**HAMILTON POLICE SERVICE**

**CONFIDENTIAL
INFORMATION REPORT**

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| **TO:** | Chair and MembersHamilton Police Service Board |
| **BOARD MEETING DATE:** | June 27,2024 |
| **SUBJECT:** | Special Investigation Unit’s Probe into the Injury of H.M.SIU FILE: 24-OCI-057 |
| **REPORT NUMBER:** | 24-060 |
| **SUBMITTED BY:** **SIGNATURE:** | Frank Bergen, Chief of PoliceActing Chief Bergen's Signature |

**EXECUTIVE SUMMARY**

On February 7, 2024, members of the Hamilton Police Service (HPS) High Enforcement Action Team (HEAT) were in plainclothes in an unmarked police vehicle parked in a lot on the northeast side of York Boulevard and Park Street North monitoring drug activity in the front area of Philpott Church. The officers observed a male, H.M. (Complainant) sell drugs to another male. The officers decided to arrest H.M. for drug trafficking. H.M. walked away from the area and was confronted by the SO at another intersection. The SO announced that he was the police and he grabbed H.M and grounded him with the assistance of WO #1. The SO kneed H.M. on the left side and WO # punched H.M. in the head and torso area. H.M. was handcuffed and taken to the police station.

H.M. complained of pain to his right hand while at the police station and was subsequently transported to the hospital and was diagnosed with a fractured little finger.

**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 February 7, 2024, at 1:00 p.m., HPS members of HEAT were in plainclothes, in an unmarked police vehicle in the area of Philpott Church located at 84 York Boulevard, Hamilton, ON. The SO and WO#1, were assigned to HEAT and they arrested H.M. for *Controlled Drugs and Substances Act* (CDSA) offences which they observed. The arrest occurred in the parking lot of the Philpott Church located at 84 York Boulevard, Hamilton. A struggle ensued and H.M. was taken to the ground and handcuffed by the SO and WO #1. H.M. was transported to the HPS Central Station and lodged without issue, pending a bail hearing. At around 9:00 p.m., H.M complained of pain to his left hand and was taken to St. Joseph’s Healthcare (SJH). X-rays confirmed a fractured finger/knuckle on the left hand. His hand was placed in a cast, and he was discharged back into police custody.

On February 8, 2024, at 9:00 a.m., the HPS notified the SIU of an injury to the Complainant. 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:

*“Similarly, with respect to the force brought to bear by the officers, I am unable to reasonably conclude that it was unjustified. There is evidence that the Complainant was very quickly grounded by the officers but that his initial reaction, namely, to back away, might have been interpreted as resistance to his arrest. The officers each say that the Complainant physically resisted the officers on his feet before he was taken to the ground. On this record, the takedown would appear to have been a legitimate tactic. Once on the ground, the officers could expect to better manage any continuing resistance on the part of the Complainant. The strikes delivered by the officers would also seem to constitute reasonable force. As the officers explained to the SIU, they were each of the impression that the Complainant was attempting to access a satchel he was wearing across his torso. Concerned about the presence of a possible weapon, according to the officers, they delivered blows to prevent that contingency from materializing. In the circumstances, I am satisfied the officers strikes were not indiscriminate in nature or number.*

*For the foregoing reasons, while I accept that the Complainant’s injury was incurred in his interaction with the police, likely, when he fell during the takedown, there is no basis for proceeding with criminal charges in this case.”*

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