**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 Injury of S.L.SIU File: 24-OCI-112 |
| **REPORT NUMBER:** | 24-071 |
| **SUBMITTED BY:** **SIGNATURE:** | Frank Bergen, Chief of PoliceActing Chief Bergen's Signature |

**EXECUTIVE SUMMARY**

On March 8, 2024, plainclothes members of the Hamilton Police Service (HPS) of the High Enforcement Action Team (HEAT) followed two males suspected of drug offences in the area of Mary Street, Hamilton. The HEAT officers were in pursuit of the two male suspects. One of the males was grounded and arrested. The second male, Civilian Witness #1 (CW#1) observed his friend on the ground and tried to evade arrest. CW#1 collided with an uninvolved pedestrian (S.L.) and as a result, S.L. was knocked to the ground. S.L. was transported to Juravinski Hospital and was found to have suffered a fractured left wrist.

**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 March 8, 2024, at 4:00 p.m., five HPS plainclothes members with the HEAT were in the area of Wilson Street, Hamilton. The SO, his partner and Witness Officer #3 (WO #3) observed two males on Wilson Street holding a bag suspected to contain an illicit substance. The HEAT members tracked the males in an unmarked cruiser and watched as they engaged in drug transactions at the skate park located at Wilson and Mary Street, Hamilton. Other HEAT members were alerted to their observations and broadcast that the two males could be arrested for drug trafficking. The SO and the WO #3 continued to surveil the two males who entered a building on Mary Street. The other HEAT members moved in to assist and it was decided the two males would be arrested at this location.

The two males were CW #1 and Witness #1. At approximately 4:00 pm the males exited the building and made their way up a ramp that led from the front doors towards Mary Street. Witness #1 walked ahead of CW#1 and was confronted by WO#3. Two other HEAT members assisted in grounding and arresting Witness #1, taking him into custody.

CW#1 observed his associate on the ground and hopped over the ramp railing onto the parking lot beside the building and walked toward Mary Street. CW#1 was just about at the roadway and the SO approached him. The SO grabbed a surprised CW#1. CW#1 broke free and bumped into S.L. who was standing at the top of the ramp. S.L. had been waiting for a ride. S.L. fell backwards and used her left hand to break her fall, breaking her wrist.

CW#1 fled northbound along the side of the building and was grounded by WO#4.

An ambulance was called to the scene for S.L.

On March 8, 2024, at 8:47 p.m., the HPS notified the SIU of an injury to S.L. 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:

*“I am also satisfied that the SO comported himself with due care and regard for public safety, including the Complainant’s safety, as he moved to take CW #1 into custody. There appears to have been a collective meeting of the minds among the HEAT members that the exterior space beside the building on Mary Street was a safe place to arrest CW #1 and Witness #1. The parking lot was out of the way of the main throughfares in the area and was not much trafficked at the time. Of course, it was not entirely free of traffic – the Complainant was present as were one or two other pedestrians – but no place is ever perfect. In the circumstances of this case, I am unable to reasonably conclude that the SO and the other officers were derelict in acting to effect the arrests where they did. Simply put, it was not reasonably foreseeable that CW #1 and the SO would converge just where the Complainant was located and that CW #1’s act of resistance would result in the Complainant’s tumble to the ground.*

*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 HPS Policies and Procedures.

FB/W. Mason

c: Paul Hamilton, Deputy Chief – Support

 Will Mason, Superintendent – Professional Development Division

Marco Visentini, Legal Counsel