



**IN THE MATTER OF AN INVESTIGATION INTO A COLLISION INVOLVING A
BRANDON POLICE SERVICES OFFICER ON DECEMBER 19, 2018**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

IIU File Number:	2018-0071
Date of Release:	September 17, 2023
Decision made by:	Zane Tessler, Civilian Director
Report issued by:	Roxanne M. Gagné, Civilian Director

Introduction:

On December 18, 2018, the Brandon Police Service (BPS) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

“On December 1, 2018, at approximately 2:20 p.m., the subject officer (SO) was operating BPS Police Unit #107 and assisting with a call for service to locate suspects reported to be armed with a firearm who fled on foot from the scene of an assault. The SO observed a male matching the description of one of the suspects while she was southbound on 9th Street, approaching Balmoral Bay. The SO came to a stop near the Balmoral Bay intersection, then reversed, northbound on 9th Street. In doing so, SO struck a vehicle which was travelling southbound on 9th Street. The SO did not activate the emergency equipment prior to reversing against the flow of traffic. The SO activated the emergency equipment after the collision which in turn activated the video/audio system and subsequently captured the collision. The SO made a verbal report by radio transmission and also to the Street Supervisor, witness officer (WO1), that she was “rear ended”. A Collision Review was conducted as per BPS Policy and Procedure which involved the completion of a written Explanatory Report submitted by SO, a written Supervisor’s Report submitted by WO1, a Traffic Investigation conducted by Traffic Division Member, WO2, and a Collision Review conducted by Patrol Support (Traffic Division) WO3. In SO’s written Explanatory Report she stated “As the male turned to flee, SO applied the brakes and a collision resulted when Manitoba licence plate hit the back of PC107.” The video/audio recording from PC 107 showed that SO stopped PC 107, reversed for approximately 2 - 3 seconds reaching a speed of 13 km/hr and struck a vehicle that was also southbound on 9th Street. The vehicle struck was being operated by witness, the affected person (AP). AP’s statement is contrary to SO’s statement, however it is consistent with the video/audio from PC 107. This inconsistency in SO’s reporting of the incident was noted by all investigating and reviewing Members involved in this process. Based on the above information, this matter was referred to an Inspector who in turn made recommendation to the Deputy Chief to notify the IIU. It should be noted that no further investigation has been completed and the content of SO’s statement of claim to Manitoba Public Insurance regarding the collision is not known at this time.”

As these allegations are considered as discretionary matters under the provisions of *The Police Services Act* (PSA), at the time of the incident, Civilian Director Zane Tessler, determined that it was in the public interest for an independent investigation to be conducted pursuant to s. 75 of the PSA. IIU investigators were assigned to this investigation.

IIU investigators obtained the following information from BPS, among other items:

- SO’s Explanatory Report
- WO1’s Supervisor Report
- WO2’s Traffic Collision Investigation Report
- WO3’s Collision Review Report T
- Officer Notes – WO1 and WO2

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- Photographs of collision scene and damage to vehicles
- In Car Video/Audio Recording capturing incident from PC 107
- Written statement of AP
- Policy - Emergency Vehicle Operations and/or use of emergency equipment
- Radio Communications

The civilian director designated one subject officer and two witness officers. IIU investigators obtained statements from all three officers.

Facts and Circumstances

Affected Person

On January 3, 2019, IIU investigators obtained a statement from the AP. He stated that on December 1, 2018, he was driving south on 9th Street. A marked BPS cruiser was driving south in front of him on 9th Street. He stated that he was uncertain when he became aware of the police vehicle in front of him, he believed it was probably shortly after the four way stop, and estimated he followed it for a minute, or a minute and a half. AP estimated his speed to be 52 or 53 km/hr. There was no stop sign and he questioned why the vehicle was stopping. He described there was a car length of distance and that he had plenty of time to come to a stop himself. AP stopped his vehicle, and the police vehicle began to reverse. AP tried to put his vehicle in reverse, but he did not have time to react. The rear bumper of the police vehicle struck the front of his car. After the impact, the police vehicle's emergency lights went on. A female police officer got out of the police vehicle and asked if he was alright, directed him to stand on the sidewalk and wait, which he did. She told AP that the police were looking for someone. AP said he assumed that she had been attempting to block off the road but had missed her stop and had reversed but did not see him behind her.

Witness Officers

WO1

On February 19, 2019, IIU investigators obtained a statement from WO1. He indicated that BPS were looking for an individual regarding an assault. The individual had fled and the BPS believed he may have a handgun. WO1 was at 9th Street and Aberdeen Avenue as part of the search.

SO voiced over the radio that she wanted WO1 to come to her location at 9th Ave and Balmoral as she had been rear ended in an accident. When he arrived, he noted the police vehicle was facing southbound on 9th Street, and red Chevy Cruze was parked behind PC 107 was also facing southbound on 9th Street. He noted damage to the rear of PC 107 and damage to the front of the Chevy Cruze. WO1 described 9th Street as ice covered, possibly sanded, slippery with well beaten down snow. He stated that SO appeared to be shaken up from the collision. The SO attended the hospital and had x-rays.

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On December 4, 2018, the SO sent WO1 an email enclosing her statement. She said she was stopped when the incident occurred. On December 11, 2018, WO1 advised SO there was some discrepancy between the cruiser car video and her statement. WO1 asked if she had watched the cruiser car video and she stated that she had not. WO1 explained to SO that she had stated in her statement that she was stopped, but the video showed that she was backing up. SO stated that she had spoken to WO2 since the time she provided her statement and that she is aware that she was backing up. She remembers trying to back up to turn onto Balmoral Avenue, she looked in her mirrors and didn't see any cars and then reversed. She had made her original statement at home from memory, without reviewing the cruiser car video. WO1 stated that *"now she's reviewed the video and she realizes that her recollection is not completely accurate."*

WO2

On February 5, 2019, IIU investigators obtained a statement from WO2. He stated that on December 1, 2018, BPS were looking for a suspect and the SO had been involved in the search. The SO aired over the radio that she had been in a collision. Upon arrival to the scene, WO2 observed the SO'S vehicle was on the roadway and a red vehicle was behind her vehicle. SO advised him that she had been "rear ended". She told WO2 that she had not been driving quickly, she saw someone who matched the description of the suspect, and the individual and he turned to flee. She stopped abruptly and was rear-ended. While at the location WO2 looked at the dash cam footage, took photos and spoke to the other driver, ensured he was ok, and that information had been exchanged. The other driver then left the location. The SO advised that back up sensors on her vehicle were not operational prior to the collision. WO2 had SO move her vehicle off the roadway. WO2 then walked behind the police vehicle with the vehicle in reverse and the reverse sensor detected him at the rear of the vehicle. WO2 took a statement from the other driver (AP). AP stated that the police vehicle had stopped and then backed up into his vehicle. He could not avoid the collision, as he could not reverse in time.

Subject Officer

On March 18, 2019, the IIU obtained a written statement from the SO. In her statement, she states that On December 1, 2018, police were dispatched to a report of an assault that had occurred at Shoppers Mall in Brandon, Manitoba. The victim told dispatchers that two males had approached him in the mall when one of the males punched the victim and pointed a handgun in his face before fleeing. The victim believed the suspects had headed towards the Crocus Plains High School area on foot. An officer had located three males walking in the area of 9th Street and stopped to speak with them. One of the males fled on foot, and the two remaining males were taken into custody for investigative purposes. A description of the male who fled was provided to officers. SO arrived in the area in PC107, a marked Police Cruiser, traveling south from Richmond Avenue along 9th Street. At Aberdeen Avenue, she continued south on 9th Street at a slow speed (between 20 - 25km/hr), in order to visually search the yards on the west side of 9th Street for the suspect. As she was approaching the intersection at Balmoral Avenue, she spotted a male pedestrian matching the suspect's description walking east on Balmoral Avenue towards 9th Street. When the male spotted PC107, he turned to run away. As the male ran away from the police car, she applied the brakes and slowly reversed in an attempt to turn

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west onto Balmoral Avenue, and was then involved in a collision which caused minor damage to both vehicles. She immediately placed PC107 in park, activated the red/blue lights, aired a request for WO1 to attend the scene and checked on the driver of the second involved vehicle.

WO2 attended the scene of the collision and took photographs. WO1 also attended the scene and ensured that information was exchanged between the operators of the vehicles. As a result of the collision, SO experienced some head and neck pain and was ordered to attend the Brandon Regional Health Centre Emergency Room, for X-rays and a medical evaluation. SO was diagnosed with whiplash, and was provided with a doctor's note for a work absence.

SO had provided an initial accident statement via email while at home on sick leave. As time passed, SO remembered more details surrounding the accident and approximately ten (10) days after the accident, SO met with WO1. SO stated to WO1 that after providing the initial statement via email, she realized that she had been reversing the police cruiser slowly just prior to the accident in order to turn West on to Balmoral Avenue. At the time of the collision, she indicated that her emergency lights were not activated for officer safety reasons, as she had been focused on the subject as he was believed to be in possession of a handgun.

Other evidence

Medical records indicate the SO was diagnosed with a whiplash injury. The triage report states that "the patient reports was at work and got rear ended", "when at work pt rear-ended at slow speed. Seat belted."

BPS provided IIU investigators with a radio communication recording between SO and the other officers involved in the search of the subject. At 2:23 p.m., a female voice is heard saying "I just got rear ended".

BPS also provided IIU investigators with the recording from the camera located inside of the vehicle driven by SO at the time of the impact. One view is the front of the vehicle, and the second view is the back seat of the vehicle. The back and side windows appear to be overexposed, causing a significant reduction in the level of detail. At 12:55 a.m., the speed recording reads 19 km/h, at 12:56 a.m. the speed recording reads 15 km/h. The police vehicle is travelling in a forward direction during these two times. At 12:58 a.m., the speed recording reads 2 km/h, at 1:00 a.m. the speed recording reads 13 km/h. The police vehicle is in reverse at these times. The police vehicle appears to be in motion at the time of the collision.

SO and WO2 are heard discussing the functionality of the backup sensor on the vehicle. SO is heard telling WO2 that they did not work prior to the collision.

Brandon Transit provided two video clips from Bus 55, which was traveling in the opposite direction of the police vehicle and the civilian vehicle. One view is the front of the bus travelling on a residential street. A BPS marked police car is seen stopped at the intersection, traffic cycles through the four way stop and the police vehicle crossed the intersection at 2:22 p.m.

The second view is the bus travelling on a residential street. A marked BPS police car passes the bus, travelling in the opposite direction. The emergency lights do not appear to be on, and no siren is heard on the video. The brake lights on the police vehicle is seen at 2:22 p.m., and the police vehicle appears to continue on its path of travel. A red car turns and travels in the same direction as the police vehicle.

WO2 took a total of 15 photos of the collision location, roadway and the vehicles. The photos capture damage to the rear bumper area of the police vehicle. Broken plastic is seen on top of the snow under the damaged portions of the police cruiser. The red Chevy Cruze has damage to the front hood area of the vehicle. WO2 photographed the road surface. In his interview, he explained that the photo shows the tire marks, and that it is his interpretation the marks show that the police vehicle was reversing.

Crown Opinion

The investigative file was sent to Manitoba Prosecution Service (MPS) for a crown opinion. MPS's opinion stated:

In this case, after considering all of the evidence, we have concluded that due to the limitation period no charges can be laid.

Although there may have been a reasonable likelihood of conviction, there is no public interest in proceeding.

Conclusion

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. MPS's crown opinion has also been considered. Given that the standard for prosecuting charges has not been met, no charges will be considered in this matter.

This investigation is now completed and this matter is now closed.