



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

**CONFIDENTIAL AGENDA**

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**Subject:** Special Investigations Unit – Case Number 21-OVI-397 – Incident of November 20, 2021

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

**Report Date:** 2022-04-22

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### **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 268/10, Section 32 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 March 18, 2022, 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 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.

### **Financial Considerations**

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

### **Analysis**

On Saturday November 20, 2021, at 8:42 p.m., Constable AB and Constable BC were parked (in separate cruisers) in a parking lot located at 39 Main Street West, in the Town of Port Colborne. The officers observed a red Ford Focus travelling westbound on Main Street West at a high rate of speed. The vehicle then slowed, made an abrupt U-turn, and

accelerated rapidly heading eastbound on Main Street West again passing the officers' location.

Both officers activated their vehicles' emergency lights and proceeded eastbound on Main Street West with the intent of initiating a traffic stop.

Constables AB and BC soon lost sight of the vehicle and continued eastbound on Main Street West as they attempted to locate the vehicle.

Moments later, the officers were alerted by a citizen that a vehicle had collided with a house located at 509 Main Street West.

As a result of the collision, the female driver was injured and trapped inside the vehicle. Niagara Emergency Medical Services and Port Colborne Fire Service personnel responded, removed the driver from the vehicle, and transported her to Niagara Health Systems – Welland Site. The driver was transferred to Hamilton Health Science where she was diagnosed with a serious fracture.

The Niagara Regional Police Service notified the SIU of the incident. The SIU invoked its mandate and initiated an investigation that led to Constable AB being designated as a Subject Official.

The SIU designated Constable BC and six other officers as Witness Officials.

On March 18, 2022, 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/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 268/10, Section 32, 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 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 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 042.11 – Suspect Apprehension Pursuits
2. General Order 079.10 – Special Investigations Unit
3. General Order 168.06 – Officer Note Taking

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 criminal concerns as a result of the SIU investigation.

However, Director Martino's Investigative Report did indicate that Constable AB and BC travelled through the red light at West Side Road / Highway 58 having decelerated as they approached the intersection, but without fully stopping as they were legally obligated to do in accordance with Section 144(20) of the Highway Traffic Act (HTA).

The officers had a clear line of site and field of view of the entire intersection on approach and confirmed there was no vehicular traffic traveling northbound or southbound on West Side Road. Mr. Martino confirmed that the indiscretion did not constitute a marked departure from a reasonable standard of care.

The Unit Commander of Constables AB and BC was notified by the Professional Standards Unit Inspector of the officers' failure to come to a complete stop prior to proceeding through a red light during this incident. The Unit Commander will conduct a training review of Section 144 (20) of the Highway Traffic Act to ensure the officers are aware of their obligations, liabilities and safety considerations.

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, other than the issue identified regarding compliance with HTA Section 144(20), 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 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**

Not applicable.

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



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**Submitted by:**

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

**Appendices**

Not applicable.