

SPECIAL INVESTIGATIONS UNIT



DIRECTOR'S REPORT

CASE # 24-OCI-445

February 12, 2025

MANDATE OF THE SIU

The Special Investigations Unit is a civilian law enforcement agency that investigates incidents involving an official where there has been death, serious injury, the discharge of a firearm at a person or an allegation of sexual assault. Under the *Special Investigations Unit Act, 2019* (SIU Act), officials are defined as police officers, special constables of the Niagara Parks Commission and peace officers under the *Legislative Assembly Act*. The SIU's jurisdiction covers more than 50 municipal, regional and provincial police services across Ontario.

Under the *SIU Act*, the Director of the SIU must determine based on the evidence gathered in an investigation whether there are reasonable grounds to believe that a criminal offence was committed. If such grounds exist, the Director has the authority to lay a criminal charge against the official. Alternatively, in cases where no reasonable grounds exist, the Director cannot lay charges. Where no charges are laid, a report of the investigation is prepared and released publicly, except in the case of reports dealing with allegations of sexual assault, in which case the SIU Director may consult with the affected person and exercise a discretion to not publicly release the report having regard to the affected person's privacy interests.

INFORMATION RESTRICTIONS

Special Investigations Unit Act, 2019

Pursuant to section 34, certain information may not be included in this report. This information may include, but is not limited to, the following:

- The name of, and any information identifying, a subject official, witness official, civilian witness or affected person.
- Information that may result in the identity of a person who reported that they were sexually assaulted being revealed in connection with the sexual assault.
- Information that, in the opinion of the SIU Director, could lead to a risk of serious harm to a person.
- Information that discloses investigative techniques or procedures.
- Information, the release of which is prohibited or restricted by law.
- Information in which a person's privacy interest in not having the information published clearly outweighs the public interest in having the information published.

Freedom of Information and Protection of Personal Privacy Act

Pursuant to section 14 (*i.e., law enforcement*), certain information may not be included in this report. This information may include, but is not limited to, the following:

- Confidential investigative techniques and procedures used by law enforcement agencies; and
- Information that could reasonably be expected to interfere with a law enforcement matter or an investigation undertaken with a view to a law enforcement proceeding.

Pursuant to section 21 (*i.e., personal privacy*), protected personal information is not included in this report. This information may include, but is not limited to, the following:

- The names of persons, including civilian witnesses, and subject and witness officials;
- Location information;
- Witness statements and evidence gathered in the course of the investigation provided to the SIU in confidence; and
- Other identifiers which are likely to reveal personal information about individuals involved in the investigation.

Personal Health Information Protection Act, 2004

Pursuant to this legislation, any information related to the personal health of identifiable individuals is not included.

Other proceedings, processes, and investigations

Information may also have been excluded from this report because its release could undermine the integrity of other proceedings involving the same incident, such as criminal proceedings, coroner's inquests, other public proceedings and/or other law enforcement investigations.

MANDATE ENGAGED

Pursuant to section 15 of the SIU Act, the SIU may investigate the conduct of officials, be they police officers, special constables of the Niagara Parks Commission or peace officers under the *Legislative Assembly Act*, that may have resulted in death, serious injury, sexual assault or the discharge of a firearm at a person.

A person sustains a “serious injury” for purposes of the SIU’s jurisdiction if they: sustain an injury as a result of which they are admitted to hospital; suffer a fracture to the skull, or to a limb, rib or vertebra; suffer burns to a significant proportion of their body; lose any portion of their body; or, as a result of an injury, experience a loss of vision or hearing.

In addition, a “serious injury” means any other injury sustained by a person that is likely to interfere with the person’s health or comfort and is not transient or trifling in nature.

This report relates to the SIU’s investigation into the serious injury of a 22-year-old man (the “Complainant”).

THE INVESTIGATION

Notification of the SIU¹

On October 19, 2024, at 11:19 p.m., the Durham Regional Police Service (DRPS) contacted the SIU with the following information.

On October 19, 2024, at 6:30 p.m., two motorcycles collided with the back of a stopped vehicle at the intersection of Rossland Road West and Ravenscroft Road. The collision was witnessed by an off-duty Toronto Police Service (TPS) officer, who tried to prevent one man [the Complainant] from fleeing on foot while the other motorcyclist drove away. DRPS had their helicopter unit deployed and the canine unit was called. The helicopter and police dog were able to track and locate the Complainant. The Complainant was bitten by the police dog as he was arrested. No injuries were readily identified after the arrest, so the collision scene was processed and photographed by the DRPS. At some point later, the Complainant was diagnosed with a fractured ankle.

The Team

Date and time team dispatched:	2024/10/21 at 11:40 a.m.
Date and time SIU arrived on scene:	2024/10/21 at 4:00 p.m.
Number of SIU Investigators assigned:	5

¹ Unless otherwise specified, the information in this section reflects the information received by the SIU at the time of notification and does not necessarily reflect the SIU’s findings of fact following its investigation.

Number of SIU Forensic Investigators assigned: 1

Affected Person (aka “Complainant”): 22-year-old male; not interviewed (declined)

[Note: An affected person (complainant) is an individual who was involved in some form of interaction with an official or officials, during the course of which the individual sustained serious injury, died, was reported to have been sexually assaulted, or was shot at by a firearm discharged by an official.]

Civilian Witnesses (CW)

CW #1	Interviewed
CW #2	Interviewed

The civilian witnesses were interviewed between October 23, 2024, and November 19, 2024.

Witness Officials (WO)

WO #1	Interviewed; notes received and reviewed
WO #2	Interviewed ²
WO #3	Interviewed; notes received and reviewed
WO #4	Interviewed; notes received and reviewed

The witness officials were interviewed between December 5, 2024, and December 12, 2024.

[Note: A witness official is an official (whether a police officer, a special constable of the Niagara Parks Commission or a peace officer with the Legislative Protective Service) who, in the opinion of the SIU Director, is involved in the incident under investigation but is not a subject official in relation to the incident.]

Upon request by the SIU, witness officials are under a legal obligation pursuant to the SIU Act to submit to interviews with SIU investigators and answer all reasonable questions. The SIU is also entitled to a copy of their notes.]

EVIDENCE

The Scene

The events in question transpired at and around the intersection of Ravenscroft Road and Rossland Road West, Ajax, including a wooded area west and north of the intersection.

² WO #2 reported he did not make any notes.

Video/Audio/Photographic Evidence³

Video Footage - Ravenscroft Road, Ajax

The video was not time or date-stamped.

Starting at about 58 seconds into the footage, a motorcycle decelerated from a high rate of speed at an intersection [Ravenscroft Road and Rossland Road West]. The back tire of the motorcycle lifted off the ground as it braked and stopped at the pedestrian crosswalk. A second motorcycle [the Complainant], traveling at a higher rate of speed, entered into the intersection and slid until it collided with the front driver's side wheel of a vehicle [CW #2]. The first motorcycle drove away from the intersection. People walked over to assist the Complainant to a corner [northeast corner] of the intersection.

Body-worn Camera (BWC) Footage – WO #3, Officer #1, Officer #2, Officer #3, Officer #4, Officer #5 and WO #4

On October 19, 2024, starting at about 6:26:36 p.m., WO #3 met with a man [WO #1] in plainclothes. WO #3 spoke with the occupants of a vehicle. They said they were in the area to do a food delivery when a man [the Complainant] tried to enter their vehicle.

Starting at about 6:34:31 p.m., there was a radio broadcast from the DRPS helicopter advising that the Complainant was located lying down in some tall grass north of WO #3's position.

Starting at about 6:35:40 p.m., WO #4 arrived on scene. He removed the police service dog (PSD) from his police vehicle and placed him on a leash. They walked into a wooded area and down a steep hill. WO #3 and Officer #1 followed.

Starting at about 6:38:16 p.m., WO #4 found a jacket on the ground near some tall grass.

Starting at about 6:38:51 p.m., WO #4 said, "Durham Police Canine Unit. You're under arrest. You will be bit by a dog...stop!" The Complainant stood up in the tall grass and ran away from the police officers. WO #4 ran into the tall grass. He no longer held the leash of the PSD.

Starting at about 6:39:08 p.m., WO #4 ran into a river. There was a man [the Complainant] ahead of him in the water. The PSD swam after the Complainant. WO #4 yelled, "You will be bit...stop!" and, "Hands up!" The PSD bit the Complainant's right arm. He raised his left arm in the air.

Starting at about 6:39:16 p.m., WO #4 took control of the Complainant's left arm and dragged him to the opposite shore of the river. The Complainant was in a prone position. The PSD pulled at the right arm with his teeth. The Complainant screamed in pain. The PSD released the bite. WO #3 handcuffed the Complainant with his hands behind the back. WO #3 stood the Complainant upright.

³ The following records contain sensitive personal information and are not being released pursuant to section 34(2) of the *Special Investigations Unit Act, 2019*. The material portions of the records are summarized below.

Starting at about 6:41:28 p.m., WO #4 asked the Complainant if he had any injuries other than the dog bite. The Complainant shook his head side to side. WO #4 said, "No, just your arm?" A radio broadcast indicated the Complainant had lost his shoes and they were found by police officers. The Complainant bled heavily from his right arm.

Starting at about 6:45:26 p.m., as the Complainant was being escorted out of the wooded area, he said, "My foot is fucked." WO #3 asked what was wrong with his foot but received no reply. The Complainant complained he had no shoes.

Starting at about 6:46:06 p.m., the Complainant said his foot was broken and he could not put weight on it. WO #3 and Officer #1 assisted the Complainant to walk. They struggled through the wooded area until the Complainant could not walk anymore. Fire services were called to remove him from the woods. The Complainant began to shiver and complained he was cold. He was sat down on the grass.

Starting at about 7:47:33 p.m., fire services arrived at the wooded area. The Complainant was loaded onto a bucket stretcher and carried out of the woods.

Computer-aided Dispatch (CAD) Report

On October 19, 2024, at 6:09 p.m., DRPS received multiple calls from various individuals, including WO #2 and WO #1, about a collision at Rossland Road West and Ravenscroft Road. A motorcyclist [the Complainant] had been carried off the road to sit on the grass. The Complainant appeared to have a knee injury. He had been ejected about five to ten feet from his motorcycle. He had travelled through a red traffic light. A second motorcycle had left the scene.

At 6:14:00 p.m., an off-duty police officer [WO #1] said the Complainant had run away from the scene. A physical description of the Complainant's motorcycle clothing was provided.

At 6:18:47 p.m., the dispatcher noted the sound of a struggle. WO #1 held the Complainant and prevented him from entering a vehicle. WO #1 said to get on the ground.

At 6:22:40 p.m., WO #1 reported his location in front of 510 Rossland Road West. He said the Complainant had entered the bushes.

At 6:34:04 p.m., the helicopter unit had identified a heat source in the wooded area.

At 6:35:30 p.m., the canine track had begun.

At 6:38:54 p.m., the helicopter unit advised the canine unit was 12 feet away from the heat source.

At 6:39:01 p.m., there was a foot pursuit.

At 6:40:02 p.m., the helicopter unit reported police officers were attempting to take the Complainant into custody on the north side of a body of water.

At 6:40:53 p.m., it was reported the Complainant was in custody. He had been bitten by the police dog on his left upper arm.

At 8:37:16 p.m., the Complainant had been extricated from the wooded area and was assessed by paramedic services.

Materials Obtained from Police Service

Upon request, the SIU obtained the following records from DRPS between October 29, 2024, and November 29, 2024:

- AIR1 helicopter video footage;
- General Occurrence Report;
- CAD Report;
- BWC footage;
- Communications recordings;
- Cell phone video;
- Notes – WO #3 and WO #4;
- Scene photographs; and
- Use of Force Policy.

Upon request, the SIU obtained WO #1's notes from the TPS on December 2, 2024.

Materials Obtained from Other Sources

The SIU obtained video footage from a building on Ravenscroft Road, Ajax, on November 16, 2024.

INCIDENT NARRATIVE

The evidence collected by the SIU, including interviews with police and non-police witnesses, and video footage that captured the incident in part, gives rise to the following scenario.

In the evening of October 19, 2024, the Complainant was operating a motorcycle westbound on Rossland Road West when he entered the Ravenscroft Road intersection on a red light and crashed his vehicle. An off-duty TPS officer in the area witnessed the collision and approached the scene to render assistance. The Complainant was helped to the northeast corner of the intersection and seated as WO #1 called the DRPS to report the incident. Shortly, the Complainant got up and began to walk away.

WO #1 advised the DRPS that the Complainant was walking away and, together with the driver of the vehicle struck by the motorcycle (CW #2), followed him as he made his way through a housing complex north and west of the collision site. The officer told the Complainant that he was under arrest and then intervened to stop him physically when it appeared that the Complainant was about to enter another vehicle. The two wrestled with

each other for a period before the Complainant was able to free himself and run into a wooded area nearby. WO #1 updated the DRPS.

DRPS officers arriving on scene set up a perimeter around the wooded area and deployed a helicopter and a canine unit. The dog handler – WO #4 – entered the forested area with his dog – the PSD. With the guidance from the helicopter overhead, which had detected the Complainant's heat signature, the officer came across the Complainant. The Complainant ran down an embankment and into a creek. WO #4 released the PSD. The dog engaged the Complainant in the water and bit into his right arm. WO #4 joined the pair in the creek and escorted them out of the water. WO #3 handcuffed the Complainant without further incident.

At hospital after his arrest, the Complainant was diagnosed with a fractured ankle.

RELEVANT LEGISLATION

Section 25(1), *Criminal Code* - Protection of Persons Acting Under Authority

25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person,
- (b) as a peace officer or public officer,
- (c) in aid of a peace officer or public officer, or
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

Section 320.16, *Criminal Code* - Failure to Stop After Accident

320.16 (1) Everyone commits an offence who operates a conveyance and who at the time of operating the conveyance knows that, or is reckless as to whether, the conveyance has been involved in an accident with a person or another conveyance and who fails, without reasonable excuse, to stop the conveyance, give their name and address and, if any person has been injured or appears to require assistance, offer assistance.

(2) Everyone commits an offence who commits an offence under subsection (1) and who at the time of committing the offence knows that, or is reckless as to whether, the accident resulted in bodily harm to another person.

(3) Everyone commits an offence who commits an offence under subsection (1) and who, at the time of committing the offence, knows that, or is reckless as to whether, the accident resulted in the death of another person or in bodily harm to another person whose death ensues.

ANALYSIS AND DIRECTOR'S DECISION

On October 19, 2024, the DRPS notified the SIU that a male they had arrested earlier that day – the Complainant – had been diagnosed with a serious injury. The SIU initiated an investigation, which is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that any police officer 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.

When the Complainant fled the scene of the collision, he rendered himself subject to arrest under section 320.16 of the *Criminal Code*.

WO #1 used no more force that was reasonably necessary when he attempted to arrest the Complainant. He had advised the Complainant that he was an officer and that he (the Complainant) was under arrest, but it was clear the Complainant was not going to submit peacefully. In the circumstances, I am unable to reasonably conclude that WO #1 resorted to unnecessary force when he forcefully took the Complainant to the ground. He had reason to believe that the Complainant would struggle against the arrest, an effort that would be made more difficult on the ground. In fact, the Complainant did resist and was ultimately able to free himself from the officer and resume his flight.

I am also satisfied that WO #4 comported himself within the limits of the criminal law when he deployed his dog. The Complainant was evading apprehension by hiding in a forested area on uneven terrain. There was also reason to expect the Complainant would continue to physically resist arrest. On this record, it made sense to attempt to immobilize the Complainant from a distance with the use of the dog. And that is, essentially, what occurred.

The cause of the Complainant's injury remains uncertain, although it appears likely he fractured his ankle in the motorcycle collision. Be that as it may, there is no reason to believe the injury is attributable to any unlawful conduct on the part of the police. As such, there is no basis for proceeding with criminal charges in this case. The file is closed.

Date: February 12, 2025

Electronically approved by

Joseph Martino
Director
Special Investigations Unit