



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 23-OSA-053 – Incident of February 13, 2023

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2023-11-23

Recommendation(s)

- 1. That the Niagara Police Services Board (Board) receive this report for information, and**
- 2. That the Niagara Police Services Board (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 June 14, 2023, 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 (PSU) 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 implications relating to the recommendations contained in this report.

Analysis

On February 13, 2023, the accused, AA was arrested at her residence in Welland on outstanding warrants. She was transported to Central Holding, located at 5700 Valley Way, and held for a bail hearing the following morning on February 14, 2023. AA was

denied bail and was remanded to the Vanier Centre for Women in Milton. While waiting for transport to Milton, AA was observed experiencing convulsions in her cell. Central Holding staff called Emergency Medical Services (EMS), at 1437 hours, and went to AA's aid. A bottle of cleaning solution was located inside AA's cell. AA was transported to the Greater Niagara General Hospital where she was admitted for observation.

A review of the custody video revealed AA had reached under her cell door and taken a bottle of cleaning solution off the cart used by the janitorial staff while cleaning cells. AA poured the cleaning solution, "Sani blend," into a disposable paper cup and consumed an undetermined quantity of the cleaning solution, after which she started experiencing convulsions.

The SIU was notified of the incident and invoked their mandate on February 15, 2023, as a result of AA being admitted to the hospital.

During that investigation, AA made an allegation of sexual assault by an officer. The SIU initiated a separate investigation into the sexual assault allegation.

The SIU designated Constable CD as a Witness Official.

Constable OP was designated as the Subject Official.

On June 15, 2023, the SIU closed its investigation related to the sexual assault allegation. 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 in this case ".

A copy of the SIU report was not publicly posted on the SIU's website, due to the investigation being related to an allegation of sexual assault.

In accordance with Ontario Regulation 268/10, Section 32, the Service's PSU 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 NRPS

PSU 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 018.21 – Persons in Custody
3. General Order 168.06 – Officer Note Taking
4. General Order 100.10 – Powers of Arrest
5. General Order 117.10 – Search & Seizure

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 NRPS during this incident.

3. Conduct of NRPS Officers

There were no officer conduct issues identified during the SIU investigation or the PSU 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 PSU 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 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 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 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 “*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 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.8.5.2023.11.23 – Request for Legal Indemnification – SIU Case Number 23-OSA-053 – April 27, 2023.

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



Submitted by:

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Chief of Police

Appendices

Not applicable.