**HAMILTON POLICE SERVICE
CONFIDENTIAL
INFORMATION REPORT**

|  |  |
| --- | --- |
| **TO:** | Chair and MembersHamilton Police Service Board |
| **BOARD MEETING DATE:** | May 29, 2025 |
| **SUBJECT:** | Special Investigation Unit’s Probe into the injury of T.W.SIU File 24-OCI-524 |
| **REPORT NUMBER:** | 25-030 |
| **PRESENTATION:** | No |
| **OUTSTANDING BUSINESS ITEM:** | No |
| **SUBMITTED BY:** **SIGNATURE:** | Frank Bergen, Chief of PoliceActing Chief Bergen's Signature |

**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).

**EXECUTIVE SUMMARY**

On November 13, 2024, Hamilton Police Service officers attended the Complainant’s residence for a Mental Health Act apprehension. The Complaint incurred injuries during the apprehension that required notification of the Special Investigations Unit (SIU). The SIU undertook an investigation; their determination was that the involved Officers were legally justified in their actions.

* On November 13, 2024, Subject Official #1 (SO #1), Subject Official #2 (SO #2), and Witness Official #2 (WO #2) were dispatched to the Complainant’s residence for the purpose of apprehending him on the strength of a Mental Health Act Form 1. The Complainant is a bilateral amputee.
* The Complainant was informed of the apprehension, he was hostile and refused to go to the hospital. Efforts were made for approximately 40 minutes to build rapport and convince the Complainant to willingly attend the hospital.
* Upon apprehension, the Complainant became combative and took hold of a long stick and hit SO #2 in the groin. The Complainant also grabbed SO #1 by the vest, putting SO #1 off balance; this put SO #1’s firearm in close proximity to the Complainant. The Complainant received strikes to his torso during this interaction from both SO #1 and SO #2. The Complainant was apprehended and brought to St. Joseph’s Hospital. He was later diagnosed with fractures of the right anterolateral 10th and 11th ribs.
* On December 6, 2024, the Complainant attended Hamilton Police Service Division 1 and reported his injuries to Witness Officer #1 (WO #1). The SIU was contacted, invoked their mandate and commenced an investigation.
* In the report prepared by the SIU Director Joseph Martino, he stated “I am satisfied that the officers had grounds to apprehend the Complainant on the strength of the Form 1. I am also satisfied that the force used in aid of the Complainant’s apprehension was legally justified. This came after approximately an hours’ long police effort to have him voluntarily comply and attend the hospital with the police, following which it had become clear that the Complainant was not going to willingly cooperate. The officers used no more force than was necessary to apprehend the Complainant. The force appears to have consisted in the main in the officers lifting the Complainant from his chair and carrying him to the stretcher. Two knee strikes and one or two punches, aimed at the Complainant’s back and upper chest, were delivered. These would not appear disproportionate in the context of the Complainant’s assault of SO #2 with the wooden stick and a genuine concern over his proximity to SO #1’s gun.”
* SIU Director Joseph Martino concluded “In the result, while I accept that the Complainant’s broken ribs were incurred in the altercation that marked his arrest, there are no reasonable grounds to believe that SO #2 and SO #1 comported themselves other than within the limits of the criminal law. As such, there is no basis for proceeding with criminal charges in this case. The file is closed.”
* As provincially mandated, a comprehensive investigation was undertaken of the events and information gathered in relation to the complaint. It was determined that there were no breaches of Hamilton Police Service Policies and Procedures and no misconduct on the part of the Officers.

FB/W. Mason

c: Paul Hamilton, Deputy Chief – Support

 Will Mason, Superintendent – Professional Development Division

Marco Visentini, Legal Counsel