



Report to the Minister of Justice and Attorney General Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the Court House in the Town of Slave Lake, in the Province of Alberta, on the 8th day of November, 2010, (and by adjournment on the day of), before The Honourable G. William Paul, a Provincial Court Judge, into the death of Larissa Spring Chalifoux (Name in Full) 6 (Age) of P.O. Box 257, Driftpile, Alberta (Residence) and the following findings were made:

Date and Time of Death: January 21, 2006 at approximately 2214 hours (10:14 p.m.)

Place: University of Alberta Hospital, Edmonton, Alberta

Medical Cause of Death:

(“cause of death” means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – The Fatality Inquiries Act, Section 1(d)).

Blunt Cranial Trauma

Manner of Death:

(“manner of death” means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – The Fatality Inquiries Act, Section 1(h)).

Accidental as a result of injuries sustained in a head-on motor vehicle collision.

Circumstances under which Death occurred:

On January 20, 2006 shortly after 5:00 o'clock p.m. Lawrence Mitchell was preparing to leave his place of work at Frontier Fuel Distributors in the Industrial Park area next to Highway #88 on the Northeast side of Slave Lake, Alberta. He parked his running company pick up truck in front of the business office and entered the office. Within approximately one minute of his entering the office he viewed his pick up truck backing out from where he had parked it and driving toward Highway # 88. It seemed that the vehicle was being operated according to the rules of the road as it travelled at slow speed, stopped for a stop sign and its signal lights were properly employed. In these circumstances Mr. Mitchell thought that someone might be playing a practical joke on him and he borrowed a fellow employee's vehicle and travelled in the direction his pick up truck had gone.

At 5:14 p.m. Mr. Mitchell used his cell phone to call the RCMP and he thereafter remained connected by phone to the RCMP telecommunications/dispatch operator. He provided on-going information to the operator regarding the movements of his company pick up truck as he followed it. The operator dispatched on-duty officers and relayed to the officers the information being provided by Mr. Mitchell. Mr. Mitchell was separated at the outset by some distance and by vehicles between him and his pick up truck and he thought for a time that the pick up may have turned off Highway # 88 and into the Town of Slave Lake on the road that passes by the Slave Lake RCMP Detachment.

Constables Jeffrey Paul Schneider and Michael James Taylor left the Slave Lake Detachment in separate police vehicles immediately upon receipt of Mr. Mitchell's report through the RCMP dispatch operator. The suggestion by Mr. Mitchell that the subject vehicle may have turned onto the road leading past the Detachment caused them to begin their search in that general area. Cst. Schneider followed a white pick up for a time until it was relayed to him and to Cst. Taylor that Mr. Mitchell had located his vehicle and that it had turned west onto Highway #2 from Highway #88.

Mr. Mitchell continued to report the movements of his pick up truck as it travelled west to the intersection of Highway # 2 and Slave Lake Main Street stopping for the red light and then proceeding through the intersection and travelling until it turned off onto a municipal road before turning around and re-entering Highway # 2 westbound. As the pick up truck was leaving the Town of Slave Lake at a relatively low speed another car attempted to pass it and the pick up accelerated to a high speed. It appeared to Mr. Mitchell that the driver of the pick up was attempting to prevent the car from passing. Mr. Mitchell testified to a pattern of driving relating to the pick up truck that included movements to the left and completely out of the proper lane all the way to the opposite ditch and then back into the proper lane on one occasion and the driver's side wheels back over the center line of the highway on perhaps four occasions. As the pick up truck accelerated away from town westbound Mr. Mitchell fell farther back until his pick up disappeared beyond a slight rise in the highway. Mr. Mitchell was travelling at approximately 115 to 120 kilometers per hour and was unable to remain with the pick up truck.

Constables Schneider and Taylor travelled onto Highway # 2 while receiving updates from the RCMP dispatch operator regarding the reports from Mr. Mitchell relating to the nature of operation of his pick up truck. Cst Schneider activated the emergency equipment on his police car including overhead lights, flashing headlights and continuous siren and increased his speed with a view to overtaking first Mr. Mitchell and then the subject pick up truck. Mr. Mitchell notified Cst. Schneider of his vehicle by signaling with his brake lights and Cst. Schneider passed him at a speed of approximately 170 kilometers per hour as he closed the distance on the pick up truck. It was a clear evening and not completely dark although it was dusk. The driving lanes of the highway were bare although the shoulders of the road surface had some snow cover.

Cst. Schneider fell in behind the subject pick up truck and slowed to a speed of approximately 120 kilometers per hour and he maintained a distance of approximately 100 meters behind the pick up truck. The pick up truck slowed and pulled to the right into a lane approaching a roadside turnout which gave Cst. Schneider the impression that the vehicle was going to stop. Instead the pick up truck accelerated away from the roadside turnout and back into the westbound lane of Highway # 2. Cst. Schneider followed the fleeing pick up truck and reached a speed of approximately 150 kilometers per hour. He notified the dispatch operator *“Control it doesn’t appear he’s gonna stop. I’m gonna call pursuit for uh, westbound west from Slave Lake about 10 kilometers west. Speeds are 150.”*

As he pursued the fleeing pick up truck Cst. Schneider saw the vehicle begin to fish tail to the right and then to the left as it began to negotiate a bend to the left in the highway and to climb a slight hill. Cst. Schneider backed off his pursuit at that time. The pick up truck entered completely into the left lane of the highway and collided head on with an approaching Pontiac Sunfire automobile operated by Misty Chalifoux and carrying her daughters Michelle Lisk, Trista Chalifoux and Larissa Chalifoux. The collision occurred within 17 seconds from the time Cst. Schneider informed the dispatch operator of the pursuit. The collision caused massive carnage, injury and death. Misty, Michelle and Trista died at the scene of the collision. Larissa succumbed to her injuries and died the following day at the hospital in Edmonton, Alberta.

The driver of the stolen pick up truck was later identified as Raymond Charles Yellowknee. The investigation later confirmed that the concentration of alcohol in his blood at the time of the collision was not less than 221 milligrams percent. On November 15, 2006 Yellowknee entered pleas of guilty to a number of charges arising from his actions including four counts of criminal flight from police causing death and four counts of impaired driving causing death. He was subsequently sentenced to lengthy prison terms and he was declared to be a long term offender.

At the time of these events RCMP policy regarding pursuits was set out in Part 5 of the Alberta-“K” Division Operational Manual in Section 5.4. This section reflected the national RCMP policy at the time. A member was at that time authorized to enter into a pursuit when a suspect failed to stop and attempted to evade apprehension. A supervisor was to be engaged and safety of the public and the police was considered paramount. The pursuit was to be terminated immediately when the risk to the public and police officer was deemed to be unjustifiable pursuant to the Incident Management/Intervention Model decision making process employed by the police. This process includes consideration of all relevant factors including the nature and circumstances of the suspected offence, the suspected condition of the suspect, the manner of operation of the police vehicle, the distance, speed or length of time of the pursuit and the nature, condition and use of the highway at the time.

Cst. Schneider initially responded to a report of a stolen vehicle and thereafter closed the distance between his vehicle and the stolen vehicle. He employed all of the emergency equipment on his police vehicle including continuous siren during his efforts to close the distance. When the operator of the stolen vehicle failed to stop and appeared to be fleeing in an attempt to evade apprehension Cst. Schneider properly notified the dispatch operator of his declaration of pursuit which would lead to the engagement of a pursuit coordinator. He backed off immediately upon the stolen vehicle exhibiting fish-tailing actions within 17 seconds of that declaration. These factors viewed as a whole confirm that Cst Schneider properly followed RCMP policy in this short and tragic event.

Both the national RCMP Operational Manual and the Alberta-“K” Division Operational Manual have undergone revision in respect of the RCMP pursuit policy in the years since these events. The revision was the result of the normal policy review process of the RCMP. The national Operational Manual was amended as of September 16, 2009. The Alberta- “K” Division

Operational Manual as revised was issued and effective as of March 3, 2010. The revised policy now provides that a member may not enter into a pursuit in relation to certain specified offences. The Alberta- “K” Division Operational Manual regarding pursuable offences reads:

3. Pursuable Offence

1. *Includes:*

1. *A violation of any Criminal Code offence but **does not include the offences of:** (emphasis added)
 1. *Take Motor Vehicle Without Owner’s Consent, Section 355 CC;*
 2. *Theft of Vehicle, Section 334 CC; and*
 3. *Possession Of A Stolen Vehicle, Section 354 CC; or*
 4. *Criminal Flight, Section 249.1 or Dangerous Driving Section 249 CC when the only evidence of either offence is gained while initiating a vehicle stop or closing the distance.**

A pursuit is also prohibited in respect of a violation of a Provincial Statute or Regulation such as the Traffic Safety Act or Wildlife Act or the like. It is clear that the revised policy recognizes that these certain excluded offences are not of sufficient gravity to justify a pursuit of the vehicle and the imposition of the inherent risk of such pursuits upon the public and the police.

This Inquiry had the benefit of meaningful participation by family members of Misty Chalifoux and her children. Frank Carifelle and Muriel Carifelle asked appropriate questions of the witnesses and their inquiries served to focus attention on issues that are deserving of comment. Mr. Carifelle explored the timing of events as they unfolded in an effort to understand why Yellowknee could not have been apprehended more quickly. Both Mr. and Mrs. Carifelle questioned the wisdom of a pursuit of a stolen vehicle on a busy highway entering into a region of hills and suggested that no stolen vehicle was worth the risk to lawful users of the highway.

Society demands of our police officers that they respond to complaints of criminal activity and that they seek to end such activity and to apprehend suspects when possible. Constables Schneider and Taylor sought to comply with that societal obligation in this case. There is no law-abiding, right-thinking person who would not regret that Yellowknee was not apprehended before he could leave the Town of Slave Lake. However the evidence is that the initial report by Mr. Mitchell to the RCMP dispatch-operator was somewhat unclear regarding exactly where the stolen vehicle might be. Because he lost sight of his vehicle due to intervening traffic Mr. Mitchell reported that the vehicle may have turned from Highway # 88 into the Town of Slave Lake on the road leading past the RCMP Detachment. The officers spent some time seeking the stolen vehicle in that general region of the Town. As soon as the reports from Mr. Mitchell accurately directed the officers to Highway # 2 Westbound the officers followed such directions. This total time period was not inordinate and notwithstanding the fact that Yellowknee was travelling at speeds greater than 120 kilometers per hour, Cst. Schneider was able to catch up to him in approximately ten kilometers distance.

When Cst. Schneider caught up to the stolen vehicle his intention was clearly to stop it by use of the police vehicle’s emergency equipment being lights and siren. It is important to understand that he was not to that point in time engaged in a “pursuit” as contemplated by RCMP policy. He was engaged in the act of “closing the distance” which is “the act of catching up”. This was all in furtherance of his obligation to end criminal activity and to apprehend a suspect. The suspect Yellowknee could not even have known that Cst. Schneider was closing in on him until the emergency lights became visible to him. His vehicle initially reacted such that it appeared that he was intending to stop. It is a logical inference that he only became aware of the police vehicle behind him at that point in time. Only when Yellowknee accelerated away did Cst. Schneider

declare a pursuit. He testified that it was his decision to do so and that the declaration was to ensure that a pursuit coordinator would be appointed so that he was not thereafter alone in the decision making process. The tragic and devastating collision occurred within seventeen seconds of the commencement of the pursuit and afforded no time within which a supervisor could be appointed or a meaningful risk assessment could be done.

The evidence as a whole supports a finding that Constables Schneider and Taylor acted in a timely manner in these circumstances and within RCMP policy as it was at the time of these events. The subsequent change to the policy as it then was confirms that the RCMP concur in the concerns expressed by Mr. and Mrs. Carifelle. Staff Sergeant Larry Bellows testified that a pursuit will no longer be permitted for the type of offence evident in this case. The nature of the offence now dictates when an officer may initiate a pursuit and property related offences are now non-pursuable offences.

Recommendations for the prevention of similar deaths:

No recommendations need be made to prevent similar deaths having regard to the fact that the RCMP pursuit policy has now been revised to prohibit pursuits in circumstances such as occurred in this case.

DATED December 29, 2010 ,

The Honourable G. William Paul

at Slave Lake , Alberta.

A Judge of the Provincial Court of Alberta