

May 15, 2019

EPS officers acted reasonably in fatal collision

On July 3, 2017, the Alberta Serious Incident Response Team (ASIRT) was directed to investigate the circumstances surrounding a fatal collision that occurred in the course of a police pursuit by members of the Edmonton Police Service (EPS). The collision resulted in the death of two uninvolved civilians: a 64-year-old man and a 62-year-old woman.

An on-duty EPS officer driving an unmarked police vehicle was following a stolen truck from a distance throughout the west end of Edmonton. The officer notified other units over the radio, requesting assistance. EPS units followed the stolen truck out of city limits and into RCMP jurisdiction. Upon coming onto a dead end on a rural road, the man driving the stolen truck made a U-turn and passed the EPS vehicles that had been following him -- a manoeuvre that alerted him to the presence of police. After an unsuccessful deployment of a spike belt by police, the stolen truck sped off on the dirt road. Police declared a criminal flight and officers activated emergency equipment, including lights and sirens, on their vehicles. The man driving the stolen vehicle and the involved officers re-entered the city.

The stolen truck headed east onto Whitemud Drive at an estimated speed of 100 km/hr. When police radioed in that the truck had crossed the centre line and entered the opposing lane the ranking officer in command at the time ordered all EPS units to discontinue the pursuit. As required, all the police vehicles pulled over onto the side of the road and deactivated their emergency equipment.

Shortly after, an unmarked vehicle, that had first ceased pursuit, was authorized to follow in a covert fashion and began driving in the direction the stolen vehicle had gone. However, he could no longer see the stolen vehicle.

The stolen truck continued down Whitemud Drive and proceeded up the off-ramp for Anthony Henday Drive, still travelling in the wrong direction of traffic. The truck collided head-on with a civilian vehicle at the westbound Whitemud exit of Anthony Henday Drive. The occupants of the stolen truck fled on foot, while occupants of other vehicles stopped to provide first aid and called 911.

Responding EPS officers assisted with emergency care to the two injured occupants of the vehicle that was struck and apprehended the occupants of the stolen truck. The driver of the civilian vehicle, a 64-year-old man, died on scene. The sole passenger, a 62-year-old woman, was treated by EMS on scene and transported to hospital where she died after sustaining multiple injuries from the crash.

ASIRT's investigation focused on the actions of police leading up to the fatal collision, to determine whether the deaths that resulted from this incident were the result of police action. Civilian witnesses confirmed that at the time of the collision, there were no police vehicles in pursuit of the truck. This was supported by a 911 call received by police, reporting that the truck was in the wrong lane of travel with no police vehicles following, time-stamped before the collision.

A review of recorded police communications confirmed that immediately upon being notified that the stolen vehicle had entered the wrong lane, the ranking officer in command provided the order, "terminate, terminate" over the radio. All the involved officers acknowledged hearing the command and immediately stopped pursuing the truck.

Each involved EPS vehicle was equipped with GPS, which provided both the location and speed of the vehicle, and confirmed that at the time of the collision, every vehicle was either stopped or at a significant distance from the crash. The GPS data also confirms that all police vehicles were rapidly responsive to the terminate command and that the responding units were stationary until after the 911 call reporting the collision.

While police are lawfully entitled to pursue fleeing vehicles, the risks inherent are significant and require careful consideration. In this case, on the basis of a significant volume of evidence, it is beyond dispute that in response to an escalating risk, EPS members immediately discontinued their pursuit in attempt to mitigate those risks. The actions of EPS officers during this incident demonstrate awareness and responsiveness to the escalating behaviour of the stolen vehicle's driver. As such, it cannot be said that any EPS officer caused or contributed to the two deaths that resulted from this collision.

Police make decisions in the hopes of influencing the behaviour of unpredictable offenders -- who may or may not respond in the way expected. The decision to terminate a pursuit is made in the hope that the offenders will stop driving in a dangerous or reckless manner when they no longer fear immediate apprehension. A pursuit may be continued in circumstances where the threat that the offenders present to public safety is so significant that they must be apprehended. In many ways, police are caught in an inescapable dilemma. If they terminate the pursuit, and the offenders continue to proceed dangerously, police are criticized for failing to stop the offenders before the subsequent catastrophic event could occur. If police continue the pursuit, and a catastrophic event occurs anyway, they are criticized for not de-escalating the situation by terminating the pursuit and "allowing" offenders to end their dangerous driving. It is often devastating when, regardless of the decision made, innocent members of the public are still injured or killed.

Following a review of the evidence gathered in the investigation, it has been determined there are no reasonable grounds to believe that any EPS officer committed any *Criminal Code* offence. Notwithstanding these findings, this was an unexpected and devastating shock to family and friends of the deceased. ASIRT's sincere condolences go out to them as they continue to grieve.

ASIRT's mandate is to effectively, independently and objectively investigate incidents involving Alberta's police that have resulted in serious injury or death to any person, as well as serious or sensitive allegations of police misconduct.

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