



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

**CONFIDENTIAL AGENDA**

---

**Subject:** Special Investigations Unit – Case Number 21-OCI-406 – Incident of November 29, 2021

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

**Report Date:** 2022-04-22

---

### 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 March 23, 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 November 29, 2021, at 12:37pm, police were called to a disturbance on Palmer Avenue in Niagara Falls. Initial complaints were that a male resident was threatening to hit staff with a cane. The subject male was later identified to police.

Upon police arrival, the subject had left the residence. Constable AB formed grounds to arrest the male for uttering threats and relayed the information via the police radio to the other officers. Constable EF located the male, who was still armed with a cane, on Victoria Avenue. Constable EF notified Constable AB of the male's location and maintained observations of the male pending the arrival of Constable AB.

Constable AB approached the accused male and advised him that he was under arrest. The accused male refused to comply and ran away from the officers. The accused male then began to swing his cane at the head of Constable AB and continued to resist the officers' efforts to arrest him. The interaction led to the deployment of Conducted Energy Weapons (CEW's) and empty hand techniques. The male was eventually controlled and was placed into custody.

Paramedics attended to remove the CEW probes and the accused male complained that he had a sore jaw. The accused was subsequently transported to the hospital for medical assessment and was diagnosed with a fractured mandible.

Due to the accused sustaining a serious injury, the SIU was notified of the incident and invoked their mandate to investigate.

The SIU designated Constable AB and Constable CD as Subject Officials.

The SIU designated Constable EF as a Witness Official.

On March 23, 2022, the SIU closed its investigation into this matter. In his decision letter SIU Director Mr. Joseph Martino wrote "The file has been closed and no further action is contemplated. 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 at the following links:  
[https://www.siu.on.ca/en/directors\\_reports.php](https://www.siu.on.ca/en/directors_reports.php)  
[https://www.siu.on.ca/fr/directors\\_reports.php](https://www.siu.on.ca/fr/directors_reports.php).

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 053.22 – Use of Force
3. General Order 100.10 – Powers of Arrest
4. General Order 018.21 – Persons in Custody
5. General Order 095.10 – Major Incidents & Routine Criminal Investigations

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.

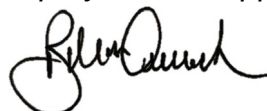
## Relevant Policy Considerations

Not applicable.

## Other Pertinent Reports

Not applicable.

*This report was prepared by Inspector Luigi Greco, Professional Standards Unit, reviewed by Superintendent David Meade, Executive Services, and recommended by Bill Fordy, Deputy Chief, Support Services.*



---

### Submitted by:

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

## Appendices

Not applicable.