



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 22-OFD-229 – Incident of September 4, 2022

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2023-07-03

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 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 December 30, 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 implications relating to the recommendations contained in this report.

Analysis

On Sunday September 4, 2022, at 9:04 a.m., officers responded to an address on Main Street in the Town of Port Colborne for what started as a noise complaint and escalated to a threats complaint.

The initial complainant, who resides at the same building, attended apartment 7, which was occupied by DC to ask him to turn down the music he was playing loudly. DC asked the complainant to enter his apartment, however, immediately grabbed an 8-inch Rambo style knife from his kitchen. DC then pulled the knife out of the sheath and pointed the knife at the complainant in a threatening manner while walking toward him. The complainant immediately fled the area and contacted police.

Constables AB and CD arrived at the residence at 9:15 a.m. and attempted to speak to DC at the apartment door. DC slammed the door closed, striking Constable AB. Constable AB opened the door again requesting DC attend the door. DC ran to the kitchen pulled a "Rambo" style knife out of a sheath and approached Constable AB and Constable CD in a threatening manner.

Both Constables retreated and contacted the Criminal Investigations Branch for assistance. Detective Constable EF authored a Section 487 warrant to enter and search the apartment and arrest DC for 2 counts of Assault with a Weapon.

Members of the Emergency Tactical Unit (ETU) were called and attended to maintain containment of the residence. At 1:16 p.m., the search warrant was granted by a Justice of the Peace via tele-warrant. The said search warrant was emailed to Staff Sergeant GH of the Emergency Tactical Unit.

At 1:51 p.m., members of the NRPS Emergency Tactical Unit made entry into apartment 7 where DC retreated into a bathroom, where multiple knives were present. During the attempted arrest, DC took possession of a knife and attempted to stab one of the tactical officers.

ETU member Constable IJ subsequently fired one round from his service pistol striking DC, which inflicted a life-threatening injury.

DC was transported to hospital by ambulance where he was pronounced deceased.

The SIU was contacted and invoked their mandate.

The SIU designated Constable IJ and Inspector KL (Incident Commander) as Subject Officials.

The SIU designated 22 Witness Officials: Constable AB, Constable CD, Detective Constable EF, Staff Sergeant GH, Constable MN, Constable OP, Constable QR, Constable ST, Staff Sergeant UV, Constable WX, Constable YZ, Sergeant AA, Constable BB, Sergeant CC, Constable DD, Constable EE, Constable FF, Constable GG, Constable HH, Constable II, Sergeant JJ, Constable KK.

On December 30, 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 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 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 053.23 – Use of Force
5. General Order 089.07 – Emergency Task Unit

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

C8.12/2023.04.27 – Request for Legal Indemnification – SIU Case Number 22-OFD-229
– Incident of September 4, 2022

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



Submitted by:

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Chief of Police

Appendices

Not applicable.