**HAMILTON POLICE SERVICE**

**CONFIDENTIAL   
INFORMATION REPORT**

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| **TO:** | Chair and Members  Hamilton Police Service Board |
| **BOARD MEETING DATE:** | June 27, 2024 |
| **SUBJECT:** | Special Investigation Unit’s Probe into the Injury of Ms. H.  SIU File 23-OCI-520 |
| **REPORT NUMBER:** | 24-045 |
| **SUBMITTED BY:**  **SIGNATURE:** | Frank Bergen, Chief of Police  Acting Chief Bergen's Signature |

**EXECUTIVE SUMMARY**

On November 25, 2023, Hamilton Police Service (HPS) officers were dispatched to attend a residence for a Family Trouble incident. Information provided to the officers was that Ms. H. had tried to burn a dress, was smashing items in the house and had threatened to burn the house down. Officers responded but Ms. H. had left prior to their arrival. When Ms. H. returned to the residence, officers arrested her and transported her to Central Station where she was lodged.

The Complainant alleged that she was sexually assaulted by the Subject Officer (SO) when he searched her.

**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 November 25, 2023, at approximately 9:57 pm, Ms. H’s father called the HPS to report that Ms. H. was causing a disturbance at the family residence. He further indicated that Ms. H. had tried to burn a dress, was smashing items in the house, and had threatened to burn the house down. Ms. H’s father was able to put out the fire.

Upon police arrival, officers spoke with Ms. H’s father who provided them with the details of the incident. It was learned that Ms. H. had left the residence on foot. Officers formed grounds to arrest Ms. H. for uttering threats and mischief. Ms. H. returned to the residence while officers were still on scene, and she was taken into custody. Ms. H. was arrested, handcuffed, and was escorted outside where she was searched before being placed in a cruiser.

Ms. H. later claimed that the SO sexually assaulted her when he searched her. 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 Complainant has seemingly provided different versions of the behaviour she found objectionable. In a statement made to child welfare authorities two days after her arrest, the Complainant was reported to have said that an officer ‘looked down her pants’. She later alleged inappropriate touching. The Complainant’s evidence is also at odds with the evidence of the Witness Officer (WO). The WO, who was standing right there, denied that the SO placed his hands down the Complainant’s pants. At most, according to WO, the SO might have placed a thumb just inside the waistband of the pants the Complainant was wearing in the area of the hips and the back. On this record, I am unable to reasonably conclude that the Complainant’s evidence is sufficiently cogent to warrant being put to the test by a court.*

*For the foregoing reasons, there is no basis for proceeding with criminal charges in this case. This 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