



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 20-OOD-355 – Incident of December 3-4, 2020

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2021-06-01

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 April 14, 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

Between December 3, 2020 and December 4, 2020, the Niagara Regional Police Service attended four calls for service involving AB prior to locating him deceased on December 4, 2020 at 8:09 p.m. as the result of suicide by hanging.

On December 3, 2020 at approximately 11:55 p.m., Constable CD responded to a domestic dispute at a residence on Vine Street in the City of St. Catharines. Investigation revealed that AB and his girlfriend were involved in a verbal dispute in which no grounds existed for criminal charges. AB was transported to an Out of the Cold program as the relationship was terminating.

On December 4, 2020 at approximately 4:46 p.m., Constable EF attended the Consumption and Treatment Services site located on Queenston Street in the City of St. Catharines, for reports of a male in mental health distress.

Upon arrival Constable EF located AB who had admitted to having a "*bad trip*" after consuming crystal meth. AB was cooperative with responding officers and did not require medical attention and declined the option of attending the hospital. AB stated he was not suicidal in response to allegations from the complainant. Subsequently officers, along with civilian MCRRT member GH, could not form grounds to make an apprehension under the Mental Health Act and directed AB back to the Out of the Cold Program.

At approximately 6:23 p.m., Constable IJ responded to the Big Bee variety store located on Queenston Street in the City of St. Catharines, for reports of a male who had broken into a car.

Upon arrival Constable IJ spoke with the owner of the vehicle who stated that a male was leaning on his pick-up truck. It was determined that no criminal offence had occurred.

In the area, Constable IJ located AB, who matched the description provided by the complainant. AB admitted to leaning on the vehicle. Constable IJ determined that no grounds existed for criminal charges and AB was sent on his way.

At approximately 7:15 p.m., Constable KL responded to a Suicide Threats call for service at Lundy's Lane and Gale Crescent in the City of St. Catharines.

The complainant advised he could hear a male screaming, threatening to kill himself and observed the male hanging a rope in a tree.

Constable KL located AB in a back yard of a residence as described by the complainant. AB advised Constable KL that he was looking for a place to sleep as he was homeless. Constable KL questioned AB about any suicidal ideations he might be having to which AB responded, "*I'm not suicidal no matter how much of a "loser" I am. I want to see my kids.*" Constable KL searched the property and AB for the rope as described by the complainant and could not locate the rope or any other means by which AB could inflict harm upon himself.

Constable KL offered AB the option of attending the Out of the Cold Program to which AB declined.

Constable KL determined that no grounds existed for an apprehension under the Mental Health Act and sent AB on his way.

At approximately 8:09 p.m., Constable MN responded to an Assist Ambulance call located at Gale Crescent and Frank Street in the City of St. Catharines.

Upon arrival, Constable MN located AB hanging in a tree. Despite life saving measures by Fire and EMS, AB was pronounced deceased at 8:31 p.m.

On December 4, 2020, at 9:16 p.m., the Professional Standards Unit Inspector was contacted by the Duty Officer and advised of the incidents involving AB. The Duty Officer advised that police had contact with AB earlier in the evening and AB advised that he was not suicidal and officers cleared the call. AB was later located hanging from a tree and was pronounced deceased.

The Professional Standards Inspector reviewed Section 16 of the Special Investigations Act which lists when a designated authority is required to notify the SIU Director respecting an incident.

Given that no force was used against AB by the officers, AB was not in custody or detained and the Professional Standards Unit Inspector had no reasonable belief that the officers conduct contributed to the incident, notification to the SIU was not made for this incident.

On December 16, 2020 the Service received a letter from ST, who is the Executive Director of the Consumption and Treatment Services site located on Queenston Street in St. Catharines. ST alleged that the responding officers who attended the Queenston Street site on December 4, 2020, made an unethical and dangerous decision to release AB without an apprehension under the Mental Health Act.

On December 16, 2020 at 6:27 p.m., the Service notified the SIU regarding the circumstances surrounding the series of contacts with AB on December 3 and 4, 2020. The SIU subsequently invoked their mandate.

On December 18, 2020 the SIU designated eleven officers as Witness Officers, Constable KL as a Subject Officer, and identified 8 Civilian Witnesses. The identified Witness Officers co-operated with the SIU investigation as required.

On April 14, 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 grounds in the evidence to proceed with criminal charges against the subject officer*".

A copy of the SIU report the report was publicly posted on the SIU's website at the following links: https://www.siu.on.ca/en/directors_reports.php and 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 167.07 – Mentally Ill Persons

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 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.

In his Decision Letter dated April 14, 2021, SIU Director Joseph Martino stated the following:

“I note for the record that the events in question transpired over the course of the day on December 4, 2020, and yet the SIU was not notified until December 16, 2020. Given the nature of this incident, I accept that it would have taken some time after Mr. Young was pronounced deceased to fully appreciate the possibility of some nexus between police

interactions with him earlier in the day and his unfortunate passing. That said, it seems to me that that link ought to have been identified sooner than the length of time it took for the SIU to be notified. I ask that you look into this matter and take whatever steps may be necessary to mitigate the risk of this length of delay in the future."

Delay in SIU. Notification

On December 4, 2020, at 9:16 p.m., the Professional Standards Unit Inspector was contacted by the Duty Officer and advised of the incidents involving AB. The Duty Officer advised that AB was later located hanging from a tree and was pronounced deceased.

Based upon a review of Section 16 of the Special Investigations Act which lists when a designated authority is required to notify the SIU Director respecting an incident, the Professional Standards Unit Inspector had no reasonable belief that the officers' conduct contributed to the incident and therefore did not believe that notification to the SIU was required when the information was originally reported on December 4, 2020.

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.8.10.2021.05.20 – Request for Legal Indemnification – SIU Case Number 20-OOD-355
– Incident of December 3-4, 2020

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 of Police, Support Services.



Submitted by:

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Chief of Police

Appendices

Not applicable.