

**MANITOBA PROSECUTION SERVICE
CLEAR STATEMENT****Overview**

On June 15, 2023, at 11:32 a.m., a Quality Care Transit bus was travelling southbound on Highway 5 as it approached the intersection of Highway 5 and Highway 1. The bus driver, a 61-year-old male and the owner of the bus, stopped at the stop sign to allow westbound traffic on Highway 1 to clear. The bus driver then crossed the westbound lanes and drove slowly through the median controlled by a yield sign and crossed the eastbound lanes directly in front of an oncoming semi-truck. The semi-truck driver attempted to stop and steer to his right but could not avoid the collision. The extent of the collision was life altering for all of the survivors and claimed the lives of 17 people.

This Clear Statement provides a summary of the evidence gathered during the investigation and the applicable legal principles. These are provided to assist in understanding the Manitoba Prosecution Service's (MPS) decision to not approve charges against the driver of the bus. Not all relevant evidence, facts, case law, nor legal principles that were considered in reaching this conclusion are discussed in this summary. The charge assessment was conducted by Crown counsel with no prior or current connection to the driver of the bus or any of the victims of the collision.

Charge Assessment

MPS guidelines for assessing allegations against any individual involved in a fatal collision are conducted using our standard for laying charges and follow our fatality protocol for driving related incidents (www.gov.mb.ca/justice/crown/prosecutions/pubs/laying_and_staying_of_charges.pdf).

The MPS applies a two-part test to determine whether charges will be approved and a prosecution initiated. Crown counsel must independently, objectively and fairly measure all available evidence to determine:

1. Whether there is a reasonable likelihood of conviction; and if so,
2. Whether the public interest requires a prosecution.

The first arm of this test requires prosecutors to bring all of their professional skills to bear on making a determination of whether a conviction to the criminal law standard of beyond a reasonable doubt is the more likely outcome if the matter was to proceed to trial. The second arm requires prosecutors to recognize that many societal values impact the criminal justice system. Prosecutions advance the important societal interest in the deterrence, denunciation and punishment of criminal conduct.

Prosecutors are expected to exercise their professional judgment to consider these and other societal interests in determining whether a prosecution is in the public interest, recognizing that the more serious the offence and the more dangerous the offender the more likely that the value in prosecution will outweigh other public interest concerns.

Charges Considered

The potential charges considered in this case were dangerous operation of a motor vehicle causing death and dangerous operation of a motor vehicle causing bodily harm (s. 320.13, *Criminal Code of Canada*).

Timeframe for Assessment

The Royal Canadian Mounted Police (RCMP) first submitted this file for charge assessment on Jan. 3, 2024. The assessment of this matter was delayed by factors including ongoing investigative steps by the RCMP and substantial additional information provided to Crown counsel during the review period, factual complexity, and legal complexity.

Relevant Law

Dangerous operation of a motor vehicle is made out when a person drives in a manner that is dangerous to the public, having regard to all the circumstances, and the driving constitutes a marked departure from the standard of a reasonable person in the driver's circumstances. In a case involving a bus driver, the driving would entail a marked departure from the standard of a reasonable bus driver with that drivers' experience and training.

Momentary inattention does not constitute dangerous driving.¹ The act of dangerous operation of a motor vehicle is driving in a manner dangerous to the public in all of the circumstances. The focus must be on the risks created by the driver's manner of driving, not the consequences of the driving.²

Circumstances

On June 15, 2023, the driver of the bus (bus driver), employed by Quality Care Transit, was transporting 24 passengers from Dauphin to the Sand Hills Casino near Carberry. 17 passengers died due to the collision. The bus driver was hospitalized with a traumatic brain injury.

At 11:32 a.m. on June 15, 2023, the bus driver was travelling southbound on Highway 5. As he approached the intersection of Highway 1, he came to a stop at the stop sign to allow westbound traffic to pass. He then proceeded across the westbound lanes of Highway 1, into the median that had a yield sign. He continued across the eastbound lanes of Highway 1, driving across the path of the oncoming semi-truck.

The semi-truck had dash cam video. The video was consistent with the description provided by the semi-truck driver. He attempted to avoid the collision but the bus driver did not appear to see the semi-truck. The semi-truck driver was not speeding or driving erratically and clearly had the right of way. Transport Canada and the RCMP collision reconstructionist conducted investigations into the collision and determined that the bus driver would have had three separate blind spots that contributed to the bus driver not seeing the semi-truck. The 10 second video obtained from the semi-truck, along with the scene evidence and examination of the bus, demonstrated that the right-front corner of the bus passenger cabin clearly played a significant role in the collision.

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¹ *R. v. Beatty*, [2008] 1 S.C.R. 49.

² *R. v. Roy*, [2012] 1 S.C.R. 60, and *R. v. Chung*, 2020 SCC 8.

Specifically, the bus left the stop sign to cross the westbound lanes of Highway 1 10.5 seconds prior to the collision. At this time, the semi-truck was 318 metres west of the impact location and completely within the area obscured by the structure between the passenger loading door and the small right window.

The bus passed the yield sign in the centre median approximately 3.5 seconds prior to impact. At this point the truck was approximately 100 metres west of the impact location and remained hidden in the same obscured area between the passenger loading door and the small right window.

The bus traversed the solid yellow line on the left side of the eastbound through lanes approximately 2 seconds prior to impact when the truck was approximately 52 metres west of the impact location. Visibility of the truck remained in the same obscured area.

The RCMP collision analyst confirmed the information that there were blind spots, and that the bus had only been in operation with Quality Care transit for a month prior to the collision. There were no mechanical defects with the bus.

One witness on the bus said that the bus driver was on his cell phone prior to the collision. RCMP investigators obtained search warrants for the phone and determined that the phone was not in use at the time of the collision. The last outgoing phone call from the bus driver to his dispatcher was at 11:27:52 a.m. While there had been calls to his dispatch prior to the collision, there is no evidence that the phone was in use at the time of the collision or just prior to the collision.

In terms of the medical evidence related to the bus driver, RCMP obtained medical records shortly after the offence, and in the spring of 2024 after lengthy treatment and hospitalization of the bus driver. Those records confirmed that the bus driver had a major brain injury, underwent substantial rehabilitation and remains unable to care for himself or function without assistance in the community. He is not in a position to make his own decisions regarding his personal care or finances and his condition is unlikely to improve based on the medical evidence obtained.

Analysis

The RCMP requested a Crown opinion regarding any charges that may flow from this collision.

Dangerous Operation

To make out the offence of dangerous operation of a motor vehicle, the Crown would have to show that the bus driver's actions were a marked departure from the standard of a reasonable person in similar circumstances. At the time of the collision, it is apparent from all of the evidence that the driver, due to the blind spots in the vehicle, did not see the semi-truck travelling eastbound. He did not hit the brakes, nor did he speed up to avoid the semi-truck.

In the present circumstances, the bus driver stopped at the stop sign as he approached the westbound lanes of Highway 1. He then proceeded into the median where there was a yield sign and continued through the eastbound lanes of traffic. It is apparent, from the dash cam video of the semi-truck, that the bus driver did not see an oncoming vehicle in a matter of seconds.

The Crown would not be able to prove that the momentary inattention of the bus driver, or failure to see the semi-truck combined with the blind spots in the vehicle, constituted a marked departure from the standard of care of a reasonable bus driver in these circumstances.

The available evidence would support the conclusion that the bus driver's conduct was not a marked departure from the standard of care in the circumstances. As there is no reasonable likelihood of conviction, there are no grounds to lay a criminal offence, or an offence under the Highway Traffic Act.

Conclusion

No charges have been approved in relation to the bus driver's involvement in this collision. Even if there were a basis to proceed under the Highway Traffic Act for proceeding when unsafe to do so, the public interest does not militate in favour of any charge.

The bus driver involved in this incident has suffered a traumatic brain injury that requires assisted living. He has no recollection of the incident, making it impossible to interview him. While the Crown is certainly aware of the consequences of this mass casualty and the tragedy that the families have and continue to deal with, there is no public interest in proceeding against the bus driver.