



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

C.181.

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 20-OCI-010

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2020-09-16



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 S. 11 made 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 August 12, 2020, the SIU notified the Niagara Regional Police 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 Service.

Financial Considerations

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

Analysis

On January 18, 2020 at 8:40 pm Constable AB and Constable CD responded to a residence in the city of Welland with regards to a Welfare Check.

The Complainant had called police and requested that officers check the welfare of her parents, who had been receiving threatening text messages from the Accused.

Upon investigation Constable AB and Constable CD observed evidence in the form of text messages which supported grounds to arrest and charge the Accused with Uttering Threats against one of the victims.

Constable AB and Constable CD advised the Accused that he was under arrest and physically took control of him by the arm at which time he pulled away. The Accused resisted arrest and a violent struggle ensued.

During the struggle the Accused received a cut to his forehead. He was transported to hospital for examination and a subsequent x-ray displayed a right side rib fracture.

On January 19, 2020 at 12:46 am, the Service notified the SIU, who invoked their mandate.

The SIU designated Constable AB as a Witness Officer.

The SIU designated Constable CD as a Subject Officer.

The SIU also identified Three Civilian Witness.

On August 12, 2020 the SIU closed its investigation into this matter. In his decision letter Director Mr. Joseph Martino wrote "In my view, there were no grounds in the evidence to proceed with criminal charges against the subject officer".

In the SIU Investigative Report, Director Martino states " *I am satisfied that the SO and the WO conducted themselves lawfully throughout the encounter. Accordingly, there is no basis for criminal charges against the officers, and the file is closed.*"

A copy of the SIU report was publicly posted on the SIU's website at the following links:
https://www.siu.on.ca/en/directors_reports.php
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 Niagara Regional Police 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 also been reviewed accordingly in the context of this incident.

1. General Order 079.09 – Special Investigations Unit
2. General Order 100.09 – Powers of Arrest
3. General Order 053.21 – Use of Force
4. General Order 168.06 – Officer Note-taking

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. On behalf of the SIU, Mr. Martino thanked the members of the Service for their cooperation during the investigation.

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

Not applicable

This report was prepared by A/Superintendent Luigi Greco, Executive Services and recommended by David Meade, Acting Deputy Chief of Police, Support Services.



Submitted by:

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Chief of Police

Appendices

Not applicable.