

Report to / Rapport au:

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

27 February 2023 / 27 février 2023

Submitted by / Soumis par:

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

Contact Person / Personne ressource:

**Superintendent Robert Drummond, Executive Officer to the Chief of Police
*Drummondr@ottawapolice.ca***

SUBJECT: REPORT ON SIU INVESTIGATION 22-OVI-193

OBJET: RAPPORT SUR L'ENQUÊTE DE L'UES 22-OVI-193

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

This 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 August 2, 2022, at approximately 2 a.m., officers with the OPS were dispatched to a commercial location in the 2200 block of Bank Street in Ottawa after a security company reported two males on bikes attempting to steal material from a railway construction site. Upon arrival, the Subject Officer located one of the suspects (the Complainant for the SIU investigation) who pulled a mask over his face and fled on an e-bike. While trying to evade capture by the Subject Officer who continued to follow the Complainant

in his police vehicle, the Complainant fell several times from the bike but got back on each time and continued his flight from police. The Complainant then struck a curb causing him to propel off the bike and land on the ground where he sustained injuries. He was arrested without struggle at that location as more officers arrived on scene. The Complainant complained of pain and was transported by paramedics to the hospital where he was diagnosed and treated for four fractured ribs and a broken collarbone. The SIU were contacted that morning and invoked their mandate.

INVESTIGATION

SIU Investigation

On November 30, 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 had been closed and no further action was contemplated. He was satisfied that there were no grounds in the evidence to proceed with criminal charges against the Subject Officer.

Specifically, the Director concluded that “in the instant case, the issue is whether there was a want of care in the manner in which the Subject Officer operated his vehicle sufficiently egregious to attract criminal sanction and, if so, whether the impugned conduct caused or contributed to the collision involving the Complainant and his e-bike. In my view, there was not.”

The Director further concluded that “the Subject Officer was in the execution of his lawful duties as he arrived on scene, located the Complainant, and attempted to detain him for investigation. Given what he knew of the call that had been received by police, the Complainant’s presence in the location on a bicycle, and his subsequent donning of a mask and flight from the officer, I am satisfied there existed a constellation of circumstances giving rise to a reasonable suspicion that he was implicated in a theft.”

The Director was further satisfied that the Subject Officer “comported himself with due care and regard for the Complainant’s safety as he pursued him in his cruiser. The officer activated his emergency lights and made use of his siren, alerting third-parties in the area of his presence and leaving little doubt of his intention to stop the Complainant.”

On a version of events proffered in the evidence that the officer used his cruiser to knock the Complainant off his e-bike, the Director concluded that he was “unable to place any weight on the assertion for a number of reasons”, and in the result, “there are no reasonable grounds to conclude that the Subject Officer transgressed the limits of

care in his dealings with the Complainant, and there is no basis for proceeding with criminal charges in this case.”

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 of the OPS and to determine if the conduct of the Subject Officer was appropriate.

After a careful review of the information in this case, it has been determined there is no evidence of misconduct on the part of the Subject Officer. Police were responding to a theft in progress reported by a security monitoring company. The Subject Officer was in the lawful execution of his duties when he attended the call, located the Complainant and attempted to detain him for investigation given the information he was presented with and the observations he made at the scene. The Complainant intentionally fled from the Subject Officer who was clearly trying to stop and detain him. The Subject Officer conducted himself with due care and regard for the Complainant's safety, including the pursuit and arrest. Once in custody, officers arranged for prompt medical attention by paramedics.

The review noted that e-bikes are defined as a motor vehicle under the Criminal Code, and that pursuit of same requires an officer to strictly follow the Suspect Apprehension Pursuit policy. In this case, due to low lighting and the fact that the Complainant pedalled away from the officer at low speed, the e-bike was mistaken for a bicycle and not identified as an e-bike until after the Complainant's arrest. Notwithstanding, this review agreed with the SIU's conclusion that the Subject Officer comported himself with due care and regard for the Complainant's safety as he pursued him in his police vehicle.

The PSU review concluded that the officers involved in this incident responded in a proper manner.

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

Conduct Findings – No conduct issues identified.

Service Findings – No service issues identified

Policy Findings - No policy issues identified

CONCLUSION

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