



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 21-OVI-170 – Incident of June 2, 2021

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2021-11-25

Recommendation(s)

- 1. That the Niagara Police Services Board receives this report for information, and**
- 2. That the Niagara Police Services Board makes the report available to the public.**

Key Facts

- The purpose of this report is to advise the Board of the findings and any action taken or recommended by the Chief of Police following a notification and investigation of an incident by the Special Investigations Unit (SIU).
- Ontario Regulation 267/10, Section 11 under the Police Services Act requires that the Chief of Police initiate an investigation following a notification to the SIU.
- The purpose of the Chief's investigation is to review the policies of, or services provided by the police force and the conduct of its police officers.
- On August 30, 2021, the SIU notified the Service that their investigation had concluded and advised that there were no grounds for criminal charges against any police officer.
- The subsequent Section 11 investigation by the Professional Standards Unit determined there were issues with respect to officer conduct, policies or services provided by the Niagara Regional Police Service.

Financial Considerations

There are no financial costs or implications associated to the recommendations.

Analysis

On June 2, 2021 at approximately 1:17 pm, Niagara Regional Police Service Detectives from the Niagara Falls Street Crime Unit were conducting mobile surveillance on a subject in the City of Brampton. Constable CD, while operating an unmarked police vehicle southbound on Kennedy Road south of Bovaird Drive East, slowed down with the intent to conduct a U-turn. However, before the U-turn could be conducted, a southbound

motorcycle being operated by AB glanced off of Constable CD's vehicle. The motorcycle then hit a curb causing the motorcyclist to be thrown from his bike. Constable CD immediately provided assistance to AB who was now lying on the pavement. Other Street Crime Unit members attended the collision, secured the scene, and requested emergency services to attend which included Paramedics and Peel Regional Police personnel.

The motorcyclist did not appear to be seriously injured at the time but was transported by ambulance to the Brampton Civic Hospital for a medical assessment. At approximately 4:10 pm, the motorcyclist was diagnosed as having a fractured right leg.

As a result of the injury to AB, the SIU was notified and invoked their mandate.

On June 3, 2021, the SIU designated Sergeant EF and Constables GH and IJ as Witness Officials. The SIU designated Constable CD as a Subject Official.

On August 30, 2021, the SIU closed its investigation into this matter. In his decision letter SIU Director Mr. Joseph Martino wrote "*In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the official*".

A copy of the SIU report was publicly posted on the SIU's website at the following links:
https://www.siu.on.ca/en/directors_reports.php
https://www.siu.on.ca/fr/directors_reports.php.

In accordance with Ontario Regulation 267/10, Section 11, the Service's Professional Standards Unit conducted an investigation and review of this incident which considered the following three areas:

1. The policies of the Police Service,
2. The services provided by the Police Service, and
3. The conduct of its police officers.

The Section 11 investigation encompassed a compliance review of applicable Provincial legislation which governs members of the Service, as well as General Orders, policies and procedures, and the conduct of the involved officers.

Where available, investigations include a review of communications recordings, Service occurrence reports, forensic evidence and reports, officer interviews conducted by the SIU and all duty book notes, SIU documentation including the Director's conclusion letter and investigative report, statements of civilian witnesses gathered and released by the SIU at the conclusion of their investigation upon the consent of the civilian witnesses, and any other information and evidence available on a case by case basis.

1. The Policies of the Niagara Regional Police Service

Professional Standards Unit investigators determined that the following General Orders had primary relevance in this matter, and they have been reviewed accordingly in the context of this incident.

1. General Order 079.10 – Special Investigations Unit
2. General Order 168.06 – Officer Note Taking
3. General Order 010.14 – Service Vehicles
4. General Order 030.08 – Training and Career Development
5. General Order 095.10 – Major Incidents & Routine Criminal Investigations

Upon review, it was determined that the direction and guidance provided by the relevant General Orders is sufficient in its governance for members of the Service and no issues were identified.

2. Services Provided by the Niagara Regional Police Service

There were no issues identified relating to the services provided by the Niagara Regional Police Service during this incident.

3. Conduct of Niagara Regional Police Officers

In his Decision Letter dated August 30, 2021, SIU Director Joseph Martino identified no concerns as a result of the SIU investigation.

However, as a result of the subsequent Section 11 investigation by the Professional Standards Unit, it was determined that Constable IJ who was a Witness Official in this matter had not yet completed the Ontario Police College Mobile Surveillance Course or the Niagara Regional Police Service Surveillance Awareness Course as of June 2, 2021, the date of the incident that caused the SIU investigation to commence. This was in contravention of General Order 095.10 – Major Incidents & Routine Criminal Investigations and General Order 030.08 – Training and Career Development which both require a Service member who participates in surveillance activities to have the required training as stated. Further investigation also determined that Constable IJ performing surveillance activities without the proper training was an oversight on his part and Sergeant EF's part, and not an intentional act to disregard Service policies and procedures.

Remedy/Going Forward

Professional Standards Unit personnel have had communication with Constable IJ, Sergeant EF, and the relevant District Commander for the Niagara Falls Street Crime Unit. Constable IJ and Sergeant EF are aware that Constable IJ is not to partake in any surveillance activity until he has received the proper training. As of the date of this PSB

report Constable IJ still has not received the requisite training due to limited course offerings as a result of COVID implications. Constable IJ will receive appropriate training as soon as a relevant course is available for him to attend. Additionally, the District Commander has ensured that all other members under his command who may be required to perform a surveillance activity are now aware of their responsibilities and obligations before partaking in such action. Supervisory staff have also been reminded of their obligations and responsibilities as well.

Further, documented communication has occurred with the Superintendent-in-charge of Emergency and Investigative Services, and the Superintendent-in-charge of District Operations as personnel in their chain of commands may be required to perform mobile surveillance. This communication reminds and re-enforces responsibilities as per policies and procedures as to obligations that must exist before a member can participate in a surveillance activity. This communication was disseminated to requisite personnel.

The Professional Standards Unit investigation and review of this incident was undertaken in compliance with Section 11 of Ontario Regulation 267/10 made under the Police Services Act. The relevant policies of the Police Service, the services provided, and the conduct of the involved Service members was the focus of this review and investigation.

In conclusion, other than the issue identified regarding compliance with Service General Orders, no other issues were identified as it pertains to services provided, the conduct of the involved Police Service members, or the existing General Orders governing these situations.

Alternatives Reviewed

- 1) To not receive the report.
- 2) To not make the report available to the public.

Subsection 11(4) of Ontario Regulation 267/10 made under the Police Services Act provides that, upon receiving this report, the Board may make it available to the public.

The Police Services Act provides that meetings of the Police Services Board shall be open to the public subject to exceptions that are set out in Subsection 35(4). The applicable exception to be considered in this case is whether or not *“the desirability of avoiding disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public.”*

In considering whether or not to make this report available to the public, it is respectfully submitted that the Board consider the following factors:

1. There are no public security matters revealed in this report.
2. This report does not reveal any intimate financial or personal matters.

Relationship to Police Service/Board Strategic Priorities

Not applicable.

Relevant Policy Considerations

Not applicable.

Other Pertinent Reports

C.8.12.2021.10.28 – Request for Legal Indemnification – SIU Case Number 21-OVI-170
– Incident of June 2, 2021

This report was prepared by Inspector Dave Masotti, Professional Standards Unit and recommended by David Meade, Acting Deputy Chief of Police, Support Services.



Submitted by:
Brett Flynn #9295
Acting Chief of Police

Appendices

Not applicable.