**HAMILTON POLICE SERVICE**

**CONFIDENTIAL   
INFORMATION REPORT**

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| **TO:** | Chair and Members  Hamilton Police Service Board |
| **BOARD MEETING DATE:** | March 28, 2025 |
| **SUBJECT:** | Special Investigation Unit’s Probe into the Injury of R.F.  SIU File 24-OCI-413 |
| **REPORT NUMBER:** | 25-011 |
| **SUBMITTED BY:**  **SIGNATURE:** | Frank Bergen, Chief of Police  Acting Chief Bergen's Signature |

**EXECUTIVE SUMMARY**

On September 28, 2024, at approximately 8:00 p.m., Hamilton Police Service officers were following a Mazda 3 automobile that had been reported stolen; this vehicle was lost from sight. At 10:12 p.m. the Subject Official (SO) came across a vehicle he believed to be the stolen vehicle and pinned it with his cruiser. The driver of the vehicle, the Complainant (R.F.), was inside the vehicle. The Complainant fled on foot and the SO engaged in a foot pursuit. The Complainant was tackled to the ground by the SO and arrested. The Complainant later complained of injury and was taken to hospital. He was diagnosed with a fractured left arm.

The SIU was contacted and invoked their mandate.

**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 September 28, 2024, at approximately 8:00 p.m., Hamilton Police Service officers were following a Mazda 3 automobile that had been reported stolen; this vehicle was lost from sight. This vehicle was grey in colour and had no front licence plate. At 10:12 p.m., the Subject Official (SO) came across a vehicle he believed to be the stolen vehicle and pinned it with his cruiser. The driver of the vehicle, the Complainant (R.F.), was inside the vehicle. There was also a female passenger. The SO gave repeated commands for the vehicle occupants to get out. The Complainant did exit the vehicle on the passenger side and fled on foot; the SO engaged in a foot pursuit. The Complainant was tackled to the ground by the SO and arrested. The Complainant later complained of injury and was taken to hospital. He was diagnosed with a fractured left arm.

The female passenger had also fled the scene; she was not identified at the time of the incident.

The vehicle the SO pinned was not the stolen Mazda. It was a white Nissan automobile. The Nissan had also been reported stolen and it also did not have a front licence plate. The Nissan had a counterfeit licence plate on the rear of the vehicle.

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 investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant’s arrest and injury.

Pursuant to section 25(1) of the *Criminal Code*, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law.

Though the Complainant and the vehicle he was operating were not the subjects of the flight from police that had earlier been reported, the law does not expect perfection from police officers. They are accorded a measure of protection when they proceed on a mistaken basis so long as their error was a reasonable one to have been made in the circumstances. In the instant case, I am satisfied that the SO had reasonable grounds to believe that the Complainant was the individual who had earlier fled from police. Like the vehicle in question, the Nissan was missing a front licence plate, and contained a male driver and female passenger. It was also in the vicinity of the Mazda’s reported location a short time after it was last seen.

I am also satisfied that the force used by the SO in taking the Complainant into custody, namely, a tackle, constituted lawful force. Some type of physical intervention was going to be necessary to arrest the Complainant when he took off running from the officer. That intervention would also have to account for what the officer might expect in the way of physical resistance from the Complainant once he and the officer were physically engaged. On this record, a takedown made sense as it would bring the flight to an end while positioning the officer to better manage any further resistance from the Complainant.

In the result, while I accept that the Complainant broke his arm when he was tackled to the ground, I am unable to reasonably conclude that the injury is attributable to any unlawful conduct on the part of the SO. As such, 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