



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 22-OSA-009 – Incident of January 16, 2022

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2022-10-04

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 May 16, 2022, the SIU notified the Service that their investigation had concluded and advised that there were no grounds for criminal charges against any police officer.
- 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 January 16, 2022, a call was made to police by a civilian witness (CW3) who was an employee of The Four Points by Sheraton Hotel in Thorold. CW3 contacted police to advise that there was an intoxicated person in the lobby of the hotel, they were confused and had no one to call to come get them. They were identified as the complainant RV.

Constable MM and Constable DM were dispatched and responded to the hotel located at 3530 Schmon Parkway in Thorold. Constable MM spoke with RV and made attempts to locate a friend or family member that could assist with the care of RV by coming to pick them up. After being unsuccessful at locating alternative arrangements, RV was arrested for being intoxicated in a public place as they were unable to care for themselves.

Constable MM contacted Detox however, RV did not meet their mandate to be allowed entry. Constable MM was then able to speak with RV's mother (Civilian Witness CW1) who agreed to meet Constable MM and Constable DM at the Merrittville Speedway as a halfway point to take custody of RV. Upon meeting with the officers, CW1 witnessed the belligerent, intoxicated behavior of RV and did not want them in her home and refused to take responsibility for them.

Due to RV's inability to care for themselves and with nowhere else to take them, RV was transported to central holding located at 5700 Valley Way. While being processed by the officer in charge of the holding cells that they claimed to have been sexually assaulted. Arrangements were made by Witness Official 2, Sergeant KD to have an officer attend and take a report of the allegation of sexual assault made by RV, however, when it became clearer that RV was alleging that it was the officer that arrested them that committed the sexual assault, the S.I.U was contacted and invoked their mandate.

The SIU designated Constable MM as the Subject Official.

The SIU designated 6 Witness Officials: Constable DM, Sergeant KD, Sergeant TE, Special Constable JC, Constable JB, and Constable MO.

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 in this case.*"

A copy of the SIU report was NOT 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 020.14 – Sexual Assault Investigations
3. General Order 100.10 – Powers of Arrest
4. General Order 168.06 – Officer Note Taking
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

C.8.6.2022.07.19 – Request for Legal Indemnification – SIU Case Number 22-OSA-009 – January 16, 2022.

This report was prepared by Inspector Lynda Hughes, Professional Standards Unit and reviewed by Acting Superintendent Todd Waselovich, Executive Services and recommended by Bill Fordy, Deputy Chief of Police, Support Services.



Submitted by:

Bryan MacCulloch, M.O.M. #5835
Chief of Police

Appendices

Not applicable.