



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 22-OCI-054 – Incident of February 20, 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 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 20, 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 two officials.
- 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 February 20, 2022, officers responded to an address on Spruce Street in St. Catharines for a disturbance.

The initial complainant, who resides at the same address, reported hearing a male and a female screaming and arguing, and reported hearing the sound of banging coming from the downstairs unit.

A second complaint was received from a neighbouring resident who reported hearing a female screaming.

A third complaint was received from DB who called to report her parents were fighting and requested an ambulance.

Constable AB arrived at the residence at 12:30 a.m. and could hear a female screaming through a basement window. Constable AB observed a female bleeding profusely from her right eye. Constable AB requested Emergency Medical Services (EMS) attend the scene.

Investigation revealed that DT was responsible for the injuries observed on the female, later identified as DP. The injuries were sustained when DT struck DP in the face with a space heater.

Constable AB established reasonable grounds to believe that DT had committed the offence of assault with a weapon. DT barricaded himself in the basement and was observed to be screaming.

DP advised police that DT was still located inside the downstairs unit. Police observed DT through the window on the east side of the residence sitting against the south side door. Police observed that the door leading to the basement unit from at the address was barricaded.

Given that exigent circumstances existed as police had reason to believe DT was in possession of a weapon and it was unclear whether there were any other occupants located inside the downstairs unit with him, police had no other option but to force entry into the downstairs unit. Police attempted to call out to DT multiple times with negative results, as DT would not stop screaming.

At 00:55 hours police entered through the unlocked front door of the dwelling and forced entry through the door to the basement. Upon entry DT was extremely physically combative toward police. A Conductive Energy Weapon (CEW) was deployed to gain physical control of DT in order to effect an arrest.

At 00:56 hours DT was placed under arrest. DT continued to be physically combative while police attempted to apply handcuffs. The handcuffs were double locked and checked for fit. A second ambulance was requested to attend to DT due to the CEW deployment, as well as cuts he had on the bottom of his feet sustained from broken glass throughout the unit floor that he fell on, as a result of the CEW deployment.

DT was temporarily escorted into a police cruiser while awaiting the arrival of EMS. While he was seated inside the rear of the cruiser, he began smashing his head off the bars located inside the window of the cruiser. A second ambulance arrived on scene at 01:16 hours and began attending to DT's injuries.

At 01:18 hours DP was transported to Niagara Health System (NHS) in the City of St. Catharines by EMS, with police accompanying her in the ambulance. DT was transported to NHS at 01:32 hours with police accompanying him in the ambulance, arriving at 01:43 hours.

On February 20, 2022, at 4:41 am the NRPS were advised that DT had sustained a fracture to his elbow during the arrest process.

The SIU was contacted and invoked their mandate.

The SIU designated Sergeant CD and Constable EF as subject officials.

The SIU designated four witness officials: Constable GH, Constable IJ, Sergeant KL and Constable MN.

On May 16, 2022, the S.I.U. 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 two officials.*"

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, 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 114.13 – Domestic - Family Violence
4. General Order 100.10 – Powers of Arrest
5. General Order 053.22 – Use of Force

Upon review, it was determined 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

C8.7.2022.11.18 – Request for Legal Indemnification – SIU Case Number 22-OCI-054 – November 18, 2022.

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.