

Report to / Rapport au:

**OTTAWA POLICE SERVICE BOARD
LA COMMISSION DE SERVICE DE POLICE D'OTTAWA**

23 September 2024 / 23 septembre 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 23-OPF-517

**OBJET: RAPPORT SUR L'UNITÉ DES ENQUÊTES SPÉCIALES – ENQUÊTE
23-OPF-517**

REPORT RECOMMENDATIONS

That the Ottawa Police Service Board receive this report for information.

RECOMMANDATIONS DU RAPPORT

Que la Commission de service de police 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

At 11:20 p.m., December 16, 2023, two OPS frontline officers attempted to conduct a traffic stop on a vehicle reported stolen. The vehicle was a white Hyundai Elantra driven by the Complainant with a civilian passenger. The said vehicle stopped in the parking lot of 251 Donald Street in Ottawa. The two officers (Subject Official, SO, and Witness Official #1, WO1) approached, firearms drawn, and commanded the occupants to turn

the vehicle off and exit. Neither the Complainant nor the passenger cooperated with police commands. The Complainant reversed while the passenger door was ajar and struck the WO1 in the hip area, pinning him between the Elantra and the police cruiser before knocking him to the ground. The SO discharged a single round into the driver's side of the vehicle. The passenger fell out of the vehicle while it was stopped momentarily. The white Elantra continued to reverse and struck a parked OPS vehicle to the South of the location with its emergency lights activated (the second cruiser was being operated by WO2). The SO continued to yell for the Complainant to stop the vehicle, but the Complainant drove forward toward the SO and WO1. The SO discharged his pistol three times as the Elantra traveled past him. WO was still on the ground behind the police vehicle as the Complainant's vehicle approached. The Complainant fled the scene unharmed and discarded the vehicle a short distance from the scene. Days later, the Complainant was arrested outside the jurisdiction of Ottawa. OPS contacted the SIU and notified them. The SIU invoked its mandate and opened an investigation.

INVESTIGATIONS

SIU Investigation:

On April 15, 2024, 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 who was involved in this incident.

In his report, the SIU Director stated: "The SO and WO #1 were lawfully placed and in the execution of their duties throughout the series of events leading to the shooting. Having checked the licence plate of a vehicle that had come to their attention on patrol and learning that it had been reported stolen, they were within their rights in stopping the vehicle to investigate the theft".

The Director concluded with, "I am also satisfied that the SO's resort to gunfire was reasonable. Doing something to incapacitate the Complainant made sense in the circumstances, even if it meant that might result in an out-of-control moving vehicle. That contingency was a real one, but no less real than that the officers were moments away from being struck and possibly killed by the vehicle, and mitigated to an extent by the fact that the Hyundai was being operated in the confined space of a driveway with chain-link fences on either side and no pedestrian traffic in the area, with the exception of the CW. Only gunfire had the potential to immediately incapacitate the Complainant".

For the foregoing reasons, the Director did not see any basis to proceed with criminal charges in this case and the file was closed.

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 on patrol operating a marked police cruiser when they encountered a white Hyundai Elantra moving without its lights on at 11:20 pm. SO1 conducted a query of the licence plate, and the vehicle returned as stolen. The officers followed the vehicle from a distance and observed it going into the parking lot of 251 Donald Street and pulled into a parking location facing a fence. The officers determined this would be a safe time to approach the vehicle so as not to cause a vehicle pursuit on the street.

The RO turned the emergency lights on and positioned the police vehicle next to the Elantra. WO1 approached from the passenger side while the RO positioned himself on the driver's side with his firearm drawn. Police commands were given to turn the vehicle off and get out, but no one within the vehicle cooperated. The officers were able to see a male driver (the Complainant) and a female passenger (Civilian Witness #1, CW1).

The passenger door was ajar and WO1 was approaching and giving demands when the Complainant began to reverse. The Elantra's passenger door struck WO1 and pinned him momentarily between the police vehicle and the Elantra before he fell to the ground. The SO discharged his firearm once but did not strike anyone. The Complainant stopped momentarily and repositioned the Elantra then continued reversing along the driveway. In doing so, the Complainant reversed into a second police vehicle that had just arrived to assist. That vehicle was being operated by Witness Officer 2, WO2). At this point, the passenger of the Elantra rolled out of the vehicle and the Complainant drove forward towards SO and WO1 without regards for his safety or anyone else's.

The SO, fearing for his safety and the safety of WO1 who was still on the ground, discharged his firearm three times, but did not hit the Complainant. The Elantra drove away and was later found unoccupied a short distance away. The Complainant evaded police and was not captured that night, but days later, he was arrested, and criminal charges were laid.

PSU's investigation confirmed what the SIU concluded, in that, the officers were in the lawful execution of their duty. Furthermore, the RO's use of force was appropriate given the serious bodily harm or death he and his partner were facing.

After further review of the incident, no serious issues were identified concerning service delivery or corporate policy as well as the conduct of the attending officers.

Conduct Findings – No conduct issues were identified.

Service Findings – No service issues were identified.

Policy Findings – No policy issues were identified.

CONCLUSION

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