



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

CONFIDENTIAL AGENDA

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**Subject:** Special Investigations Unit – Case Number 21-OCI-280 – Incident of August 30, 2021

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

**Report Date:** 2022-01-31

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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 267/10 Section 11 made 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 December 30, 2021, the SIU notified the Niagara Regional Police Service (NRPS) 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 NRPS.

### Financial Considerations

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

### Analysis

On August 30, 2021, at approximately 2:15 a.m., a male identified as AB was operating a pickup truck eastbound on Lundy's Lane near Garner Road in Niagara Falls. Just past the intersection, the male lost control of his vehicle, it maneuvered into the westbound lanes and jumped the northside curb where it came to rest.

Constable CD and Constable EF were in their assigned cruisers stopped in a parking lot on the north side of Lundy's Lane, east of Garner Road, when the crash involving the vehicle occurred.

The officers drove onto the roadway to investigate the collision. The male driver exited his pickup truck and yelled incoherently running eastward along the roadway toward Constable CD, who had exited his cruiser to confront the male who he believed was an impaired driver. Constable CD attempted to control the male and place him under arrest. The male was able to break free from Constable CD and continued running eastward ignoring directions from Constable CD.

Constable CD re-entered his cruiser, drove east past the male and again engaged the male. The male continued to resist Constable CD's directions and efforts to control him. Constable CD discharged his Conducted Energy Weapon (CEW) and the male initially fell to the ground. The male continued to resist and attempted to run away again. Constable CD responded with additional discharges of his CEW to control the male until additional officers arrived to assist.

Constable EF, who had initially attended at the location of the collision to confirm there were no other injured parties, arrived to assist Constable CD and both officers continued to struggle with the male while trying to restrain him with handcuffs. The officers were only able to secure one handcuff on the male's right wrist before other officers arrived in response to Constable CD's call for assistance.

With the assistance of other officers, the male was subdued in a prone position, with both his hands handcuffed behind his back. It was at this point that the officers noticed the male was unconscious. Sergeant GH, a former paramedic, identified that the male was in medical distress and took the lead in attempting to rouse and then resuscitate the male with a series of chest compressions and ordered the administration of nasal naloxone carried by other officers.

Paramedics and firefighters responded to the scene and took charge of the male's care. The male was transported to the hospital and treated in the emergency department. Among other injuries, the male was found to have likely suffered a cardiac arrest.

As a result of the male being admitted to the hospital and being in life threatening condition, the SIU was notified of the incident and invoked their mandate.

The SIU designated Constable EF, Sergeant GH, and Constable IJ as Witness Officials.

The SIU designated Constable CD as a Subject Official.

On December 30, 2021, the Service received notification that the SIU concluded their investigation, and no further action was contemplated. In his closure letter, SIU Director

Martino advised "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 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, NRPS 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 also been reviewed accordingly in the context of this incident.

1. General Order 079.10 – Special Investigations Unit
2. General Order 100.10 – Powers of Arrest
3. General Order 053.22 – Use of Force
4. General Order 168.06 – Officer Note-taking

Upon review, it was determined that the involved officers were fully compliant with the listed General Orders 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 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 Police Service for their cooperation during the investigation.

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**

Not applicable.

*This report was prepared by Inspector Luigi Greco, Professional Standards Unit, reviewed by Superintendent David Meade, Executive Services, and recommended by Richard Frayne, Acting Deputy Chief of Police, Support Services.*



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### **Submitted by:**

Bill Fordy, O.O.M. #9615  
Acting Chief of Police

## **Appendices**

Not applicable