

**Report to / Rapport au:**

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

**22 January 2024 / 22 janvier 2024**

**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 THE SPECIAL INVESTIGATIONS UNIT - INVESTIGATION  
23-OFP-303**

**OBJET: RAPPORT SUR L'UNITÉ DES ENQUÊTES SPÉCIALES – ENQUÊTE  
23-OFP-303**

**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 their 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 1, 2023, Ottawa police Tactical Unit were assisting the Gatineau Police track a wanted party- the Complainant- in the city of Ottawa. The Complainant was wanted by Gatineau Police for attempted murder, assault with a weapon, and possession of a weapon, all stemming from a shooting investigation in Gatineau. OPS tactical officers

located the Complainant in the area of Lisgar Street and attempted to arrest him. He fled on foot into a parking lot, discarding a loaded firearm which was seized by OPS. One of the tactical officers discharged his 40mm less-lethal launcher, striking the Complainant in the thigh and gaining compliance. The 40mm less-lethal launcher is an anti-riot weapon with the capability of launching rubber projectiles. This weapon is used at an extended range (up to 100 feet) and the projectile will cause temporary pain to gain compliance and control. Once struck by the projectile, the Complainant was placed under arrest and taken to Monfort Hospital to determine the extent of his injuries. In 2021, the SIU Act was amended to include the discharge of a less-lethal weapon. As such, on August 1, 2023, OPS contacted the SIU and notified them. The SIU invoked its mandate and opened an investigation.

## **INVESTIGATIONS**

### **SIU Investigation**

On November 29, 2023, 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 against the Subject Official (SO) who was involved in this incident.

In his report, the Director stated: "The Complainant was subject to arrest when he was struck by the less-lethal round. Based on the information the SO had received from the Gatineau police, and his observations of a firearm dropping from the Complainant's person as he fled across Lisgar Street, the officer had reasonable grounds to believe the Complainant had committed various offences, including 'attempt murder'".

The Director added: "I am also satisfied that the force used by the SO in aid of the arrest, namely, a single less-lethal round fired by his launcher, was legally justified. Had the Complainant managed to climb over the parking lot perimeter fence, there was every prospect that he would make good his escape. That contingency would have placed public safety at significant risk in light of his reported firearm use in very serious and recent violent crimes. It was imperative, therefore, that the officers put an end to his flight".

The Director concluded: "On this record, it would seem the use of the less-lethal firearm was in order. If it worked as intended, the officers would be able to temporarily immobilize the Complainant from a distance, making possible his safe apprehension without the infliction of serious injury. That is precisely what occurred. For the foregoing reason, there is no basis for proceeding with criminal charges against the SO".

The Director further advised the OPS to inquire into “securing the scene pending SIU arrival” as one of the tactical officers (the SO) removed the spent projectile that was launched at the Complainant. The SO was not aware of the scene being the jurisdiction of the SIU and picked up the projectile for evidence preservation and turned it over to his supervisor. This has been addressed through the PSU investigation.

### **Professional Standards Unit (PSU) 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.

The Gatineau police asked for assistance in locating and arresting the Complainant who was wanted for serious criminal offences including Attempt Murder. The Gatineau police believed the Complainant may still be armed and dangerous. Given the seriousness of the matter, Ottawa police tactical officers were engaged should the Complainant be found. On August 1, 2023, the Complainant was found on foot on Lisgar Street in Ottawa and was approached by members of the tactical team. OPS officers gave clear commands and advised the Complainant he was under arrest. At the sight of the officers, the Complainant fled on foot, dropping a firearm in the process. Officers pursued the complainant on foot and as he was attempting to scale a fence, one officer (Subject Official) fired one 40 mm less-lethal launcher round. The round struck the complainant in the leg which brought him to the ground without further incident. The Complainant was arrested and transported to the hospital where it was deemed he did not suffer any serious injuries.

The SO retrieved the discharged rubber round that he fired at the complainant and gave it to his supervisor to be preserved as evidence. The SIU Act was amended in 2019 to include all less-lethal weapon discharges. The amendments were not implemented until January 1, 2021. During the PSU investigation, it was discovered that the SO was not aware his actions (discharging the less-lethal weapon) triggered the SIU mandate. The projectile is a piece of evidence and should have been left in place until the SIU is notified and a decision is made to collect it. This prompted the SIU Director to highlight it in his letter to OPS Chief Stubbs. The Professional Standards Unit performed the necessary corrections. The SO and his supervisor were spoken with regarding the evidence policy. Furthermore, the entire Tactical Unit was advised that a less-lethal weapon is treated as a firearm as per the Criminal Code and a discharge will invoke the SIU mandate.

While the SO breached the evidence policy, this error did not amount to misconduct under the PSA. Corrective measures were dealt with through enhanced communications and training.

The Professional Standards review concluded that the Subject Official involved in this incident responded in a proper manner.

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 Subject Official.

No serious issues were identified in relation to service delivery or corporate policy, and any deficiencies noted above have been addressed.

**Conduct Findings** – No conduct issues identified.

**Service Findings** – No service issues identified.

**Policy Findings** - No policy issues identified.

## **CONCLUSION**

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