



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

CONFIDENTIAL AGENDA

Subject: Special Investigations Unit – Case Number 23-OCI-397 – Incident of September 28, 2023

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2024-05-31

Confidential Report

Confidential Report with respect to the legal matter of an identifiable individual – *Community Safety and Policing Act 2019, s. 44(2)(b)* “personal matters about an identifiable individual, including members of the police service or any other employees of the board” and *Community Safety and Policing Act 2019, s.44(2)(e)* “litigation or potential litigation affecting the Board, including matters before administrative tribunals.”

Recommendation(s)

1. **That the Niagara Police Services Board (Board) receives this report for information.**
2. **That the 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 September 28, 2023, a notification was made to the SIU regarding a male who was found unresponsive in a cell in Central Holding and was transported to hospital by ambulance.
- On January 17, 2024, the SIU notified the Service that their investigation had concluded and advised that there were no grounds for criminal charges against the subject official.
- The subsequent Section 32 investigation by the Professional Standards Unit (PSU) 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 Thursday, September 28, 2023, at 4:45 p.m., members of the NRPS were dispatched to an address in Niagara Falls for a report of a disturbance.

A male was located in the residence and investigation revealed he was wanted on an outstanding warrant for the offence of Break and Enter. The male was placed under arrest without incident and transported to the NRPS Central Holding Facility where he was lodged into a cell at 5:15 p.m.

At approximately 5:40 p.m., the male was found unconscious in his cell. Medical assistance was immediately provided, and the male was transported by ambulance to the hospital. While at the hospital, it was determined that the male had secreted narcotics, suspected to be fentanyl, in his rectum.

As a result of being admitted to the hospital, the NRPS contacted the SIU who subsequently invoked their mandate.

The SIU designated Constable AB, Constable CD, Special Constable EF, Special Constable GH, Special Constable IJ, and Special Constable KL, as Witness Officials.

On December 6, 2023, Staff Sergeant MN was designated as a Subject Official.

On January 22, 2024, the SIU closed its investigation into this matter. In his decision letter SIU Director Mr. Joseph Martino wrote, " In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official."

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 PSU 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

PSU 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 018.21 – Persons in Custody
- 3) General Order 168.06 – Officer Note Taking

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 NRPS

There were no issues identified relating to the services provided by NRPS during this incident.

3. Conduct of NRPS Officers

There were no officer conduct issues identified during the SIU investigation or the PSU investigation and review of this incident regarding 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 PSU 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 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 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

C8.9-2024.03.28 – Request for Legal Indemnification – SIU Case Number 23-OCI-397 – September 28, 2023.

This report was prepared by Lynda Hughes, Inspector, Professional Standards Unit and reviewed by Sandy Staniforth, Superintendent, Executive Services. Recommended by Luigi Greco, Deputy Chief, Support Services.



Submitted by:

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Chief of Police

Appendices

Not applicable.