**HAMILTON POLICE SERVICE**

**CONFIDENTIAL
INFORMATION REPORT**

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| **TO:** | Chair and MembersHamilton Police Service Board |
| **BOARD MEETING DATE:** | August 1,2024 |
| **SUBJECT:** | Special Investigation Unit’s Probe into the allegations of J.R. & X.R. SIU FILE: 24-OCI-111 |
| **REPORT NUMBER:** | 24-072 |
| **SUBMITTED BY:** **SIGNATURE:** | Frank Bergen, Chief of Police |

**EXECUTIVE SUMMARY**

On October 12, 2023, the Hamilton Police Service (HPS) received a call about a suspicious vehicle in the area of Gage Avenue South and Maple Avenue, Hamilton. The subject official (SO) and Witness Official #1 (WO#1) were operating an unmarked vehicle, driving in the area. WO#1 requested a query of an Ontario marker on a Dodge Journey. The SO stopped the vehicle and interacted with a female (J.R.) in the front passenger seat and a young male in the rear passenger side seat (X.R.)

On March 6, 2024, at 2:26 pm the Hamilton Police Service Board (HPSB) emailed the SIU setting out an allegation of a sexual assault against the SO. On March 8, 2024, HPS was contacted by the SIU and was advised of the allegation.

**INFORMATION**

Background

Provincial legislation requires that the Chief or designate shall cause an investigation to be conducted forthwith into any incident with respect to which the Special Investigations Unit (SIU) has been notified. The purpose of the investigation is to review the policies of, or services provided by the Police Service and the conduct of the police officers involved *(section 11(2) Regulation 267/10).* The Chief is mandated to report his findings and any action taken, or recommended to be taken, to the Board within 30 days after the SIU Director advises the Chief of Police that the results of the SIU investigation have been reported to the Attorney General. The Board may make the Chief’s report available to the public *(section 11(4) Regulation 267/10).*

On October 12, 2023, at 12:03 pm, the SO queried the license plate of a Dodge Journey while they were in the area of Maplewood Avenue approaching Gage Avenue. Initially the vehicle was reported to be clear and the SO and WO#1 cleared the vehicle at 12:05 pm. It was then quickly learned that the vehicle was associated to armed robberies in the Peel Region. WO#1 indicated that they would try locate the vehicle. The SO and WO#1 located and stopped the vehicle at 12:06 pm for investigation.

It was alleged that the SO, removed cell phones from X.R. and J.R. and touched their private parts over their clothing. The SO acknowledged that he picked up the cell phone from the lap of J.R. that his hand may have briefly touched her legs, near her knees. The cell phone belonging to X.R. was in his hand when the SO took possession of it and the SO never touched any part of X.R.’s body.

On March 6, 2024, at 2:26 p.m., the HPSB notified the SIU of an allegation of a sexual assault against the SO. On March 8, 2024, the SIU notified the HPS of the sexual assault allegation. The SIU invoked their mandate and commenced an investigation.

**Conclusion**

The report prepared by the SIU Director Joseph Martino in relation to this incident is a public document and made available on the SIU’s Ontario Government website. In his report, Director Martino stated the following:

 *“Having learned from a check of the vehicle’s licence plate that it was associated with armed robberies in Peel Region, I am satisfied that the SO and WO #1 were within their rights in pulling it over for investigation.*

*It is alleged that the SO, in removing the cellphones from Complainant #2 and Complainant #1, made contact with their private regions over their clothing. The SO acknowledges his hand might have briefly touched Complainant #2’s legs near her knees as he picked up her cellphone from her lap. With respect to Complainant #1, the SO says the phone was in his hand and raised from his lap when he took possession of it, and that he therefore did not touch any part of his body. It is common ground in the evidence that any such contact with the complainants’ private parts over their clothing was brief and occurred in the process of the SO removing their phones. On this record, I am unable to reasonably conclude that any contact that might have occurred was anything other than incidental and non-sexual in nature.*

*For the foregoing reasons, there are no grounds for proceeding with criminal charges in this case. The file is closed.”*

A comprehensive review of the events and information gathered in relation to the complaint has determined that there were no breaches of Hamilton Police Service Policies and Procedures.

FB/W. Mason

c: Paul Hamilton, Deputy Chief – Support

 Will Mason, Superintendent – Professional Development Division

Marco Visentini, Legal Counsel