



# NIAGARA REGIONAL POLICE SERVICE

## Police Services Board Report

**CONFIDENTIAL AGENDA**

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**Subject:** Special Investigations Unit – Case Number 21-OCI-121 – Incident of April 5, 2021

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

**Report Date:** 2021-12-03

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### **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, Section 11 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 November 8, 2021, 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 11 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 Monday April 5, 2021, at approximately 2:25 pm, Constable CD responded to a mischief call at a variety store located in the area of Morrison Street and Ontario Avenue in Niagara Falls. It was determined that two male youths, both wearing sweaters with hoods covering their heads, entered the store and caused damage. One of the youths,

later identified as AB, was in possession of a water bottle and threw it forcefully towards the cash area where a female employee was standing. The water bottle struck two monitors on a counter causing both to fall to a lower shelf. AB then grabbed a display stand and pulled the stand to the floor. AB's friend also threw a bottle in the store before both fled on foot.

At approximately 2:40 pm, Constable CD located AB and his friend in a nearby park as a result of descriptions obtained from the store's surveillance recordings. It was at this time that AB and his friend were identified by name. AB was subsequently arrested for the offence of Mischief Under \$5000. AB was handcuffed and the arrest was described as routine and without incident. AB was subsequently transported to his mother's residence by Constable CD, where he was released unconditionally at 2:55 pm.

Constable EF also responded to this incident post-arrest and took photographs of the damage caused to the interior of the variety store.

AB later informed his mother that he believed Constable CD had injured his hand during the application of the handcuffs. AB and his mother initially believed that the pain was being caused by a minor muscle strain. However, the pain did not subside.

On April 15, 2021, AB attended the Greater Niagara General Hospital and was diagnosed with having a fractured right hand.

Inspector GH subsequently notified the SIU who invoked their mandate. On July 21, 2021, the SIU designated Constable EF and Inspector GH as Witness Officials, and Constable CD as a Subject Official.

On November 8, 2021, 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 official*".

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 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 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
6. General Order 085.06 – Young Persons

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.

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 Inspector Dave Masotti, Professional Standards Unit, reviewed by Superintendent David Meade, Executive Services and recommended by Bill Fordy, Deputy Chief of Police, Support Services.*



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### Submitted by:

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Chief of Police

## Appendices

Not applicable.