



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

**CONFIDENTIAL AGENDA**

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**Subject:** Special Investigations Unit – Case Number 22-OCI-038 – Incident of February 9, 2022

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

**Report Date:** 2023-02-02

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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 June 9, 2022, the SIU notified the Service that their investigation had concluded and advised that there were no grounds for 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.

### Financial Considerations

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

### Analysis

On February 9, 2022, at 9:56 a.m., members of the Niagara Regional Police Service attended an address in the city of Niagara Falls in relation to a call for service involving family violence. The complainant called 911 and stated he had been attacked by his 30-year-old son.

Constables AB and CD were the first two officers to attend the residence. The officers spoke with EF and his wife. The couple informed Constables AB and CD that their adult son, GH was no longer welcome in the family home as they were no longer able to tolerate his behaviour arising from a 17-year drug addiction. GH had acted aggressively toward his father moments prior to the call to 911. The couple requested the officers' assistance with removing GH from the residence.

Constable AB spoke with GH, who was living in the basement of the residence, and advised him that he had been requested by his parents to leave. GH initially agreed and went about gathering/collecting some personal items. Constable AB returned to the main level of the residence and continued engaging with the parents.

Shortly thereafter, GH attended the kitchen area of the residence and expressed his intentions to gather tools from the home's garage. EF informed GH that the tools belonged him, and that GH would not be taking any tools when he departed the residence.

GH ignored his father's instructions and began walking toward a door that connected the kitchen and garage. Constable AB was standing in front of the door leading to the garage. GH stated, "Out of my way bud!," as he approached Constable AB and forcefully pushed the officer backwards into the garage.

Constable AB informed GH that he was under arrest for assaulting a police officer and attempted to take custody of him. GH refused to cooperate with Constable AB and began resisting Constable AB's efforts to place him in handcuffs. A struggle ensued, drawing Constable CD to assist.

An extended struggle to take GH into custody occurred, which included the officers grounding GH, and the eventual application of empty hand strikes and knee strikes to GH which proved to be ineffective. As the struggle continued Constable AB fell to the concrete floor, injuring the officer's right hand. Constable AB placed a call for assistance drawing several other officers to the residence. Despite the assaultive behaviour of GH, Constables AB and CD eventually managed to place handcuffs on him and put an end to the altercation.

During the interaction GH received a nose injury when he fell to the concrete floor. He was transported to the hospital where it was confirmed he had sustained a nose fracture. Constable AB also attended the hospital where it was confirmed the officer sustained a fractured wrist.

The SIU was contacted and invoked their mandate. Constable AB was designated as a Subject Official, while Constable CD and six additional officers were designated as witness officials.

On June 9, 2022, the SIU closed its investigation into this matter. In his decision letter, 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.

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 079.10 – Special Investigations Unit
2. General Order 053.23 – Use of Force
3. General Order 095.10 – Major Incidents & Routine Criminal Investigations
4. General Order 100.10 – Powers of Arrest
5. General Order 034.11 – Report Submissions

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**

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

C8.7/2022.07 – Request for Legal Indemnification – SIU Case Number 22-OSA-009 – January 16, 2022.

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



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### Submitted by:

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Acting Chief of Police

### Appendices

Not applicable.