



HAMILTON POLICE SERVICE

CONFIDENTIAL

INFORMATION REPORT

TO:	Chair and Members Hamilton Police Service Board
BOARD MEETING DATE:	September 10, 2026
SUBJECT:	SIU File 26-OSA-155 – Injury of K.S.
REPORT NUMBER:	26-074
PRESENTATION:	No
OUTSTANDING BUSINESS ITEM:	No
SUBMITTED BY:	Frank Bergen, Chief of Police
SIGNATURE:	

EXECUTIVE SUMMARY

On March 31, 2026, the Subject Official (SO) was working a concert paid-duty at the TD Coliseum, located at 101 York Boulevard, Hamilton. TD Coliseum Security requested the SO assist in the removal of a patron (the Complainant) as she was not abiding by the rules or taking direction. The Complainant was physically escorted off the premises. The Complainant later attended Hamilton Police Service (HPS) Division 10 and alleged that while being removed from the premises, a male police officer touched her breasts.

The SIU were contacted and they invoked their mandate. The SIU concluded there are no reasonable grounds to believe that the Subject Official committed a criminal offence in connection with the complaint.

APPENDICES ATTACHED

Appendix A – Summary

FB/W. Mason

c: David Hennick, Acting Deputy Chief – Support
Will Mason, Superintendent – Professional Development Division
Marco Visentini, Legal Counsel

Vision: To be a trusted partner in delivering public safety.

Mission: To serve and protect in partnership with our communities.

Our Values: Compassionate, Dedicated, Inclusive, Integrity, Innovative, Professional, Teamwork

26-074 Appendix A – Summary Special Investigation Unit’s Probe into the injury of K.S. SIU File 26-OSA-155

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 March 31, 2026, the Complainant and her friend, CW #2, attended a concert at the TD Coliseum in Hamilton. When the performer took the stage, the Complainant stood on her folding chair and began recording with her cellular phone. For safety reasons, venue security repeatedly directed the Complainant to get down from the chair. When she did not comply, venue security requested the assistance of paid-duty police officers to remove her from the venue.
- The SO, along with other paid-duty officers, attended and physically escorted the Complainant from the concert floor to the building exit. During this time the Complainant was, at times, resisting and pulling her arms away from escorting officers. The interaction was witnessed by several officers, the TD Coliseum Security Manager, and security personnel.
- The Complainant alleged that her breasts had been touched, partially exposed and her shirt had been pulled up. The Complainant called HPS Communications and reported this, then continued to HPS Division 10 and reported the matter in person.
- The SIU was notified and invoked their mandate.
- In the report prepared by the SIU Director Joseph Martino, he stated, “On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a sexual assault in connection with the complaint”, and also, “On this record, I am unable to reasonably conclude that any contact between the SO and the Complainant was sexual in nature. If contact occurred, the evidence supports that it was momentary, occurred over the Complainant’s clothing, and was incidental to the lawful escort of the Complainant from the venue.”
- The SIU Director also identified potential misconduct on the part of attending officers, as they did not activate their Body Worn Cameras (BWC) at the outset of the interaction. The SIU Director stated, “I will be raising this matter in my reporting letter to the chief of police as conduct of this nature has the potential to undermine

investigative findings and could have far-reaching consequences in other cases where the absence of video evidence may significantly affect the ability to assess competing accounts of an incident. Under section 35.1 of the *Special Investigations Unit Act, 2019*, I will also be referring the matter to the Law Enforcement Complaints Agency as possible violations of the Police Code of Conduct.”

- The Special Investigations Unit Act, section 35.1 (1), dictates that if, during the SIU’s investigation, potential police officer misconduct is discovered (as defined in the Community Safety and Policing Act), The SIU Director shall notify the Complaints Director. As well, section 35.2 of the SIU Act dictates that if, during the SIU’s investigation, potential issues are discovered relating to the adequacy and effectiveness of policing including policies and procedures, the SIU Director shall notify the Inspector General of Policing.
- HPS is currently waiting for LECA to determine if they will undertake the misconduct investigation, or if it will be taken over by the HPS Professional Standards Branch.