

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

On September 26, 2020, the Winnipeg Police Service (WPS) notified the Independent Investigation Unit (IIU) of a fatal motor vehicle accident that occurred the previous afternoon in the North End of Winnipeg.

The notification, provided to IIU (edited for clarity), read in part:

“On Saturday September 25th, 2020 at 1:33pm, [WPS officers] voiced that they were following a 2003 Chevy Pickup...that took off from them at Boyd Avenue and Salter Street.

Almost immediately, officers voiced for Winnipeg Ambulance at the intersection of Boyd Avenue and Andrews Street, due to a collision between the suspect vehicle and a 2010 Dodge Caravan....All parties from the civilian vehicle and the two accused from the suspect vehicle were conveyed to various hospitals...”

Further information received disclosed that a WPS traffic unit had attempted a traffic stop on a pickup truck, but it had driven off at a high rate of speed, which culminated in the collision. Tragically, two occupants of the Dodge Caravan (a mother and her infant son) lost their lives in that collision.

As this matter concerned the death of persons that may have resulted from the actions of a police officer(s), IIU assumed responsibility for this mandatory investigation in accordance with section 66(4) of The Police Services Act (PSA). IIU investigators were assigned to this investigation.

Further, 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. IIU requested the Manitoba Police Commission to appoint a civilian monitor.

WPS information, and other information obtained by IIU investigators, included:

- WPS Homicide Investigative Summary
- CAD dispatch records
- WPS radio transmissions
- GPS records for police vehicle
- Drone images of the crash scene at Boyd Avenue and Andrews Street
- Video footage taken from various locations on Boyd Avenue and Main Street
- WPS Forensic Identification Service (FIS) reports and photographs of scene
- WPS Collision Analyst report

Due to the dearth of information at the outset of this investigation as to whether any actions by any WPS officer contributed to the collision, it was decided that no subject officer designation would be made at this stage, pending receipt of more facts and evidence. The two WPS officers who were attempting to conduct a traffic stop of the pickup truck were identified as potential witness officers (WO1-2).

Six individuals (including the two deceased) were identified as affected persons (AP1-6). IIU investigators interviewed the two AP's from the pickup truck and one AP from the Caravan (the remaining AP was six years old and it was determined that she was too young to contribute to this investigation). IIU investigators also met with and interviewed 15 civilian witnesses (CW1-CW15). A WPS traffic collision analyst (SME) who examined the travel and collision scene and prepared a report on the accident, which assisted IIU investigators.

IIU investigators obtained several video surveillance recordings from nearby residences on Boyd Avenue and premises on Main Street. Although the collision was not captured by any video footage, a recording from a Boyd Avenue residence, approximately a quarter block south of the collision scene proved invaluable, as the manner of driving of both the pickup truck and WPS was recorded just prior to the collision. These recordings provided direct evidence of speed of each vehicle as they travelled on Boyd Avenue and provide corroboration or refutation of eyewitness recollections.

Facts and Circumstances

Affected Persons:

AP1 was a passenger in the pickup truck that was driven by AP2. AP1 sustained a broken femur in the collision. AP1 states that he was intoxicated at the time of the incident, but recalls that police, operating a grey, unmarked SUV, were trying to pull them over by activating the siren twice in quick bursts (described as a "Whoop whoop" by AP1). Initially, AP1 states that the pickup truck stopped, but then AP2 drove off. AP1 states that he did not remember how far the pickup truck travelled before the collision, but does recall seeing red and blue lights at a distance in the right side passenger mirror.

AP2 was the driver of the pickup truck. He sustained a concussion from the collision. AP2 states that he was with AP1 and driving south on Main Street when he passed a black unmarked police SUV that was stopped in a bus lane. AP2 states that the passenger in the police SUV, a male police officer, made eye contact with him and motioned as if he was shooting at the pickup truck. AP2 states that the black SUV pulled in behind the pickup truck and activated its emergency lights in an effort to stop AP2. AP2 states that he made a turn onto Boyd Avenue and the police vehicle continued to follow. AP2 states that AP1 told him that he could not be stopped or checked by the police, as he was in violation of court orders. AP2 states that he responded by driving off and not stopping for the police. AP2 states that, eventually, he collided with another vehicle. AP2 states that he believed the police stopped pursuing him after he drove off on Boyd Avenue, because the SUV fell back in the distance and the emergency lights were turned off.

AP3 was the driver of the Dodge Caravan, which was also occupied by AP4 (a 30 year old female who died from injuries sustained in the collision), AP5 (a 10 month old child who died from injuries sustained in the collision) and AP6 (a six year old child who sustained a broken clavicle). AP3 states that he sustained a fractured clavicle, ribs and hip together with other

significant injuries to his right side. AP3 states that he remembers very little about the incident, but he does recall driving northbound on Andrews Street, and hearing a siren. His vehicle was then rocked by the collision, and he was knocked unconscious. AP3 states that he regained consciousness in hospital and did not remember seeing any police vehicles that day.

Civilian Witnesses:

CW1 states that she was inside her home on Boyd Avenue and heard a loud noise, from a speeding vehicle followed by the sound of a crash.

CW2 was outside, in the front yard of his home on Boyd Avenue and states that a vehicle went by '*very fast*' then collided with another vehicle at the corner of Boyd Avenue and Andrews Street. CW2 states that a gold-colored unmarked police vehicle was approximately a block behind the speeding vehicle (believed by CW2 to be ten seconds behind the speeding vehicle). CW2 states that the police vehicle did not have its emergency lights activated until after the collision had happened.

CW3 was in his Boyd Avenue residence when he heard a '*big bang*'. CW3 states that he looked out an upstairs window and saw one vehicle had flipped over and another vehicle was on its side.

CW4 was at her residence when she heard a vehicle travelling at a high rate of speed, travelling westbound on Boyd Avenue. CW4 states that she observed this vehicle, described as a truck, drive through the intersection at Boyd Avenue and Powers Street, without stopping at a stop sign and then accelerate as it passed by her residence. CW4 states that she then heard the crash, after which time a police vehicle approached westbound on Boyd Avenue. CW4 states that it was an unmarked SUV and that its emergency lights were activated when it was at the intersection of Boyd Avenue and Powers Street, after the collision had taken place.

CW5 states that he was in an upstairs room at his home, when he heard a vehicle approximately a block away and '*going fast*'. CW5 states that he looked out a window and '*... a truck went by that was just a blur*'. CW5 states that the truck was travelling '*... probably 50 or 60 miles per hour*'. CW5 states that a few seconds later, he heard a loud bang and came downstairs to see what had happened. CW5 states that he was looking outside a window for 10 to 15 seconds after the truck went by and did not see any other vehicles drive by his home. CW5 states that he saw a truck on its side and a van '*...all smashed up*'. CW5 states that police were on scene at that time.

CW6 states that he heard a vehicle driving by his home. CW6 states that the vehicle was moving fast. CW6 states that he then heard the sound of a collision. CW6 states that he saw a marked WPS vehicle some distance back from the collision scene, driving at a normal speed, which he estimated to be approximately 50 kilometers per hour. CW6 states that the police vehicle did not have its emergency lights or siren activated.

CW7 lives approximately a half block from the collision scene. CW7 states that she observed a pickup truck, traveling westbound on Boyd Avenue at a high rate of speed. CW7 states that the pickup truck accelerated as it went by her home. CW7 states that approximately two or three seconds later, a white SUV went by, in the same direction. CW7 states that the SUV was travelling at the speed limit. CW7 states that she did not realize that the SUV was a police vehicle until it turned on its emergency lights. CW7 states that a few seconds later, she heard a loud bang.

CW8 states that he was home when, shortly after 1:00 p.m., he noticed a greenish pickup truck drive by, travelling between 65 - 75 kilometers per hour. CW8 states that between 30 - 45 seconds later a police SUV with emergency lights on went by his home. CW8 states that the police vehicle's speed was approximately 50 kilometers per hour and travelling slower than the truck. CW8 states that he heard the sound of a crash before he saw the police car.

CW9 was in the backyard of his home, when he heard a vehicle accelerating while driving on Boyd Avenue. CW9 heard the sound of a crash and thought that a vehicle had struck a parked car. CW9 states that he did not hear any sirens. CW9 states he walked from the backyard to the front yard when he observed two vehicles that had been involved in a collision at the corner of Boyd Avenue and Andrews Street. CW9 states that an unmarked police vehicle drove up to the collision scene approximately ten to twenty seconds after the collision. CW9 states that the unmarked police vehicle, a silver SUV, had its emergency lights activated as it arrived.

CW10 states that he came out of his house and observed a truck speeding by, westbound on Boyd Avenue. CW10 states that he then heard a collision. CW10 states that approximately two or three seconds later, he observed a marked police vehicle drive past in the direction of the collision. CW10 states that the police vehicle was an SUV. CW10 states that he did not see any flashing red and blue emergency lights activated when it drove by.

CW11 was outside his home when he heard a vehicle racing down Boyd Avenue and moments later heard the sound of a crash. CW11 states he was unsure how fast the vehicle was going but it was definitely above the speed limit. CW11 states that he did not hear any sirens.

CW12 states that he saw a truck speeding by his residence at high rate of speed that he estimated was at least 100 kilometers per hour. CW12 states that the truck collided with a van at the intersection of Boyd Avenue and Andrews Street. CW12 states that there was a marked police vehicle behind the truck approximately halfway down the street to the east, when the collision occurred. CW12 states that the police vehicle did not have emergency lights or siren activated. CW12 states that the police vehicle was approximately five to ten seconds behind the truck and was driving between forty and fifty kilometers per hour.

CW13 was inside her home and looking out her upstairs front window when she saw a pickup truck drive past at a very high rate of speed. CW13 states that approximately two seconds later a police car went by in the same direction as the truck. The police vehicle had emergency lights activated and CW13 believed it was traveling above the speed limit of fifty kilometers per hour but not as fast as the pickup truck.

CW14 states that between 1:30 and 2:00 p.m., she heard the sound of a vehicle accelerating rapidly. CW14 states that approximately five to ten minutes later, she heard a bang and went outside to find that a collision had occurred at the corner of Boyd Avenue and Andrews Street. CW14 states that she saw four marked police cars with emergency lights activated coming down Boyd Avenue.

CW15 states that between 1:30 and 1:45 p.m., she was in her house and heard a vehicle go by at a high rate of speed. CW15 states that she caught a glimpse of the vehicle but it was just a blur. CW15 states that she heard some kids screaming then the sound of a bang. CW15 states that she was concerned for the safety of children and exited the home. Within a minute after hearing the collision, CW15 states that a police vehicle went by her home in the same direction

of the crash. CW15 states that she could not recall what kind of police vehicle it was, but believed it had WPS markings on it. CW15 states that the police vehicle did not have emergency lights activated.

Witness Officers:

WO1 states that he was partnered with WO2, performing traffic duties in an unmarked police vehicle. WO2 was driving the unmarked police vehicle and WO1 was operating the in-car computer, querying license plates. WO1 states that at 1:33 p.m., they were southbound on Main Street near Redwood Avenue when WO2 asked him to query a Manitoba license number. WO1 states that he did query the license plate number provided by WO2 and it did not show a valid registration. WO1 states that he communicated the result to WO2, who in turn began to follow a pickup truck, as it turned westbound onto Redwood Avenue. WO1 states that WO2 then activated the police vehicle's emergency lights and siren. WO1 states that the pickup truck did not stop, instead turning right on Charles Street. WO1 states that the pickup truck was not driving fast and he thought the driver was looking for a safe place to stop. WO1 states that the pickup truck then turned westbound onto Boyd Avenue and immediately accelerated. WO1 states that WO2 deactivated the emergency lights and siren as soon as the pickup truck sped off on Boyd Avenue. WO1 states they continued to drive westbound on Boyd Avenue but was unsure how fast they were going. WO1 states that he saw the pickup truck drive fail to stop at a stop sign at the intersection of Boyd Avenue and Salter Street. WO1 states they continued westbound on Boyd Avenue when he saw a cloud of dust and observed the collision scene that involved the pickup truck and another vehicle. WO1 states that WO2 reactivated the police vehicle's emergency equipment as they approached the collision scene. WO1 states that they were never in pursuit of the pickup truck as there was no confirmed offence involving it. WO1 states that they followed the pickup truck to ensure it did not involve itself in a collision.

WO2 states that he and WO1 were working together, performing traffic duties and driving a grey unmarked police SUV. WO2 was the driver of the police SUV. The officers were checking license plates on vehicles on Main Street, and WO1 advised that a pickup truck southbound on Main Street near Mountain Avenue had an invalid license plate on it. WO2 states that he activated the police SUV's emergency lights and '*chirped*' the siren in order to get the driver of the pickup truck to stop. WO2 states that the pickup truck turned right onto Redwood Avenue and right again onto Charles Street. WO2 states that the pickup truck was driving slowly, in the range of 20-25 kilometers per hour. WO2 states that he turned the police SUV onto Charles Street and behind the pickup truck, when he chirped the siren again. WO2 states that the pickup truck turned westbound onto Boyd Avenue. WO2 states that WO1 said he may have incorrectly queried the wrong license plate number on the pickup truck and was trying to re-query the correct number. WO2 states that the pickup truck rolled through a stop sign at the intersection with Aikins Street, drove through a stop sign at the intersection with Salter Street without stopping and was accelerating westbound on Boyd Avenue. WO2 states that he decided to cease efforts to stop the truck and he turned off the police SUV's emergency lights. WO2 states he saw the collision between the pickup truck and a van at the intersection with Andrews Street. WO2 states that he reactivated the police SUV's emergency lights and drove up to the crash scene where he and WO1 exited their vehicle to render assistance and arrest the occupants of the pickup. WO2 states that he did not engage in a pursuit of the pickup truck and that his maximum speed throughout was between 40 to 50 kilometers per hour. WO2 states that Boyd

Avenue is a residential area and a narrow street and not conducive to a pursuit. Furthermore, it was against WPS policy to pursue a target vehicle operating an unmarked police vehicle¹.

Video Recordings:

As stated earlier, several residences along Boyd Avenue had surveillance cameras that captured video of the westbound travel of both the pickup truck and police SUV. In particular, video footage from a Boyd Avenue residence approximately a quarter block east of the collision scene was particularly invaluable. In that video (which was 4 minutes and 59 seconds in duration), Boyd Avenue, east of the collision scene is visible. The video shows a sunny and clear day, with dry pavement and very good driving conditions. Homes are visible on both the north and south sides of Boyd Avenue. Parked motor vehicles are visible on the south side of Boyd Avenue. Audio is present on the video. Sounds of pedestrians, including children, are heard throughout. Vehicular traffic is observed moving both east and west on Boyd Avenue. Boyd Avenue appears as a narrow roadway with a speed limit of 50 kilometers per hour.

At the 2 minute 04 second mark, the sound of an accelerating engine is heard and the pickup truck appears as it travels westbound on Boyd Avenue. The pickup truck is moving very fast across the screen, before it disappears off the recording. At the 2 minute 08 second mark, a loud sound of a collision, from the west, is heard (which lasts for several seconds). At the 2 minute and 19 second mark, a grey SUV enters into the frame travelling westbound on Boyd Avenue. Emergency lights are activated and flashing on this SUV. No siren is heard from the commencement of the video to the point the grey SUV is on screen. People are emerging from residences and multiple voices are heard. At the 3 minute 11 second mark, a siren is heard on the audio of the footage. It continues until the 3 minute 40 second mark, when a marked police vehicle enters the screen from the east and moves westbound towards the collision scene. The siren stops at the 3 minute 52 second mark.

GPS data:

GPS records supplied by WPS indicated that the police vehicle operated by WO1 and WO2 traveled south on Main Street, turned right onto Redwood Avenue, turned right again on Aikins Street (not Charles Street as reported by WO1 and WO2), then left onto Boyd Avenue. There were five speed-readings recorded for the police vehicle as it was driven westbound on Boyd Avenue. The range of speeds for the police vehicle was between 33.8 and 62.8 kilometers per hour. In the area of Boyd Avenue that was captured in the video footage that was referenced above (shortly after the collision); the police vehicle was travelling between 54.7 and 56.3 kilometers per hour.

Traffic Collision Analysis Report:

The traffic collision analyst made a number of conclusions following the examination of the scene, review of vehicle data and witness accounts:

- The intersection of Andrews Street and Boyd Avenue is controlled by stop signs for east and westbound traffic on Boyd Avenue;
- Vehicles travelling north and southbound on Andrews Street have the right of way at the intersection;

¹ The WPS pursuit policy was confirmed and verified

- The speed limit for both Andrews Street and Boyd Avenue is 50 kilometers per hour;
- The Caravan was travelling northbound on Andrews Street at a speed of 36 kilometers per hour just prior to the collision;
- The pickup truck was travelling westbound on Boyd Avenue at speeds between 79 and 112 kilometers per hour (as it passed the last video surveillance);
- Just prior to the collision, the pickup truck failed to stop at the intersection and was travelling at an estimated speed between 109 and 117 kilometers per hour (over twice the speed limit)

Conclusion

This investigation must consider whether the actions of any or all of the police officers who were involved with the pickup truck caused, or in any way contributed, to the deaths of AP4 and AP5 and to the injuries sustained by AP1, AP2, AP3 and AP6.

Based on the various witness accounts, the various video footages recovered, vehicular data and expert report on the collision analysis the following determinations can be made:

- At all material times, the police officers were in the lawful execution of their duties;
- The encounter between the police officers and the occupants of the pickup truck had its genesis as a result of an erroneous license plate query based on an incorrect recording of the license plate number;
- The police officers attempted to pull the pickup truck over by activating emergency lights and chirps from the siren;
- It appeared at the outset that the driver of the pickup truck was preparing to pull over and stop as he turned onto a side street and was travelling slowly;
- The driver of the pickup truck admitted that the reason he decided not to stop was his passenger's request to avoid contact with police because of his likely violation of the law;
- The driver of the pickup truck was not aware that the only reason for the police attempt to conduct a traffic stop was the erroneous query they conducted;
- Boyd Avenue is a residential street that is marked with residences, pedestrians and traffic;
- The driver of the pickup truck accelerated and drove westbound on Boyd Avenue at significantly high rates of speed to avoid contact with the police;
- I am satisfied that that the police decision to stop any pursuit of the pickup truck was made, particularly in regard to policy and conditions at the time;
- The manner of driving of the police vehicle, the speed of travel and the increasing distance between it and the pickup truck (prior to collision) are factors that support the contention that no pursuit was underway;
- The decision to evade police by accelerating and driving at significantly high rates of speed was the sole decision of the driver of the pickup truck;

- The driver of the pickup truck failed to stop at several controlled intersections and in relation to the collision, failed to stop at a stop sign and entered the intersection at a speed in excess of twice the legal speed limit before colliding with the Caravan;
- The driver of the pickup truck is solely responsible for deaths and injuries that resulted.

In conclusion, there is no evidence to support a finding that there is any level of contribution by any police officer to the cause of the collision, and consequent deaths and injuries that resulted. Furthermore, there is no evidence in this matter that would justify the designation of any of the police officers as a subject officer. As a result, there is no further requirement or need by IIU to continue with this investigation.

The IIU investigation is complete and this file is closed.

Final report prepared by:

Zane Tessler, civilian director
Independent Investigation Unit
January 22, 2021

Ref 2020-046