



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 22-OCI-131 – Incident of May 18, 2022.

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2023-03-22

Recommendation(s)

1. That the Niagara Police Services Board receive this report for information, and
2. That the Niagara Police Services Board make 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 268/10, Section 32 under the Police Services Act requires 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 15, 2022, the SIU notified the Service that their investigation had concluded and advised that "there were no reasonable grounds in the evidence to proceed with criminal charges against the officials.
- The subsequent Section 32 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 (NRPS).

Financial Considerations

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

Analysis

On Wednesday May 18, 2022, at approximately 9:37 hrs., Constable AB was conducting traffic enforcement in the area of Queenston Street and Haynes Avenue, in the City of St. Catharines.

At this time, a chrome motorcycle with a light blue seat was observed travelling west on Queenston Street. The vehicle did not have a rear licence plate attached. The vehicle stopped for the red traffic light at Queenston Street/Tasker Street. Constable AB used the left turn lane to pull up beside the driver and make observations of the driver. The driver was wearing a motorcycle helmet with the visor not covering his face. The helmet was green with a black and white stripe down the middle. The driver was a pale white male, who appeared approximately 35 years of age, with red facial hair. The driver was wearing a green sweater with fluorescent vertical stripes down the arms. The driver had dark pants, and white running shoes on. He was also wearing a black backpack.

Constable AB honked his vehicle horn in order to get the drivers attention. Constable AB advised the driver to pull to the right of the roadway. Constable AB was driving an unmarked police vehicle and activated his emergency lights.

The operator of the motorcycle did not pull over and drove away westbound on Queenston Street.

Constable AB did not pursue the motorcycle in accordance with NRPS General Order 042.12 - Suspect Apprehension Pursuit.

For investigation purposes, Constable AB attended the Esso located at the corner of Queenston and Tasker Street and obtained a surveillance photo of the driver and vehicle.

At approximately 11:42 hrs., a photo media release was sent out service wide and to the public requesting assistance in identifying the motorcycle and motorcycle driver from the incident.

At 2:28 hrs., as a result of Constable AB's investigation, they were able to identify the operator of the motorcycle as PH with an address on Wills Street, in the City of St. Catharines.

At approximately 15:41 hrs., Constable AB observed PH travelling on a bicycle east on Queenston Street. PH turned south onto Wills Street.

Constable AB immediately activated his emergency lights and siren and followed PH south on Wills Street. PH turned into their driveway on Wills Street. Constable AB stopped in front of the residence, exited his police vehicle and yelled the driver's name. PH turned around and made eye contact with Constable AB. PH ran toward the rear of the house and turned north into the backyard.

As PH ran behind the residence, Constable AB observed the motorcycle from the incident in plain view in the rear yard of the property. Constable AB was given permission from the resident directly next door on Wills Street, to enter her yard to get a better look at the motorcycle.

Constable AB was satisfied that the motorcycle and motorcycle helmet observed in plain view in the rear of PH's address on Wills Street was from the flight from police incident.

Constable AB spoke with RK, the owner of the residence, who confirmed the identity of PH and that the motorcycle belonged to PH. It was believed PH was hiding in the attic.

Police obtained a Feeney Warrant to enter the residence and at 9:08 p.m., PH was located hiding inside the attic.

PH was arrested and transported to NRPS headquarters and lodged in cells. PH complained of a sore collarbone, however, refused medical attention at that time.

On Thursday, May 19, 2022, at 14:15 hrs., PH had a video bail hearing and complained again of a sore collarbone.

At 16:40 hrs., PH was transported to Greater Niagara General Hospital (GNGH) to have his injuries assessed.

Niagara Detention Centre (NDC) members attended the hospital and relieved NRPS Special Constables and took custody of PH.

At 23:49 hrs., the NDC contacted the NRPS to advise PH had a broken clavicle.

The SIU was contacted and invoked their mandate.

The SIU designated Detective Constable CD and Detective Constable EF as subject officials.

The SIU designated six witness officials: Constable GH, Sergeant IJ, Sergeant KL, Constable MN, Constable OP, and Detective Constable QR.

On September 15, 2022, the S.I.U. closed its investigation into this matter. In his decision letter S.I.U. Director Mr. Joseph MARTINO wrote, "*In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the officials*".

A copy of the SIU report was publicly posted on the SIU's website.

In accordance with Ontario Regulation 268/10, Section 32, the Service's Professional Standards Unit conducted an investigation and review of this incident which considered the following 3 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 32 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, 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 NRPS

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 042.12 – Suspect Apprehension Pursuits
4. General Order 100.10 – Powers of Arrest
5. General Order 053.22 – Use of Force

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 NRPS

There were no issues identified relating to the services provided by the NRPS 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. On behalf of the SIU, Mr. Martino thanked the members of the NRPS for their cooperation during the investigation.

The Professional Standards Unit investigation and review of this incident was undertaken in compliance with Section 32 of Ontario Regulation 268/10 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 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 34(1) of Ontario Regulation 268/10 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

C8.5.2023.03.23 – Request for Legal Indemnification – SIU Case Number 22-OCI-131 – March 23, 2023.

This report was prepared by Lynda Hughes, Inspector, Professional Standards Unit, reviewed by Luigi Greco, Acting Superintendent, Executive Services and recommended by Bill Fordy, Deputy Chief, Support Services.



Submitted by:

Bryan MacCulloch, M.O.M. #5835
Chief of Police

Appendices

Not applicable.