

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

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**SUBJECT: REPORT ON THE SPECIAL INVESTIGATIONS UNIT - INVESTIGATION
23-OFP-075**

**OBJET: RAPPORT SUR L'UNITÉ DES ENQUÊTES SPÉCIALES – ENQUÊTE
23-OFP-075**

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 March 8, 2023, OPS officers were dispatched to a residence on Walkley Road following a report of a disturbance in a unit of the building. A Civilian Witness (CW) had called police to report her roommate – the Complainant – was breaking things with an axe in their basement apartment. The CW was removed from the residence by officers

for her safety. The officers spoke to the Complainant from a side door in an attempt to calm him down. The Complainant advised the officers he had knives and access to other weapons. The Complainant appeared from the basement with a sword in his hand. The Complainant was making his way towards the officers and refused to drop the sword when ordered. The Subject Official (SO) fired three shots from his rifle (Carbine) missing the Complainant. Witness Officers # 1 and 4 discharged their Conducted Energy Weapons (CEW), striking the Complainant and subsequently affecting his arrest without further incident.

The SIU was notified shortly after the incident and they invoked their mandate.

INVESTIGATIONS

SIU Investigation

On July 6, 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 SO and the other OPS officers were lawfully placed and in the exercise of their duties when they took up positions outside the residence on Walkley Road, Ottawa. They had information to believe that a male – the Complainant – was in possession of weapons and using them to cause property damage and threaten his roommate. The officers were obliged, in the circumstances, to do what they could to ensure public safety".

The Director added: "The Complainant had made it clear that he wanted the officers to leave. He was angry, intoxicated and in a violent mood. When he climbed the stairs to the side door with the sword in hand, the Complainant gave every appearance of being willing and able to use it against the officers gathered outside, some of whom were right by the door. That was the impression of WO #1 and WO #4, who discharged their CEWs and were similarly situated to the SO. I am confident that the SO would have shared that apprehension".

The Director concluded: "I am also satisfied that the force used by the SO, namely, the discharge of rifle, constituted reasonable force. The weapon wielded by the Complainant, which he described as a Samurai sword about a meter in length, was capable of inflicting grievous bodily harm or death. When he appeared at the threshold of the door with the weapon in hand and refused to immediately drop it as ordered by the officers, the Complainant constituted a clear and present danger to the lives of the

officers around him, including one or more of them standing right by the doorway. On this record, I am satisfied that the SO was entitled to meet a threat of potentially lethal force with a resort to lethal force of his own”.

The Director had no reasonable grounds to believe that the SO comported himself other than within the limits of the criminal law and closed the matter with no further action.

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 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 Service-related issues were identified.

After the PSU investigation, some policy issues were identified, namely the Use of Force Report policy and the Firearm Discharge policy. The Firearm Discharge policy was found to be outdated and does not reflect the SIU's mandate to invoke when a firearm is discharged **AT** a person, regardless of injury or death. The current policy only speaks of the requirement to notify the SIU in the case of serious injury or death resulting from a firearm discharge by an OPS member. This has been forwarded to the OPS policy section and amendments will be made to the existing policy.

Some of the attending officers did not submit their Use of Force Reports post incident. This is contrary to OPS Use of Force Report policy. This occurred because some officers were on leave after the incident. The Use of Force Reports were completed upon their return to duty. This did not rise to the level of misconduct as the officers were dealing with health and wellness matters at the time and the reports did not have any impact on the incident or the outcome of the investigation. The issue has since been addressed with the officers and their Chain of Command.

Lastly, a note was made by the PSU investigator regarding the training of the SO and the operations of their Carbine (Rifle). This matter was forwarded to the Professional Development Centre for their evaluation. During the incident, the SO's qualifications were up to date, however, due to time away from duty, the SO's Carbine qualifications have

expired. The SO will be re-evaluated in the spring of 2024 should they wish to remain a Carbine operator.

Conduct Findings – No conduct issues identified.

Service Findings – No service issues identified.

Policy Findings – Use of Force Report issue identified and addressed.

– SIU Police on Firearm Discharge (No. 4.03) issue identified and addressed through the Policy Section at OPS.

CONCLUSION

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