The following facts have been determined:

On October 10, 2017, at 9:22 a.m., WPS received a 911 call reporting an accident in which a pedestrian had been struck by a motor vehicle on Portage Avenue, just west of Langside Street in Winnipeg, Manitoba. The caller reported that the driver of the motor vehicle was a WPS

member. WPS officers attended the location of the collision and met with SO, who identified himself as the driver of the motor vehicle which struck the pedestrian.

Portage Avenue is a major thoroughfare in Winnipeg and runs in an east-west direction. There are four lanes of travel in each direction, separated by a concrete median. The eastbound curb lane is a “diamond lane,” designated for bus and bicycle traffic only between 7:00 a.m. to 9:00 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday. At the location of the collision near Langside Street, Portage Avenue is a posted 50 km/h speed zone. The intersection with Langside is controlled by traffic control lights. The collision occurred in the eastbound south curb lane, in full daylight. At that time, the outdoor temperature was 4.7 degrees Celsius and the road surface was clean and dry. This location is primarily a commercial business area.

A video canvas was conducted by the IIU and resulted in locating and seizing video that captured the collision. A commercial building, in the 600 block of Portage Avenue and near the intersection, had three closed circuit TV camera views, two of which clearly depicted the collision. Further, a Winnipeg Transit video from a bus travelling eastbound on Portage Avenue also captured the collision.

CW1 was operating a Winnipeg Transit bus eastbound on Portage Avenue at 9:20 a.m. on October 10. He witnessed the collision and his bus captured video of the incident. CW1 was stopped in traffic, eastbound on Portage Avenue and west of the intersection with Langside Street, in the second lane from the south curb. CW1 saw the pedestrian (AP) standing on the median boulevard on Portage Avenue and beginning to cross to the south. East and west traffic began to move as the light changed to green. AP continued to cross towards the south. The curb lane was empty with the exception of a jeep, travelling east bound. From his raised position in the bus, CW1 saw AP cross into the curb lane and saw the jeep. CW1 stated that neither the driver of the jeep nor the pedestrian was aware of each other because his bus blocked their respective views. Following the collision, the driver of the jeep immediately exited his vehicle and went directly to the pedestrian on the ground.

CW2 was driving her vehicle eastbound on Portage Avenue at 9:20 a.m. CW2 was stopped in the second lane from the median on Portage Avenue, near the intersection. Eastbound Portage Avenue traffic was stopped as the traffic control signal ahead was red. CW2 watched AP crossing south from the north side of Portage Avenue. As AP crossed in front of CW2’s vehicle, the traffic light turned green and traffic on Portage Avenue began to move. AP began to jog as she passed in front of a bus in the third lane. As AP entered the curb lane, she was struck by an SUV. CW2’s view was obstructed by a transit bus but she heard “a thud” and saw AP’s body thrown forward.

CW3 was walking to work, westbound on Portage Avenue at 9:20 a.m. CW3 heard a “screech and a bang” and witnessed AP sliding along the south curb of Portage Avenue. The screech sound was consistent with the sound made when a driver slams on their brakes. A black or dark blue, higher end, four door, medium sized car was stopped in the curb lane on Portage Avenue near Langside Street. CW3 watched a male get out of his car and run to the pedestrian. At this point CW3 surmised that this was the car that had struck the pedestrian. CW3 called 911 and remained on the line with the operator. The male driver (SO) told CW3 to tell the 911 operator

that he was an off-duty police officer and gave his badge number for her to pass along. CW3 next saw SO with a phone and heard him tell someone that he was due in court but he had hit a pedestrian, so would not be there for a while.

CW4 was walking westbound on the south side of Portage Avenue, near the intersection at Langside Street, at 9:20 a.m. He was on his cellphone and, when he looked up, he saw AP on the road, hunched over and in front of a car. He saw a car trying to come to a sudden stop but it struck AP. SO, the driver, got out of his car immediately and went to AP. CW4 stated it was clear to him the driver was concerned about the pedestrian. CW4 called 911 and remained on the line with the operator.

WO arrived at the location of the collision and, on seeing SO standing on the side of the road, directed him to sit in WO's police vehicle. WO did not observe any signs of alcohol consumption or impairment on SO. WO overheard SO tell a WPS traffic unit member that he believed he was driving his vehicle under 50 km/h.

As stated earlier, SO provided a written statement to IIU investigators. In that statement, SO said that at 9:20 a.m. he was operating his personal vehicle eastbound on Portage Avenue on his way to attend court to testify at a criminal trial. SO stated there was no traffic in lane four, the curb lane, so he moved into it just past Furby Street, continuing to drive east on Portage Avenue. As he approached the intersection with Langside Street, he saw a Winnipeg Transit bus stopped in lane three, waiting for vehicles in front of it to proceed as the light had changed to green. When his vehicle was beside the transit bus, he saw a person (AP) run southbound in front of the bus and into the curb lane, approximately 10 feet in front of his vehicle. SO immediately stepped on his brakes in an effort to avoid hitting AP but he struck her in the center of his vehicle's bumper/hood area. AP was thrown by the impact.

AP was not interviewed at the hospital due to her medical condition. When an interview was attempted there, AP responses to investigator questions were nonsensical and out of context. IIU investigators left a business card and instructions to be supplied to AP for her to contact investigators when her condition improved. When IIU investigators learned that AP was released from HSC, they attempted to contact her. To date investigators have been unsuccessful in contacting AP. In this instance it is doubtful AP's account would clarify the actions of SO.

The three separate videos of the collision corroborate all of the various eyewitness accounts. In particular, AP is noted crossing Portage Avenue, north to south, approximately half a block west of a marked crosswalk. AP begins to cross Portage Avenue while eastbound traffic is stopped. As AP begins to continue south across the eastbound lanes, she walks in between vehicles. As AP crosses lane two, eastbound traffic begins to move. AP begins to jog south as she passes the front of the transit bus. The curb lane is clear. As AP enters the curb lane, she stops as she spots SO's vehicle. SO's vehicle is proceeding eastbound, in its own lane. It appears to be moving below or at the speed limit.

A traffic collision analysis report was reviewed. Based on this report, it was determined that SO was driving his motor vehicle between a minimum of 40 km/h and a maximum of 51 km/h at the time of impact with AP. The point of impact was 29.92 m west of the crosswalk at Langside

Street and Portage Avenue. Based on all of the available evidence, this collision occurred as a direct result of the pedestrian crossing the four eastbound lanes of Portage Avenue outside of the designated crosswalk while traffic had a green light for eastbound travel. SO's view of the pedestrian crossing Portage Avenue was obstructed by the transit bus.

As a result of a review of a thorough investigation, I am satisfied that the collision was a direct result of AP's improper and obscured crossing of Portage Avenue. There is no evidence of bad driving on the part of SO leading up to the collision. I am satisfied that once SO could see the pedestrian, there was not enough time or distance for him to avoid the collision with AP. I am not satisfied that there are reasonable and probable grounds to believe that SO's conduct was improper or illegal. There are no charges that will arise from this matter. Accordingly, this investigation is complete and the IIU will close its file.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
December 18, 2017

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