



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

**CONFIDENTIAL AGENDA**

---

**Subject:** Special Investigations Unit – Case Number 21-OVD-163 – Incident of May 25, 2021

**Report To:** Chair and Members, Niagara Police Services Board

**Report Date:** 2021-11-26

---

### **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 September 23, 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 no 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 May 25, 2021, at 10:08 am, Constable CD was on general patrol in the City of St. Catharines and observed an unknown male, later identified as AB, operating a motorcycle ("pocket bike") with no licence plates and not wearing a helmet. The motorcycle was travelling eastbound on Welland Avenue and passed Constable CD who was travelling

westbound on Welland Avenue in a marked police vehicle. The motorcycle was travelling at a high rate of speed approaching York Street. Constable CD as a result conducted a U-turn and began travelling eastbound on Welland Avenue. Constable CD activated his vehicle's emergency equipment with the intent of catching up to the motorcycle and conducting a traffic stop. The motorcycle, however, continued at a high rate of speed on Welland Avenue well ahead of Constable CD, failing to stop for a red light at Ontario Street, then turning north on York Street approximately 220 metres east of Ontario Street. Constable CD, having now lost sight of the motorcycle, turned off his emergency equipment however continued to travel the route that he last saw the motorcycle travelling.

The motorcycle was then observed by civilian witnesses to travel northbound on York Street failing to stop for stop signs at Louisa Street and Beech Street with the engine revving loudly and catching the attention of persons in the vicinity. The motorcycle appeared to be travelling at maximum speeds and was estimated by a witness to be traveling upwards of 80km/h. The motorcycle subsequently turned left at the roadway's intersection with Taylor Avenue and AB lost control of his motorcycle. The motorcycle drove up onto the sidewalk and sideswiped a utility pole. AB took the brunt of the impact, his left side struck the pole and he was thrown from his bike, landing a short distance away from the pole.

Approximately 20 seconds later, Constable CD arrived at the collision scene and located AB with vital signs absent. Constable CD immediately requested the attendance of Emergency Medical Services and commenced CPR. Constables EF and GH were next to arrive at the collision scene and provide assistance accordingly. AB was subsequently transported to hospital by Emergency Medical Services where he was pronounced deceased.

The Service subsequently notified the SIU who invoked their mandate.

On May 25, 2021, the SIU designated Constables EF and GH as Witness Officials, and Constable CD as a Subject Official.

On September 21, 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"*.

In the concluding SIU Director's report, the following is stated: *"The officer was in substantial compliance with the red light he encountered at Ontario Street, and the two stop signs he travelled past on York Street. Lastly, it is apparent that the SO (Constable CD) was at all times well back of the motorcycle, in time and distance, such that it cannot be said that the officer unduly pushed the Complainant (AB) at any time. Indeed, it is not altogether clear whether the Complainant (AB) was even aware of the officer's presence behind him; he had been seen in the days before the incident speeding on York Street with no regard for stop signs"*.

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/en/directors_reports.php)  
[https://www.siu.on.ca/fr/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 042.11 – Suspect Apprehension Pursuits
4. General Order 060.05 – Traffic Enforcement
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**

There were no officer conduct issues identified during the SIU investigation or the Professional Standards Unit investigation and review of this incident with regard to compliance with General Orders or legislation.

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, there were no issues identified regarding compliance with governing General Orders, the services provided or the conduct of the involved Police Service members that required corrective action, and no changes are required to 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.8.11.2021.10.28 – Request for Legal Indemnification – SIU Case Number 21-OVD-163  
– Incident of May 25, 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 #9292  
Acting Chief of Police

## Appendices

Not applicable.