

Report to / Rapport au:

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

26 February 2024 / 26 février 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-OCD-309**

**OBJET: RAPPORT SUR L'UNITÉ DES ENQUÊTES SPÉCIALES – ENQUÊTE
23-OCD-309**

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) about this incident.

DISCUSSION

On August 3, 2023, Ottawa police officers were dispatched to a residence in Ottawa following a report of a domestic disturbance. Two officers arrived at the address and formulated grounds to arrest the Complainant for assault. The Complainant was intoxicated at the time and a search incident to his arrest was conducted. The officers

found a baggie in the Complainant's pant pocket containing a white rock-like substance, believed to be crack cocaine. The Complainant was conveyed to the cell block and given his rights to counsel. Once at the cells, the Complainant was loud, belligerent, and was not cooperative with the cell block Sergeant. The complainant was searched by the Special Constables before he was lodged in a cell at 4:42 pm. During their regular cell checks, one of the Special Constables noticed the Complainant laying on the floor of the cell and his breathing appeared abnormal. The Special Constable alerted the Sergeant, and they began first aid and CPR on the Complainant due to unresponsiveness. Paramedics were called and the Complainant was transported to the hospital. The Complainant lapsed into a medical crisis while in police custody and later passed at the hospital.

On August 3, 2023, OPS contacted the SIU and notified them. The SIU invoked its mandate and opened an investigation.

INVESTIGATION

SIU Investigation

On December 1, 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 two subject officials who were involved in the incident.

Specifically, the Director noted, "There are no questions raised in the evidence around the lawfulness of the Complainant's arrest. It appears that there were grounds to take the Complainant into custody for assault and possession of illicit substances. Nor are there any real questions with respect to the care afforded the Complainant while in custody. He was personally checked at about 4:50 p.m. and then again at about 5:20 p.m. by SEW #1 (Service Employee Witness). On neither occasion was there reason to believe that the Complainant was in medical distress. On the third regularly-scheduled check, at 5:50 p.m., SEW #2 correctly surmised that something was wrong. He promptly advised the officer-in-charge and officers moved with dispatch to render emergency first-aid to the Complainant while they waited for an ambulance."

The Director added: "It is true that the Complainant's custodians did not see him apparently ingesting a substance he had retrieved from the area of his buttocks, but that is not entirely surprising. The Complainant's conduct occurred over a relatively short period of time and might well have been missed short of continuous surveillance of his cell. The situation, however, did not necessarily call-out for that level of scrutiny. This

takes us to the nub of the liability analysis, namely, whether the subject officials ought to have taken more seriously the possibility that the Complainant continued to be in possession of drugs and ordered a strip search of his person.”

The Director concluded, “In *R. v. Golden*, [2001] 3 SCR 679, the Supreme Court of Canada laid out the circumstances in which a strip search would be legally permissible. Owing to their inherently degrading and invasive nature, strip searches are only condoned where officers have reasonable and probable grounds for believing they are necessary in the particular circumstances of an arrest. It is arguable whether those grounds existed in the case of the Complainant. The fact that drugs had been found in the Complainant’s clothing and apartment might have raised a suspicion that he could be concealing illicit substances in his person, but there was no hard information that really pointed in that direction. Moreover, by the time the Complainant was placed in cells, he had already been subjected to two non-strip searches of his person. On this record, I am unable to reasonably conclude that SO #1 failed to exercise his discretion to order a strip search in a way that departed markedly from a reasonable standard of care”.

The SIU closed their investigation and advised OPS that no further action will be contemplated.

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.

OPS officers were dispatched to a local address to assist a female who was in distress. Upon arrival, the officers found the female with bruising and signs of physical assault. The officers were in the residence lawfully and formulated reasonable and probable grounds to arrest the Complainant for the assault and breach of his court conditions. The arresting officers observed the Complainant to be intoxicated by alcohol and located drugs in plain view within the residence. The officers located an additional baggie of drugs in the Complainant’s pant pocket. The Complainant was arrested and conveyed to Central Cells where he was searched and placed in a cell.

During their regular “cell checks”, the Special Constables observed the Complainant to be lying on the floor with abnormal breathing. The Special Constables alerted the Sergeant and began to administer first aid and CPR as per their training. Paramedics were called and the Complainant was transported to the hospital where he later passed.

After the SIU conducted its investigation and closed it with no further actions, the Professional Standards Unit (PSU) conducted a review under Section 34(1). 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 Officials.

The Professional Standards review concluded that the Subject Officials involved in this incident responded properly. Furthermore, no issues were identified about the Service delivery or Corporate Policies were found during the review.

Conduct Findings – No conduct issues were identified.

Service Findings – No service issues were identified.

Policy Findings - No policy issues were identified.

CONCLUSION

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