**HAMILTON POLICE SERVICE**

**CONFIDENTIAL
INFORMATION REPORT**

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| **TO:** | Chair and MembersHamilton Police Services Board |
| **BOARD MEETING DATE:** | September 26, 2024 |
| **SUBJECT:** | Special Investigation Unit’s Probe into the Injury of M.C.SIU File 24-OVI-174 |
| **REPORT NUMBER:** | 24-076 |
| **SUBMITTED BY:** **SIGNATURE:** | Frank Bergen, Chief of Police |

**EXECUTIVE SUMMARY**

On April 21, 2024, at 10:46 am the Subject Official (SO) a Hamilton Police Service (HPS) officer operated a marked Ford Explorer equipped with automated license plate recognition (ALPR). The SO observed a Hyundai Santa Fe in the area of Beach Road and Gage Avenue North being operated in a suspicious manner. The SO tried to stop the vehicle but it sped away and the SO did not pursue the vehicle. The SO reviewed the ALPR data, ascertained a license plate marker for the vehicle and learned that the registered owner of the vehicle was a suspended driver.

The SO attended the residence of the registered owner of the vehicle in the area of Edgemont Street along with Witness Official #1 (WO #1) who also operated a marked police cruiser. The Hyundai Santa Fe arrived occupied by two men. WO #1 pulled in behind the Hyundai Santa Fe just as M.C. (Complainant) exited the vehicle. When M.C. observed WO #1 he re-entered the Hyundai Santa Fe and reversed his vehicle driving into the cruiser operated by WO #1. M. C. drove his vehicle forward as the SO pulled in front of the Hyundai Santa Fe to block it. The passenger of the Hyundai Santa Fe (CW #1) fled the area was arrested a short time later by WO #2.

CW #1 was taken to the Hamilton General Hospital (HGH) and the gash above his left eye was sutured. M.C. was transported to the Hamilton Health Sciences (HHS) Juravinski hospital and was diagnosed with a small fracture of the wing tip of the 7th vertebrae.

**INFORMATION**

Background

Provincial legislation requires that the Chief or designate shall conduct an investigation promptly into any incident in which the Special Investigations Unit (SIU) has investigated a member of a police service. The purpose of the Chief’s investigation is to investigate the member’s conduct in relation to the incident, the policing provided by the member in relation to the incident, and the procedures established by the Chief of Police as they related to the incident. (Section 81(4)). The Chief is mandated to make the report to the Board within 90 days after the SIU Director publishes a report in respect of the incident (if no charges are laid), or within 90 days after the disposition of the charges (if charges are laid) (Section 8(3) of Ontario Regulation 90/24). The Board shall publish the report on the internet within 30 days of receiving the report *(section 8(5) O. Regulation 90/24).*

On April, 21, 2024, at approximately 10:46 am, the SO operated a marked police cruiser and observed a Hyundai Santa Fe being operated in an erratic manner on Barton Street East. The SO followed the Hyundai Santa Fe for a period of time and the driver disregarded stop signs and began to accelerate away from him. The SO disengaged with following the Hyundai Santa Fe and broadcast the vehicle’s direction of travel. The SO reviewed data from the ALPR system and found that the Hyundai Santa Fe was registered to a person on Edgemont Street.

The SO and WO #1 travelled to an address on Edgemont Street. WO #1 positioned his cruiser nearby and the SO stopped on Edgemont Street south of the registered owners address. The officers planned to wait for the Hyundai Santa Fe to return to the address and they would investigate the traffic infractions observed by the SO.

M.C. operated the Hyundai Santa Fe and he had CW #1 with him in the front passenger seat. M.C. brought the Hyundai Santa Fe to a stop facing south against the west curb at the address. M.C. opened the driver’s door of the Hyundai Santa Fe and immediately closed it as M.C. noted a police cruiser behind him. WO #1 observed that the Hyundai Santa Fe travel past him and he followed the vehicle to the location. M.C. immediately reversed the Hyundai Santa Fe driving backwards into the marked police cruiser. M.C. then accelerated forward around another vehicle parked just in front of him.

The SO observed what had transpired and drove his marked police cruiser northbound on Edgemont Street intending to block the path of the Hyundai Santa Fe. As the SO neared the Hyundai Santa Fe he slowed and angled his cruiser into the southbound lane of the roadway. M.C. did not slow the Hyundai Santa Fe and in fact attempted to drive around the cruiser’s passenger side. The maneuver failed and Hyundai Santa Fe’s front driver’s side struck the cruiser’s front driver’s side and both vehicles came to a stop.

WO #1 made his way to the collision and arrested M.C. without incident. The passenger in the Hyundai Santa Fe fled the area but was later located and arrested.

M.C. was transported to the hospital and was diagnosed with a fractured neck.

The SIU was notified, 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:

*“The SO was within his rights in seeking to stop the Santa Fe to take its driver into custody. He had observed the Santa Fe travel rearward into WO #1’s cruiser and had cause to believe that the Complainant was subject to arrest for dangerous driving.*

*I am also satisfied that the SO comported himself with due care and regard for public safety as he used his cruiser to block the Santa Fe’s path of travel. The use of a police cruiser to block a moving vehicle is always associated with a risk of collision. That risk, however, was a calculated one in this case – there were no pedestrians on the sidewalk at the time, nor third-party motorists on the road, and the Santa Fe had only just started to accelerate away from WO #1’s cruiser and was not travelling at dangerously high speed when the SO maneuvered in front of it. Finally, I note that there was some urgency in ensuring the Santa Fe did not escape. It had already been observed being operated in an erratic manner, and the odds were good that it would repeat this pattern if the Complainant managed to get away.*

*For the foregoing reasons, there is no basis 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