

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

On January 23, 2021, the Morden Police Service (MPS) notified the Independent Investigation Unit (IIU) of a fatal motor vehicle accident that occurred in the early morning hours in and around Morden. The notification, provided to IIU (edited for clarity), read in part:

“January 22, 2021 at 11:45 p.m., a Morden Police officer (later identified as Witness Officer 1 (WO1)) was on general patrol at Wardrop and 6th Street, in Morden MB. The subject vehicle passed by WO1’s marked police vehicle and accelerated away quickly. At 11:48 p.m., WO1 observed the same vehicle at Gilmour and 5th Street roll through the posted stop sign. WO1 activated his vehicles emergency lights and sirens and attempted to pull the vehicle over. The subject vehicle accelerated away north bound. WO1 pursued going at a rate of approximately 90 km/hr. Once the subject vehicle reached the end of the pavement north bound on 1st Street and went onto the gravel WO1 announced over the radio that he was terminating the pursuit due to increasing speeds and poor visibility. WO1 lost sight of the vehicle and slowly drove in the vicinity of the subject vehicles last known location at which time he located the vehicle flipped on its side in a field at the intersection of Rd 28 West and Rd 15 North. The driver and the passenger were both outside of the vehicle and required medical attention. Both were transported via ambulance to Boundary Trails Health Center (BTHC) with the passenger, being airlifted to Health Science Centre (HSC)...”

Tragically, the passenger of the subject vehicle succumbed to his injuries sustained in the collision and was pronounced deceased at HSC.

As this matter concerned the death of a person 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.

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

- Morden Police CAD dispatch records
- MPS radio transmissions
- RCMP Collision Analyst report
- scene photographs
- notes and reports from various witness officers
- pursuit driving report

- X2 video surveillance footage
- AP1 medical report
- AP2 pathology report
- MPS pursuit policy

Due to the dearth of information at the outset of this investigation as to whether any actions by any MPS officer contributed, to any degree, 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 MPS officer who attempted a traffic stop and pursued the suspect vehicle was designated as a witness officer (WO1). IIU investigators received notes and reports from five additional police officers. None of these officers witnessed the pursuit or the subsequent collision. However, these officers were monitoring radio transmissions by WO1. In the circumstances, it was determined that interviews of these officers were not required as the notes and reports were sufficient. IIU investigators had access to and reviewed these radio transmissions.

Two individuals (representing the driver and the deceased) were identified as affected persons (AP1-2). IIU investigators interviewed the driver, AP1. IIU investigators also met with and interviewed three civilian witnesses (CW1- CW3). An RCMP traffic collision analyst (SME) who examined the travel and collision scene prepared a report on the accident, which assisted IIU investigators.

IIU investigators obtained two video surveillance recordings from Morden Collegiate Institute and Morden Evangelical Mennonite Mission Church. Although neither video surveillance footage captured the collision, each recording provided evidence of manner of driving and speed of each vehicle involved.

Facts and Circumstances

Scene Examination:

IIU Investigators attended to Morden and drove the route the vehicles had taken during the pursuit to the area where the collision occurred. Based on information received, the pursuit began at the corner of 5th Street and Gilmour Street and continued on 2nd Street (Gilmour Street eastbound becomes 2nd Street) where the vehicles turned left (east) onto Wardrop Street before make a left turn (north) onto 1st Street. 1st Street in Morden runs north and south. 1st Street northbound is a paved road until the intersection with Rampton Street. As 1st Street proceeds north after this intersection, it turns into a gravel road. As you continue to proceed northbound, at the intersection with Livingston Drive, 1st Street becomes Road 28W. The total travel distance of the pursuit, to the point where WO1 announced he was aborting it, was approximately 750 metres.

Affected Persons:

AP1 was the driver of the suspect vehicle involved in the pursuit. AP1 advised that his memory of the incident was limited, but he had some recall of the events on January 22 and 23. He had been with AP2 at the home of a mutual friend, where they each consumed a few drinks. AP1 stated that he felt he was okay to drive when they left. AP1 stated that he was going to drive AP2 to his home in Morden. AP1 stated that AP2 was upset because he thought someone was following them and he did not want to be dropped off at his home. AP1 stated that he drove east on Gilmour Street past the high school to 1st Street. AP1 stated that he turned north on 1st Street.

AP1 stated that he and AP2 noticed that there were emergency lights behind them. AP1 stated that AP2 told him to go, so he “took off”. AP1 stated that he knew it was the police behind them and thought he should stop. AP1 stated that he applied the brakes but he hit a section of washboard and his vehicle began to slide. AP1 stated that the next thing he remembers is waking up in a field and yelling for AP2. AP1 stated that both of them had been ejected from the vehicle. AP1 stated that he recalls someone approaching him, but does not know who they were or how long after the accident this occurred. AP1 stated that he was transported to hospital where he was treated for three broken vertebrae. AP1 consented to the release of his medical records.

AP1 Medical records

AP1’s medical records regarding injuries sustained were obtained from BTHC.

The triage sheet indicated that AP1 stated he did not remember what happened and admitted to consuming 1/4 gram of cocaine and approximately five beers. There were no fractures of AP1’s vertebrae identified by the attending physicians.

AP2 was the passenger in the suspect vehicle. AP1 was initially located outside of the vehicle and it was apparent that he had been ejected from it following the collision. AP1 had sustained extensive abdominal and head injuries. AP1 was transported to HSC and was admitted to the surgical intensive care unit. He was pronounced deceased on January 23. The pathologist determined that the cause of death was blunt trauma related to a motor vehicle collision.

Civilian Witnesses:

CW1 stated that following his reading of the IIU media release, he contacted the IIU office, as he believed he had useful information to share. CW1 stated that he had been driving around with CW2 that night. CW1 stated that he had turned off Rampton Street to proceed southbound on 1st Street. There are three baseball diamonds in the field to the north of the skate park. CW1 stated that as they approached the first diamond (the one furthest north), he saw a truck, followed by a marked police car, which had its emergency lights activated, both turn northbound onto 1st Street. CW1 stated that he believed there were approximately five to six car lengths between the two vehicles. CW1 stated that he had his window down and could hear the truck accelerating quickly. CW1 stated that he estimated that the truck was travelling over 100km /hr when it passed him. The speed limit in this area of Morden is 50 km /hr. CW1 stated that he watched the pursuit in his rear view mirror and saw the emergency lights on the police car turn off when it went by the church. CW1 stated that after the police vehicle turned off its emergency lights, it continued to travel northbound on 1st Street at a much slower speed. CW1 stated that northbound 1st Street is not in good shape northbound, beyond the intersection with Rampton Street.

CW2 stated that he was with CW1 that night. CW2 stated that they were driving southbound on 1st Street. CW2 stated that when they were at the north end of the baseball diamonds, he saw a truck turn north onto 1st Street. CW2 stated that a marked police car, which had its emergency lights activated, followed the truck. CW2 stated that the truck continued northbound at a high rate of speed, which he estimates was at least 140 km/hr. CW2 stated that when the police car approached the area of the road where it turns to gravel, the emergency lights were turned off. CW2 stated that the police continued northbound at a slower speed.

CW3 provided IIU investigators with information that prior to the collision, AP2 was aware that police were following them. AP2 said he wanted to meet someone north of Morden, so they

could “*ditch*” the truck and throw the police off the trail. According to CW3, AP2 said they were trying to get away because they had been at a friend's house drinking since 4:00 p.m. Furthermore, according to CW3, AP2 said that they turned their lights off. CW3 advised that AP2 never met his other friend that evening.

Witness Officers:

WO1 stated that he observed the suspect vehicle in the area of 6th Street and Wardrop Street. WO1 stated that the suspect vehicle was driving towards him and accelerated quickly as it passed. WO1 stated that he spotted this vehicle again in the area of 5th Street and Gilmore Street. WO1 stated that he moved his marked police car behind the suspect vehicle and it again accelerated away from him. Based on these observations, WO1 stated that he believed the driver's ability to operate this vehicle may be impaired due to his manner of driving. WO1 stated that as a result, he activated his emergency lights in an effort to stop the suspect vehicle. WO1 stated that the suspect did not pull over or stop, so he activated the police car siren as well. WO1 stated that the suspect vehicle drove east on Wardrop Street, turning left at 1st Street, where it proceeded northbound. WO1 stated that he estimated speed of the suspect vehicle at 90 km/hr. WO1 stated that when the suspect vehicle entered onto the gravel portion of 1st Street, visibility quickly deteriorated. WO1 stated that he aborted the pursuit and turned off the emergency equipment. WO1 stated that he slowed his police car speed to approximately 40 to 50 km/hr and continued to travel northbound on 1st Street. WO1 stated that he could not see any sign of the suspect vehicle, so he turned right onto Road 15 North, in order to turn around. WO1 stated that he noticed a light in the field north of his location. WO1 stated that he returned to Road 28 W (which is the continuation of 1st Street) and travelled north where he located the suspect vehicle in the field. There was a male laying between the road and the truck (later identified as AP1). WO1 stated that AP1 appeared to be okay and made a comment about “...*driving stupid*”. WO1 stated that based on his conversation with AP1, he formed the opinion that AP1's ability to operate a motor vehicle was impaired by alcohol. WO1 stated that he was alerted by a sound of moaning coming from the other side of the suspect. On attendance to that area, WO1 stated that he located an unresponsive male (later identified as AP2).

Review of MPS radio transmissions

Audio recordings between WO1, MPS and the dispatch centre were reviewed. Specifically, at 11:48:35 p.m., WO1 had voiced that he had a suspect vehicle that was not stopping for him. At 11:49:36 p.m., WO1 voiced that he was “...*shutting it down, too dusty, can't see the truck*”. At 11:51:47 p.m., WO1 voiced that the suspect vehicle was in a field at Road 28 and Road 15.

Video Surveillance Footage Analysis:

The Morden Collegiate Institute is located at the corner of 5th Street and Gilmour Avenue. The school has a camera situated on the Northeast side of the building, which captured the initiation of the pursuit. At 1152:10 p.m., the suspect vehicle is seen travelling eastbound. Five seconds later, a marked police vehicle, with emergency lights activated, is then observed following behind.

The Morden Evangelical Mennonite Mission Church is located at 610 1st Street. This location is significant as 1st Street changes from pavement to gravel, just south of the church. The church has a camera in the lobby that captures a small portion of 1st Street through the windows in the front doors. At the 12:15:06 a.m. mark, a vehicle is noted, travelling northbound at a high rate of speed. At the 12:15:10 a.m. mark, another vehicle passes the camera northbound and travelling slower than the first vehicle. No emergency lights are observed on the video. The video is of poor quality and it was not possible to make out the type of vehicles travelling on the roadway. Furthermore, the time marks of the camera footage is approximately 27 minutes fast.

Collision Analysis Report:

IU investigators received and reviewed a collision analysis report prepared by SME. In that report, SME indicates that the suspect vehicle was travelling at a speed of 173 km/hr, seconds before it left the roadway. It had slowed to 167 km/hr as it began to slip and then travelling at 85 to 100 km/hr when it flipped and began to roll. SME reports that the passenger (AP2) was located 21 metres north of where the truck came to rest. The suspect vehicle sustained significant damage consistent with a rollover collision. There were no indications that seatbelts had been in use when the collision occurred. SME concluded that the driver was “...unable to maintain control of his vehicle under typical night time driving conditions.”

Analysis of the MPS Pursuit Policy

An analysis of the MPS pursuit policy was conducted. That policy, in particular, authorizes a pursuit of a suspect vehicle where a police officer has reason to believe a criminal offence has been or is about to be committed. The policy details the circumstances that are to be considered when a pursuit is initiated or when a pursuit should be aborted, which include:

- the nature of the offence;
- the manner in which the suspect driver is operating the vehicle;
- presence of pedestrians and other traffic along the pursuit route;
- nature and apparent condition of the vehicles involved in the pursuit;
- limits on the police officer's ability to operate the vehicle;
- nature and condition of the area travelled; and
- road and weather conditions.

Based on the review of all of the relevant evidence, I am satisfied that WO1 was aware of the existing policy and his decision to initiate a pursuit and subsequent decision to abort the pursuit complied with it.

Conclusion

This investigation must consider whether the actions of any police officer caused, or in any way contributed to the death of AP2 and the injuries sustained by AP1.

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

- At all material times, the police officer (WO1) was in the lawful execution of his duties;
- The officer had reason to believe the driver was under the influence of alcohol and that his ability to operate the vehicle was impaired;
- WO1 attempted to pull the suspect vehicle over by activating emergency lights;
- It appeared at the outset that the driver of the suspect vehicle had no intention of stopping;
- AP1 admitted that he knew the police were behind him and thought he should stop.
- The decision to evade police by accelerating and driving at significantly high rates of speed was the sole decision of AP1;
- AP1 is solely responsible for deaths and injuries that resulted.
- The pursuit was through a residential area of Morden;

I am satisfied that that WO1's decision to initiate and subsequently abort the pursuit of the suspect vehicle was made in accordance to MPS policy and specifically, in respect to the driving conditions at the time.

In conclusion, there is no evidence to support a finding that there is any level of contribution by any police officer as to the cause of the collision and resulting deaths and injuries. Furthermore, there is no evidence in this matter that would justify the designation of any of police officer 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:
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Independent Investigation Unit
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