

**Report to / Rapport au:**

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

**23 January 2023 / 23 janvier 2023**

**Submitted by / Soumis par:**

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

**Contact Person / Personne ressource:**

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**SUBJECT: REPORT ON SIU INVESTIGATION 20-OCD-256**

**OBJET: RAPPORT SUR L'ENQUÊTE DE L'UES 20-OCD-256**

**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**

Shortly before 9:00 a.m. on the morning of October 7, 2020, a team of OPS tactical officers breached the 12<sup>th</sup> floor door of an apartment in the 2000 block of Jasmine Crescent. The officers were there to execute a warrant authorizing the search of the apartment for firearms, illicit drugs and drug paraphernalia. With the door open, a distraction device was deployed into the apartment, detonating with a loud bang and

flash of light, and producing a smoky haze. Officers streamed into the apartment and announced their presence by shouting the police challenge – “Police Don’t Move” – and directed the occupants of the unit not to move.

The Complainant was inside the apartment at the time. At the sound of the commotion generated by the police entry, he climbed through his bedroom window and jumped. Seconds prior to his descent, the Complainant threw a baggie from the same window which was later retrieved and found to contain fentanyl.

The search warrant had been obtained by officers with the OPS Drug Unit, who came to be in possession of information from confidential sources that the Complainant had resumed his drug trafficking activities after his release from custody in March 2020. The Complainant had been arrested in January 2020 for being in possession of illegal drugs and a loaded handgun. Among the conditions of his release were that he remain inside his residence and wear a GPS device attached to his ankle to monitor his movements. The Drug Unit officers also had reason to believe that the Complainant was again in possession of firearms.

The officers entered the apartment and quickly began to move from room to room, accounting for all occupants except the Complainant. Within seconds of the officers’ entry into the apartment, an officer who was stationed outside the building radioed that something had been discarded from the apartment window just seconds after he heard the distraction device detonating. About ten seconds later, the officer outside observed that someone – confirmed to be the Complainant – had jumped from the apartment. Officers attended to the Complainant, including paramedics who arrived with the tactical officers and were staged outside the building. They began to administer first aid, but the Complainant lost vital signs and could not be resuscitated. He was pronounced deceased at the scene.

The SIU was contacted at that time and invoked its mandate.

A post-mortem ultimately concluded that the Complainant died from “multiple injuries,” the overall pattern of which was “in keeping with a fatal descent from height, with descent landing on soft ground.”

Quantities of fentanyl and heroin were later seized in the search of the unit, as was a BB gun similar in appearance to an AR-15 semi-automatic rifle and approximately \$30,000 in currency.

## **SIU Investigation**

On August 30, 2021, the OPS received a letter from the Director of the SIU concerning the outcome of its investigation. In his letter, Director Joseph Martino stated that the file had been closed and no further action was contemplated.

In his report, the Director's assessment of the evidence was that there were no reasonable grounds to believe that any of the Subject Officers committed a criminal offence in connection with the Complainant's death. He was satisfied that the tactical officers had lawful grounds to enter and search the apartment, and that a judicial authorization was in effect at the time of the events in question. The Director further concluded that he had "no reason to discount the evidence of the officers ... that the Complainant left his apartment via a bedroom window within seconds of the officers' entry into the unit and before any of them had reached his room."

The Director further concluded there was "no want of care in which the police operation was devised and executed that played a role in the Complainant's death", noting that "the plan developed to enter the apartment and the manner of its execution did not transgress the limits of care prescribed by the criminal law."

The Director observed that due consideration was given to the manner of entry, particularly with respect to choosing the method of "Dynamic Entry" over the "Breach and Call-Out" method. For the former, officers' storm the unit using the element of surprise and an overwhelming show of force to disorient the occupants and neutralize any potential threats before they materialize. For the latter, the front door is forced open, and occupants are called out one by one by officers from a position of safety.

The Director concluded that "there were risks inherent in both approaches, particularly as the complainant was on firearms-related charges and police had cause to believe he was still armed," and he was unable to reasonably conclude that the choice to go with the Dynamic Entry technique was without merit.

The SIU did suggest that provisions should have been made for the possibility that the subject of the search warrant – in this case the Complainant - might attempt to flee and avoid arrest by descending the building. The Director goes further to suggest that perhaps the police might consider stationing an officer outside of the building "to establish a visible police presence and deter any rash action motivated by a desire to escape". However, the Director also noted that "though there was some evidence that the Complainant suffered from mental illness, which might have given rise to a heightened concern for rash conduct on the part of the Complainant, the police were unaware of any such conditions at the time of the operation nor were any such cautions present in the police records at the time."

## **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.

There were no conduct issues identified for this incident.

With respect to our service and policies, the OPS initiated a comprehensive review of its use of Dynamic Entries beginning in February 2020. The purpose of this review was to identify areas of improvement and implement any changes to our policies and procedures regarding the use of Dynamic Entries by the Service.

The review considered a range of inputs, including:

- A review of legal principles and leading jurisprudence;
- Consultations with Provincial and Federal Crown Attorneys;
- Training for OPS units involved in Dynamic Entry;
- Consultations/environmental scan of other police services and subject experts;
- Academic research;
- A review of OPS post-action debriefs involving Dynamic Entry;
- A review of OPS training, tools, policies and procedures related to Dynamic Entry; and
- A review of the Ontario Policing Standards Manual.

The goals of the review were to:

- Reduce the number of people who enter the criminal justice system;
- Reduce the number of Dynamic Entries used by the OPS;
- Reduce the safety risks to the public and the police in Dynamic Entries; and
- Improve public trust in the OPS.

The review resulted in several recommendations that have been adopted by the OPS starting in late 2020 and continue to be in effect, including:

- The identification and adoption of best practices relating to Critical Incident Command, including risk assessment and risk mitigation, particularly in

circumstances where innocent persons may be present inside a residence that is the subject of a warrant;

- Enhanced training for OPS units involved in Dynamic Entries, co-developed with the Provincial and Federal Crown Attorney's Office;
- Enhancements to medical support in all police operations including the execution of warrants; and
- Enhancements to our data collection and analysis practices.

The cumulative effect of these recommendations has resulted in the following service improvements:

- A reduction in the use of Dynamic Entries by OPS:
  - 2018 (82)
  - 2020 (59)
  - 2021 (7) (6 occurred prior to full implementation of the review recommendations on Feb 5, 2021)
  - 2022 (1)
- An expansion in the use of less risky or intrusive techniques
- Improved reporting and data collection around the use of Dynamic Entries
- Consistent application of best practices by OPS Critical Incident Commanders

**Conduct Findings** – No conduct issues identified

**Policy and Service Findings** – The recommendations of the OPS Dynamic Entry review have been adopted and are now standard practice for the OPS.

## **CONCLUSION**

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