

**Report to / Rapport au:**

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

**24 January 2022 / 24 janvier 2022**

**Submitted by / Soumis par:**

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

**Contact Person / Personne ressource:**

**Inspector Hugh O'Toole, Professional Standards Branch  
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**SUBJECT: REPORT ON SIU INVESTIGATION – 22 MAY 2021**

**OBJET: RAPPORT SUR L'ENQUÊTE DE L'UES – 22 MAI 2021**

**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 report summarizes an investigation by the Professional Standards Unit (PSU) into an incident that occurred on May 22, 2021, for which the Special Investigations Unit (SIU) invoked its mandate. This investigation is required by legislation once the SIU have completed their involvement, and assesses the incident against our policies, services, and the conduct of our officers.

A brief synopsis of the incident and the findings of the SIU are provided below, as well as the conclusions of the PSU review.

**DISCUSSION**

On May 22, 2021 at around 10 p.m., uniformed officers with the OPS conducted a traffic stop at the intersection of Coventry Road and St. Laurent Boulevard in the city of

Ottawa. The tint of the vehicle's windows prevented the officers from seeing inside the vehicle. This level of window tint is a violation of the Highway Traffic Act.

The officers were investigating when they observed the occupants were in possession of a baggie with a green substance they suspected was cannabis. They asked the driver to turn off the engine and directed both occupants to exit the vehicle to detain them for further investigation under the Cannabis Control Act. The male driver turned the engine off momentarily, but then restarted the vehicle and accelerated away from the officers.

The officers initiated a pursuit as there was grounds to believe a criminal act had occurred in relation to the unlawful possession and the officers suspected the driver may be impaired by drugs. They were joined by other officers, and a Sergeant monitored the pursuit. Approximately one minute and 45 seconds later the Sergeant terminated the pursuit. The officers complied with this direction.

Approximately one minute and 15 seconds after the pursuit was discontinued, the vehicle ran a red light at the intersection of Ogilvie and Cyrville Roads and struck another vehicle resulting in serious injuries to an occupant of the other vehicle. The driver and passenger of the pursued vehicle attempted to flee, and the driver was subsequently arrested a short distance from the collision scene.

The injured occupant of the struck vehicle was taken to hospital and treated for serious but non-life-threatening injuries. Upon being notified of the incident, the SIU invoked their mandate.

## **INVESTIGATION**

### **SIU Investigation**

On September 17, 2021 the OPS received a letter from the Director of the SIU concerning the outcome of its investigation. In his letter, Director Joseph Martino stated the file has been closed and that no further action was contemplated. He was satisfied that there were no grounds from the evidence to proceed with criminal charges against any of the officers.

The SIU Director's analysis focused on whether there was evidence of criminally dangerous driving on the part of the involved officers. The Director found the reasons for initiating the pursuit were lawful and in compliance with statutory requirements. The Director concluded:

“...there is little in the evidence to suggest that the officers pursued with insufficient regard for public safety. The officers had their emergency lights and

sirens on throughout the engagement ... broadcast why they were pursuing, and their direction of travel and speeds (giving the supervising sergeant information to make reasonable decisions about the pursuit), and quickly discontinued their pursuit as soon as they were ordered to do so. While there is GPS data indicating that both subject officials travelled upwards of 100km/h at points, at times on narrow residential streets, those spurts of speed were relatively short-lived and do not appear to have actually imperiled any pedestrian and vehicular traffic in the vicinity, which appears to have been light throughout the incident. Nor does it appear that either subject official was very close to the Mercedes-Benz, unduly pushing it or foreclosing any reasonable opportunity for (the driver) to desist from his reckless driving. Indeed, the pursuit had ended well before (they) entered the Ogilvie and Cyrville Roads intersection on a red light and causing a collision.

For the foregoing reasons, I am unable to reasonably conclude that either subject official transgressed the limits of care prescribed by the criminal law in the course of their pursuit. Accordingly, there is no basis for proceeding with criminal charges in this case, and the file is closed.”

The OPS received a copy of the SIU investigative report and reviewed it carefully as part of their assessment.

### **Professional Standards Investigation**

Pursuant to Section 34(1) of Ontario Regulation 268/10 of the Police Services Act (PSA), the PSU initiated an investigation into this incident to review the policies and service provided by the OPS, and to determine if the conduct of the involved police officers was appropriate.

The response of the OPS was consistent with legislation and policy, and no conduct issues were identified for any of the involved officers. OPS policy is consistent with the provisions of the PSA Regulations and the “3-Part-Test” that must be satisfied prior to initiating a pursuit:

- a) There is reason to believe a criminal offence has been committed or is about to be committed or to identify the vehicle or an individual in the vehicle;
- b) That there are no alternatives available; and
- c) Whether in order to protect public safety the immediate need to apprehend an individual in the fleeing vehicle/ identify that vehicle or an individual in the vehicle outweighs the risk to public safety that may result from the pursuit.

A closer analysis of the GPS data is inconclusive with respect to one of the Director's concerns that a police vehicle failed to come to a complete stop at a stop sign. Because GPS only records speed at ten second intervals, it is not possible in these circumstances to determine actual speed at the time the police vehicle entered the intersection. All we can conclude is that the officer approached and then left the intersection at just under 20 km/h, which is objectively reasonable in the circumstances and does not disprove that the officer came to a complete stop.

After careful review of all the information and evidence for this incident by PSU investigators, no policy, service or conduct issues have been identified.

**Conduct Findings** – No misconduct identified

**Service Findings** – No service issues identified

**Policy Findings** - No policy issues identified

## **CONCLUSION**

The PSU completed the Section 34 (formerly Section 11) investigation into this incident and concluded that no further action is required.