



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 22-OCI-163 – Incident of June 27, 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 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 October 25, 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 official".
- 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 June 27, 2022, at approximately 12:44 am, police responded to an unwanted person complaint at the Northern Flame Restaurant located at 312 Lake Street in the City of St. Catharines. The owner of the property reported that an unknown intoxicated male was involved in a verbal altercation and attempting to assault patrons at the establishment.

Officers arrived and approached the unknown male, identified as DL, and asked him to leave the property as per the owner's request. He refused and at 12:46 a.m., he was arrested for Fail to Leave when directed under provisions of the Trespass to Property Act (TTPA).

While police searched the male (incident to arrest), he attempted to reach for something near his right rear waist band. Officers stopped his movement and subsequently discovered that he was reaching for a concealed knife. The male was grounded, handcuffed, placed in rear of a cruiser, read his rights to counsel, and cautioned without further incident.

Police spoke with patrons at the restaurant who advised the intoxicated male had fallen prior to attempting to gain access to the bar and confirmed that they did not wish to proceed with assault charges against the intoxicated male. At 1:08 a.m., DL was given a Provincial Offences Notice and released in front of his residence, which was located across the street from the restaurant.

At 1:18 a.m., officers were dispatched to an assist ambulance complaint at the 7/11 located at 314 Lake Street where an intoxicated male was claiming that he was assaulted by police who stomped on his wrist and broke it.

Officers arrived at 1:25 a.m. and located the same male, DL, who appeared to have a swollen left wrist and blood on his shirt. He was transported to the Niagara Health System – St. Catharines site and diagnosed with a fractured left wrist.

The SIU was contacted and invoked their mandate.

The SIU designated Detective Constable AB as the subject official.

The SIU designated four witness officials: Constable CD, Constable EF, Constable GH, and Constable IJ.

On October 25, 2022, the SIU concluded their investigation and “no further action was contemplated”. In his closure letter, SIU Director Martino advised, *“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.

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 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 100.10 – Powers of Arrest
4. General Order 053.22 – Use of Force
5. General Order 236.03 – Intoxicated Persons

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 Police Service 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

C8.7.2023.01.26 – Request for Legal Indemnification – SIU Case Number 22-OCI-163

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:

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Chief of Police

Appendices

Not applicable.