

Report to / Rapport au:

**OTTAWA POLICE SERVICES BOARD
LA COMMISSION DE SERVICES POLICIERS D'OTTAWA**

31 October 2022 / 31 octobre 2022

Submitted by / Soumis par:

Chief of Police, Ottawa Police Service / Chef de police, Service de police d'Ottawa

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SUBJECT: REPORT ON SIU INVESTIGATION 21-OVI-361

OBJET: RAPPORT SUR L'ENQUÊTE DE L'UES 21-OVI-361

REPORT RECOMMENDATIONS

That the Ottawa Police Services Board receive this report for information.

RECOMMANDATIONS DU RAPPORT

Que la Commission de services policiers d'Ottawa prenne connaissance du présent rapport à titre d'information.

BACKGROUND

The attached document outlines a police interaction that resulted in the Special Investigations Unit (SIU) invoking its mandate. The background of the incident, along with SIU findings and recommendations are provided. As required by legislation, the Professional Standards Unit (PSU) subsequently completed an investigation into the policy, services, and conduct of the Ottawa Police Service (OPS) in relation to this incident.

DISCUSSION

On October 26, 2021 at about 8:40 p.m., an OPS officer was entering the Merivale Mall parking lot in response to robbery in progress at the Shoppers Drug Mart where the suspect was reportedly demanding drugs and had indicated he was in possession of a firearm. As the marked police vehicle entered the parking lot, it collided with a pedestrian (the complainant) while he was walking west in the parking lot approaching

the access road near the Shoppers Drug Mart. The officer brought his vehicle to a stop quickly, exited and rendered assistance to the complainant. The complainant was transported to the hospital and was diagnosed with internal head injuries. The SIU was notified by the OPS.

The SIU invoked their mandate and launched an investigation.

INVESTIGATION

SIU Investigation

On February 23, 2022, the OPS received a letter from the Director of the SIU concerning the outcome of their investigation. In his letter, Director Martino stated the file has been closed and no further action contemplated. He was satisfied that there were no grounds in the evidence to proceed with criminal charges the Subject Official who was involved in the call.

Specifically, the SIU director stated “I am unable to reasonably conclude that the (subject officer) failed to comport himself with due care and regard for public safety. If the officer drove somewhat in excess of what might be considered reasonable in a parking lot in ordinary circumstances (22.5 km/h), these were not ordinary circumstances - the (subject officer) was responding to a serious call for service in which speed was of the essence. The fact that the (subject officer) also did not have his emergency lights activated in the parking lot – limiting the notice pedestrians and motorists in the vicinity had of his presence – is also mitigated by the nature of the call for service; the responding officers would not have wanted to tip off a possible suspect in the Shoppers Drug Mart of their arrival. It should also be noted that the Complainant crossed the access road north of the crosswalk that was designated for that purpose.”

The Director further noted that “It remains unclear at the end of the investigation why neither the subject officer nor the Complainant appear to have taken any steps to avoid the collision. Be that as it may, the most that may be said about the officer’s apparent failure to detect the Complainant and alter his driving to prevent an impact is that it amounted to a momentary lapse of attention. This, as the case law makes clear, is not enough to transgress the limits of care prescribed by the criminal law. Accordingly, there is no basis for proceeding with criminal charges in this case, and the file is closed”.

Professional Standards Unit Investigation

Pursuant to Section 34(1) of Ontario Regulation 268/10 of the Police Services Act (PSA), PSU initiated an investigation into this incident to review the policies and services provided by the OPS, and to determine if the conduct of the involved police officers was appropriate.

After a careful review of the information in this case, it has been determined that there is no evidence of misconduct on the part of the involved officers. Officers were responding to a priority call where a person was in the act of committing a robbery at the Shoppers Drug Mart and was said to have a gun. For police officers, public safety is paramount, and when they receive a call where lives maybe at risk, the urgency of which they must act is heightened. The officer's vehicle was travelling at a low speed when it turned into the parking lot and collided with the complainant. The officer did not activate their emergency lights as they did not want to attract the attention of the person involved in the robbery. This, coupled with low visibility from the rain contributed to the collision. The officer promptly exited his police vehicle and rendered aid to the complainant and called for paramedics.

The PSU review found that the officers involved in this incident responded in a proper manner while dealing with the complainant.

No issues were identified in relation to service delivery or corporate policy.

Conduct Findings – No conduct issues identified.

Service Findings – No service issues identified

Policy Findings - No policy issues identified

CONCLUSION

PSU has completed its Section 34 investigation into this incident and no further action is required.