



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

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the Desmarais Provincial Court House
in the Village of Desmarais
(City, Town or Village) (Name of City, Town, Village)
on the 29th Day day of October, 2008, and by adjournment
year
on the 30th Day day of October, 2008
year
before G. William Paul, a Provincial Court Judge.

A jury was was not summoned and an inquiry was held into the death
of Leland Auger 23
(Name in Full) (Age)
of Wabasca, Alberta and the following findings were made:
(Residence)

Date and Time of Death: May 28, 2006 between the hours of 2:14 am and 2:30 am

Place: Ayouchais Lane in Desmarais, Alberta

Medical Cause of Death:

Multiple blunt injuries to the person of Leland Auger which resulted from a motor vehicle rollover.

Manner of Death:

Accidental

Circumstances under which Death occurred:

See Attached pages

No. of additional pages attached: 4

Recommendations for the prevention of similar deaths:

No recommendations

See attached

No. of additional pages attached: 0

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DATED December 12, 2008 ,

at Peace River , Alberta.

G. William Paul
A Judge of the Provincial Court of Alberta

Circumstances under which the death of Leland Auger occurred:

Cst. Lorry Thick, a member of the RCMP stationed at the Desmarais RCMP Detachment was on duty in the early morning hours of Sunday, May 28, 2006. In response to a complaint made by telephone at approximately 1:55 am of a possible impaired driver identified by the caller as Ian Alook, Cst. Thick and other officers began a patrol looking for the subject vehicle. The vehicle sought had been described as a gold Pontiac Sunbird and its location had been reported to be the Liquor Shack, a business in Desmarais, Alberta.

During his patrol west-bound on Mistassiniy Road Cst. Thick met an oncoming east-bound vehicle matching the description of the subject vehicle near the Northmart or northern supply store, a business in Desmarais. Cst. Thick continued a short distance to the Liquor Shack to turn around. Upon turning around Cst. Thick could see that the subject vehicle had reached a four-way stop intersection with Highway 754 and that it had turned left onto the Highway and was proceeding south-bound on the Highway.

Cst. Thick followed the vehicle without engaging his emergency lights or equipment and noted the vehicle to be travelling at a high rate of speed and the distance between it and his vehicle was increasing. The Constable increased his speed to as high as 160 kph in an effort to close the distance between his vehicle and the subject vehicle. There was no other traffic on the Highway at this location and the road conditions were bare and dry.

The subject vehicle shortly overtook and passed another vehicle on a corner along the Highway in a wide manner and the Constable then activated his emergency lights and siren. He noted no change in speed of the subject vehicle and he saw no brake lights illuminated. He was unable to tell whether anyone in the subject vehicle had seen his emergency lights or heard his siren.

The Constable closed the distance between his vehicle and the subject vehicle when it braked rapidly and turned off the Highway and onto Ayouchais Lane, known locally as Sesame Street. The Constable concluded at that point that his efforts to close the distance changed to a pursuit and he followed the subject vehicle onto Ayouchais Lane, notified the RCMP telecoms operator of the commencement of a pursuit and also advised other officers on patrol of the change of direction of travel. Cst. Thick sought the assistance of a pursuit coordinator (also known as a pursuit supervisor) and sought to arrange for Cst. Dave McLellan to take over as the primary police pursuit vehicle because Cst. McLellan was operating a marked police car which was an appropriate vehicle for a pursuit while Cst Thick was operating a marked police quad-cab pick up truck.

Cst. Thick pursued the subject vehicle and advised the telecoms operator that his speed was 130 kph. The conditions on Ayouchais Lane were very dusty and the Constable slowed his vehicle. There were no other vehicles using this roadway at this time. Less

than one minute of time had passed from the moment Cst. Thick notified the telecoms operator of the pursuit to the moment when the Constable observed the rotating tail lights and headlights of the subject vehicle as it entered the ditch near the end of Ayouchais Lane and rolled over coming to rest on its wheels.

Cst. Thick immediately notified the telecoms operator of the rollover and requested that EMS services and a tow truck be contacted and dispatched. He observed one male, later identified to be Ian Alook, the driver of the rolled vehicle, running from the rolled vehicle. He located a second male in the rear passenger area of the vehicle, later identified as Jamie Nanemahoo, and located the deceased, Leland Auger, gravely injured approximately 50 feet beyond the resting place of the rolled vehicle. It was evident that Mr. Auger had been ejected from the vehicle during the rollover event.

The driver of the subject vehicle at the time it rolled was Ian Alook. Mr. Alook is deaf. He testified that he had consumed perhaps a 26 ounce bottle of whiskey or perhaps two bottles and that he was drunk. He testified that he noticed the police emergency lights while his vehicle was travelling on the Highway (which I conclude was Highway 754) and that he sped his vehicle up to try to get away from the police vehicle. He confirmed that he turned off the Highway onto a gravel road so that he could get away in the dust and hide in the bushes. He testified that he wanted to get away because he had beer in his car, he was concerned that he was impaired and he had no valid drivers' licence.

Ian Alook testified further that the deceased Leland Auger had signaled to him about the Police behind him and that he should slow down. He testified that he slowed his vehicle but as he did so he lost control. He has no specific recollection of the rollover of his vehicle because he blacked out but he recalled waking, seeing the police vehicle and running away.

Dave Hyciek is a paramedic trained in advanced life support and he responded along with an Emergency Medical Technician and an EMS student to a call for EMS services. The call was received at 2:14 am, May 28, 2006, they responded at 2:20 am and arrived at the scene of the accident at 2:29 am. They attended immediately to Leland Auger and determined by 2:30 am that Mr. Auger was deceased. He concluded that the death would have been virtually instantaneous with the injuries noted.

Cpl. Kenneth Alexander is a RCMP collision re-constructionist who examined the accident scene and formed opinions regarding the events of May 28, 2006. He testified that the physical evidence at the scene including scuff or skid marks allows him to form an opinion that the Alook vehicle was travelling at a minimum speed of 104 kph when it began to skid out of control. His examination of the interior of the vehicle and the damage done to the vehicle allows him to form an opinion that the front seat belts of the vehicle were not in use at the time of the rollover.

Cpl. Alexander testified that the physical evidence at the scene of the accident allows him to form the opinion that the Alook vehicle rotated clockwise, entered the ditch and rolled and that the events are inconsistent with an abrupt or instantaneous event and are consistent with a long, gradual loss of control. He testified that there is no evidence that there was any contact between the Alook vehicle and the police vehicle operated by Cst. Thick and he confirmed that the PIT (subsequently stated as “Police Immobilization Technique”) is not employed by the RCMP and there is no evidence to suggest it was employed in this case.

Inspector James Styles testified regarding the RCMP policy established in respect of police pursuits. He stated that a pursuit is defined as a situation where someone fails to stop and attempts to evade apprehension by a police officer. He testified that a police officer will engage in a pursuit when he feels it is necessary to apprehend a violator and he terminates a pursuit when the risk to the public and police outweighs the need to apprehend. He confirmed in his testimony that the Police Immobilization Technique (PIT maneuver) is not used by the RCMP.

Inspector Styles testified that it is a judgment call for the officer involved to determine when his efforts to close the distance between vehicles should make it clear to the driver of the other vehicle that he is being stopped by the police, the individual is not stopping and the efforts of the officer change to a pursuit. The officer must then activate all of his emergency equipment and immediately engage his emergency radio contact with “Dispatch”. This serves to broadcast on an open system so that all officers on duty may hear the events as they unfold and to seek to engage a pursuit supervisor so that a cool and calm officer may do risk assessment as events unfold. Inspector Styles testified that the engaging of a pursuit supervisor in a rural area is likely to take several minutes at least.

Inspector Styles testified regarding the risk assessment guide used by the RCMP called Incident Management Intervention Model. It provides guidance with respect to the myriad of factors present in any given situation. Risk assessment is judgmental and is essentially a consideration of whether the driving being observed is of a character that harm may befall others if it is allowed to continue. In such a case an officer involved may continue the pursuit for a longer period. A pursuit is to be terminated if the risk to the officer or others including those persons in the other vehicle is too great to justify continuing the pursuit. The Inspector testified that the pursuit in this case was very short and the ability for the officer involved to gauge the driving pattern of the driver of the subject vehicle was therefore limited.

Considering the totality of the evidence it seems that the RCMP policy regarding police pursuits was followed with the exception that Cst. Thick contacted the RCMP telecoms operator by way of the regular contact button on his radio as opposed to the emergency contact button. The manner of contact had no measurable impact on this matter because contact was timely in any event, communication between all officers and the telecom

operator is shown by the evidence to have been consistent throughout the events and the entire duration of the event was short-lived. It is also noted that the policy has since been changed to prohibit the use of pick up trucks in pursuits.

I suggest that it would be appropriate that there be continuing and regular review of RCMP pursuit policies with RCMP members. There is no evidence before me that such is not already the case and therefore no specific recommendation is required by me. Having considered the whole of the evidence including oral testimony, a binder of reports, statements and documents relating to this matter being Exhibit #1, a DVD being Exhibit #2 and a CD being Exhibit #3, I find that I can make no recommendations for the prevention of similar deaths.