

SPECIAL INVESTIGATIONS UNIT



DIRECTOR'S REPORT

CASE # 24-OFD-344

December 12, 2024

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 death of a 19-year-old male (“Complainant #1”) and the serious injury of a 19-year-old male (“Complainant #2”).

THE INVESTIGATION

Notification of the SIU¹

On August 15, 2024, at 4:32 p.m., the South Simcoe Police Service (SSPS) notified the SIU of firearm-related injuries to Complainant #1 and Complainant #2.

According to the SSPS, on August 15, 2024, at 3:00 p.m., SSPS officers responded to a dispute at a residence on Shoreview Drive, Innisfil, as reported by Civilian Witness (CW) #4. Four police officers were dispatched. Upon their arrival, two men were driving away and attempted to run over one or more police officers. Shots were fired striking the driver, resulting in the other man taking over the driving. He continued to drive at the officers and again shots were fired striking the man. Both were transported to Royal Victoria Hospital. At least two police officers discharged their firearms.

The Team

Date and time team dispatched:	2024/08/15 at 4:49 p.m.
Date and time SIU arrived on scene:	2024/08/15 at 7:27 p.m.
Number of SIU Investigators assigned:	4
Number of SIU Forensic Investigators assigned:	3
Number of SIU Collision Reconstructionists assigned:	1

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.

Affected Person (aka “Complainant”):

Complainant #1	19-year-old male; deceased
Complainant #2	19-year-old male; interviewed; medical records obtained and reviewed

The Complainant was interviewed on September 11, 2024.

[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
CW #3	Interviewed
CW #4	Interviewed
CW #5	Interviewed
CW #6	Interviewed
CW #7	Interviewed
CW #8	Interviewed
CW #9	Interviewed
CW #10	Interviewed

The civilian witnesses were interviewed between August 16 and 20, 2024.

Subject Officials (SO)

SO #1	Interviewed; notes received and reviewed
SO #2	Interviewed; notes received and reviewed
SO #3	Declined interview and to provide notes, as is the subject official's legal right
SO #4	Declined interview and to provide notes, as is the subject official's legal right

The subject officials were interviewed between October 24 and 31, 2024.

[Note: A subject 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) whose conduct appears, in the opinion of the SIU Director, to have been a cause of the incident under investigation.]

Subject officials are invited, but cannot be legally compelled, to present themselves for an interview with the SIU and they do not have to submit their notes to the SIU pursuant to the SIU Act.]

Witness Official (WO)

WO

Interviewed; notes received and reviewed

The witness official was interviewed on August 16, 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 on and around the front driveway of residence on Shoreview Drive.

Physical Evidence

Bullet / Cartridge Evidence

The following items were located at the scene:

- Five damaged bullets,
- 18 fired cartridge cases, and
- One projectile metal fragment.

Vehicle Examination

Complainants' Vehicle

The vehicle operated by the Complainants had multiple bullet impacts.



Figure 1 - Vehicle operated by the Complainants with multiple bullet impacts

A marked 2023 Ford Police Interceptor, operated by SO #1, had damage to the driver's door handle caused by the impact with the Complainants' vehicle.



Figure 2 - Damage to the driver's door of SO #1's police vehicle

Firearm Examination

SIU forensic investigators examined the subject officials' firearms with the results as follows.

SO #1

Glock 17, 9mm pistol. One live round was in the chamber, while the seated magazine contained nine live rounds. The seated magazine had a 17-round capacity.



Figure 3 - SO #1's pistol and magazine

SO #2

Glock 17, 9mm pistol. One live round was in the chamber, while the seated magazine contained nine live rounds. The seated magazine had a 17-round capacity.



Figure 4 - SO #2's pistol and magazine

SO #3

Glock 17, 9mm pistol. One live round was in the chamber, while the seated magazine contained 15 live rounds. The seated magazine had a 17-round capacity.



Figure 5 - SO #3's pistol and magazine

SO #4

Glock 17, 9mm pistol. One live round was in the chamber, while the seated magazine contained 14 live rounds. The seated magazine had a 17-round capacity.



Figure 6 - SO #4's pistol and magazine

Expert Evidence

Incident Reconstruction

A SIU expert in technical motor vehicle collision investigation and reconstruction concluded that the physical evidence at the scene indicated the Complainants' vehicle had mounted a grass berm and struck the open driver's door of SO #1's police vehicle. The impact caused minor damage to the driver's door, including to the exterior door handle, and minor scratches to the front left corner of the Complainants' vehicle.

Drawing on Crash Data Retrieval (CDR) data and other evidence, the following sequence of events was developed.

Starting at 3:28:45 p.m., August 15, 2024, the Complainants' vehicle was stopped in the driveway near the garage doors, facing towards Shoreview Drive. The vehicle's speed was 0 km/h and its front wheels were turned slightly to the left. The Complainants' vehicle was about 11 metres north of where SO #1 stood. Complainant #1 turned the steering wheel to the right, past straight and slightly to the right.

Starting at 3:28:46 p.m., Complainant #1 took his foot off the brake pedal and pressed the accelerator pedal 42 percent. Complainant #1 never re-applied the brake.

Starting at 3:28:47 p.m., the Complainants' vehicle accelerated from 2 km/h to 7 km/h. The vehicle moved slowly south to about ten metres north of SO #1.

Starting at 3:28:48 p.m., Complainant #1 depressed the accelerator from 62 percent to 100 percent and the Complainants' vehicle accelerated from about 12 km/h to 15 km/h. The Complainants' vehicle was about seven metres north of SO #1 when the officer discharged his firearm, the first of multiple rounds.

Starting at 3:28:49 p.m., the speed of the Complainants' vehicle continued to increase from 21 km/h to 27 km/h. SO #1 backed up towards the rear of his police vehicle. The Complainants' vehicle drove southward and mounted the grass berm close enough to SO #1's police vehicle that the front left corner of the Complainants' vehicle struck the open driver's door and forced it shut.

Starting at 3:28:50 p.m., the Complainants' vehicle struck a pillar. The speed of the Complainants' vehicle had decreased from about 26 km/h to 21 km/h. Neither the accelerator pedal nor the brake pedal was applied.

There were no CDR data captured from the Complainants' vehicle when it was driven by Complainant #2.

Video/Audio/Photographic Evidence²

Police Communications Recordings – Telephone

On August 15, 2024, starting at 2:22 p.m., the SSPS communications centre received a 911 call from CW #6. CW #6 advised that she had returned to the residence on Shoreview Drive with her family, including CW #4 and CW #5. Complainant #1 and Complainant #2, had been hiding and attacked CW #4 with a bat and plastic hockey stick, chasing him down the street. CW #4 was at a nearby residence while Complainant #1 and Complainant #2 returned to the house. CW #4 was injured, and the police and an ambulance were requested.

Police Communications Recordings – Radio

On August 15, 2024, starting at 2:41 p.m., SSPS officers were dispatched.

Starting at 2:47 p.m., Complainant #1 and Complainant #2 were seen by paramedics outside the residence with baseball bats.

Starting at 2:58 p.m., police officers arrived at a nearby residence.

Starting at 3:28 p.m., SO #1, and SO #2, SO #3 and SO #4, were going to the residence to locate Complainant #1 and Complainant #2. They were uncertain where they were, but information indicated they were still there. The police officers would access the residence through the front door and call out to get them to come out.

² 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.

SO #1 was going to pull into the driveway to block access. One of either Complainant #1 or Complainant #2 was in a vehicle, and SO #1 did not know if they were going to drive off.

SO #1 pulled into the driveway. Complainant #1 and Complainant #2 were in the vehicle.

Starting at 3:29 p.m., shots were fired.

BWC Footage

The BWC summary was completed using a combination of the four subject officials' and one witness official's footage.

On August 15, 2024, starting at 2:58 p.m., CW #4 approached the WO and SO #3 and provided background information about Complainant #1 and Complainant #2. CW #4 reported that Complainant #1 and Complainant #2 were hiding in the garage in front of his truck. They came out with a baseball bat and hockey stick, and attacked him. CW #4 ran down the street and, when neighbours came out, Complainant #1 and Complainant #2 returned to the house. CW #4 was concerned that they had been alone in the house for 30 minutes and he did not know their state of mind, or if they were damaging the house or causing injury to themselves. CW #5 also provided background information about Complainant #1 and Complainant #2.

CW #4 indicated there were several guns locked in a vault in the house, to which only he had access. The keys to the residence were in a cup holder in a vehicle parked in the garage. He said Complainant #1 and Complainant #2 had blank expressions while attacking him.

SO #1 believed there was a mental health aspect to the incident and that they had to find Complainant #1 and Complainant #2. SO #1 indicated they were not going into the house, but rather they would knock on the door to see if they would come out. If they refused to come out, it would be treated as a barricaded person situation. SO #1 was concerned as they did not know where they were, and they could be walking around.

Starting at 3:21 p.m., SO #1 instructed SO #2, SO #3 and SO #4 that SO #3 and SO #4 were to go to the back of the residence in the event Complainant #1 and Complainant #2 ran. SO #1 and SO #2 would go to the front and, using the door key, breach the front door and call out to them. If they did not answer or refused to come out, it would be considered a barricaded person call. He did not want to pull right up in front of the residence. SO #4 in an unmarked police vehicle would pull up first and advise of her observations.

Starting at 3:25 p.m., SO #1 told the police officers they had reasonable and probable grounds for assault with a weapon.

Starting at 3:26:54 p.m., SO #1 drove to the residence.

Starting at 3:27:42 p.m., SO #1 said on the radio that it looked like somebody was in a vehicle and he was going to pull into the driveway to block access as he did not know if they were going to try and take off.

Starting at 3:28:13 p.m., SO #1 was stopped in the driveway, made a motion with his right hand, as if turning an ignition key, and said, "Turn the car off."

Starting at 3:28:20 p.m., SO #1 radioed that both Complainant #1 and Complainant #2 were in a vehicle. SO #1 stood behind the driver's door and motioned with his right hand as if turning an ignition key and said, "Turn the car off." The running lights of the Complainants' vehicle were illuminated and the front wheels were turned slightly to the left.

Starting at 3:28:31 p.m., SO #1 said, "Put the vehicle in park. Shut the car off." Complainant #2 replied, "No." SO #1 repeated, "Shut the car off. Put it in park. We just want to talk to you." An indiscernible response from either Complainant #1 or Complainant #2 followed. SO #1 said, "Don't move the vehicle. Just stay right there."

Starting at 3:28:47 p.m., the Complainants' vehicle moved forward. SO #1 said, "Do not move the vehicle," while drawing his pistol and pointing it towards the advancing vehicle. The vehicle initially made a slight easterly turn, away from SO #1, before turning in a westerly direction towards SO #1.

Starting at 3:28:48 p.m., as the vehicle advanced towards him, SO #1 discharged multiple rounds from his firearm.



Figure 7 - Screenshot from SO #1's BWC during his gunfire³

The Complainants' vehicle struck SO #1's open driver's door. It continued past the vehicle striking a pillar before bouncing backwards and coming to rest. SO #2 was beside the driver's door of the Complainants' vehicle, while SO #3 and SO #4 were near the passenger side rear corner of SO #1's police vehicle. SO #1 ran around the front of his vehicle and

³ This image has been cropped and redacted to protect the identity of the involved parties.

stood between SO #3 and SO #4. All four police officers had their firearms pointed at the Complainants' vehicle. Repeated direction was provided to Complainant #1 and Complainant #2 to get their hands up. Complainant #1 was seated in the driver's seat, with seatbelt fastened, slumped forward, with what would later be known to be a fatal gunshot wound to the head from the discharge of SO #1's pistol.

Starting at 3:28:55, Complainant #2 was seated in the passenger seat, with seatbelt fastened. He unfastened his seatbelt and lifted his legs over the centre console and into the driver's side. He pulled his body into the driver's side, sitting partially on top of Complainant #1, and gripped the steering wheel with both hands.

SO #2 yelled, "Get your hands up. Get your hands up," as he approached and pointed his firearm at Complainant #2.

Starting at 3:29:02 p.m., SO #2 yelled, "Stop moving the vehicle," as the vehicle reversed with Complainant #2 looking in the direction of SO #2.

At 3:29:02 p.m., SO #1 and SO #2 each discharged multiple shots at the reversing vehicle. SO #3 and SO #4 were along the passenger side of SO #1's vehicle, and each discharged their firearms. The Complainants' vehicle rolled to a stop in the driveway against a stone planter and tree. The four police officers removed Complainant #1 and Complainant #2 from the vehicle and provided first-aid.

Materials Obtained from Police Service

Upon request, the SIU obtained the following records from the SSPS between August 16, 2024, and October 11, 2024:

- Names and roles of involved police officers;
- Occurrence Details Report;
- Computer-assisted Dispatch Report;
- Duty Book Notes of SO #1 and SO #2 and the WO;
- Annual firearm re-qualification records for SO #1 and SO #2, SO #3 and SO #4;
- BWC footage;
- Police communications recordings, and
- Policy - Use of Force.

The Ontario Provincial Police (OPP), as requested by SSPS, conducted a criminal investigation into the conduct of Complainant #1 and Complainant #2. They provided the SIU with the following records between August 17, 2024, and November 5, 2024:

- Civilian witness statements;
- Remote Piloted Aircraft System scene photos and video;
- CDR data;
- Berla extraction report (Infotainment system download);
- Clarified audio clip extracted from BWC footage; and
- Collision Reconstruction Report.

Materials Obtained from Other Sources

The SIU obtained the following records from other sources between September 13, 2024, and November 8, 2024:

- Video footage from nearby residence;
- Complainant #2's medical records from SMH; and
- Preliminary Autopsy Findings from the Ontario Forensic Pathology Service.

INCIDENT NARRATIVE

The evidence collected by the SIU, including interviews with Complainant #2, SO #1 and SO #2, and video footage that largely captured the incident, gives rise to the following scenario. As was their legal right, neither SO #3 nor SO #4 agreed an interview with the SIU or the release of their notes.

In the afternoon of August 15, 2024, SSPS officers were called to the area of Shoreview Drive, Innisfil, in connection with a domestic disturbance. CW #6 had called police to report that Complainant #1 and Complainant #2 had attacked CW #4 with a plastic hockey stick and baseball bat. CW #4, CW #5 and CW #6 had pulled into the garage of the home on Shoreview Drive when Complainant #1 and Complainant #2 confronted CW #4 as he exited the vehicle and assaulted him. CW #4 had fled from Complainant #1 and Complainant #2 and taken refuge at a neighbour's home where he was joined by family members. Complainant #1 and Complainant #2, having chased CW #4 a distance as he ran away, had returned home.

SSPS officers, including the subject officials, met with CW #4, CW #5 and CW #6 at the neighbour's home, spoke to them about what had occurred, and acquired some background information. They learned of conflict in the relationship between Complainant #1 and Complainant #2, and CW #4. The family expressed concern about the welfare of Complainant #1 and Complainant #2 at the home. CW #4 noted that there were firearms on the property to which he alone had access.

Led by SO #1, the officers decided they would approach the home, open the front entrance, and call-out to Complainant #1 and Complainant #2 to have them surrender themselves. Two of the officers – SO #3 and SO #4 – would be positioned at the rear of the residence in the event they decided to escape in that direction. The officers set out in their cruisers to travel the short distance to the residence on Shoreview Drive.

Arriving at the address, SO #1 pulled onto the driveway. SO #2, SO #3 and SO #4 stopped their cruisers south of SO #1. North of their location on the driveway just shy of a garage bay was an SUV. It was facing south towards the roadway and the cruisers. Complainant #1 was in the driver's seat. Complainant #2 was in the front passenger seat. From inside his cruiser, SO #1 motioned at them as if turning a key and told them to shut off the vehicle. He then opened his door, exited and told them again to shut off the vehicle's engine. Complainant #2 responded, "No." SO #1 said the officers just wanted to talk and warned them not move the vehicle. The SUV's tires began to turn in the direction of SO #1 and it started to travel towards him. SO #1 again yelled at them to not move the vehicle and pointed his firearm over his driver's door at the Complainants' vehicle as it picked up speed. He fired five times in the direction of the driver's seat as the Complainants' vehicle closed

the distance and passed his cruiser on the driver's side, striking the open driver's door in the process and slamming it shut before colliding with a pillar and coming to a stop. Complainant #1 had been struck in the head and mortally wounded by one of the bullets.

Following the initial volley of gunshots, the officers regrouped and surrounded the Complainants' vehicle as Complainant #2 climbed partially atop Complainant #1 and took hold of the steering wheel. SO #2 was the closest officer to the vehicle at this time standing no more than a metre or two from the driver's door. His gun pointed at Complainant #2, the officer repeatedly ordered him to raise his hands and not to move the vehicle. Complainant #2 placed the Complainants' vehicle in reverse and began to travel backwards when he was met with another barrage of gunfire. SO #2 fired seven times, SO #1, from a position behind and to the left of SO #2, discharged three bullets. SO #3 and SO #4 fired once or twice and two or three times, respectively, as the Complainants' vehicle cleared the front end of SO #1's cruiser and then came to a stop by a tree on the front lawn. Approximately 12 seconds had elapsed between the two series of gunshots.

The officers approached the Complainants' vehicle after the shooting, pulled Complainant #1 and Complainant #2 out onto the driveway, and began to administer first-aid. Paramedics staging nearby were quickly on scene.

Complainant #1 and Complainant #2 were transported to hospital. Complainant #1 was pronounced deceased. Complainant #2 was treated for gunshot wounds to his left chest, right upper arm, left lower arm, and left face.

Cause of Complainant #1's Death

The pathologist at autopsy was of the preliminary view that Complainant #1's death was attributable to a "gunshot wound of head".

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.

25 (3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservations of any one under that person's protection from death or grievous bodily harm.

Section 34, *Criminal Code* - Defence of Person – Use or Threat of Force

- 34** (1) A person is not guilty of an offence if
- (a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;
 - (b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and
 - (c) the act committed is reasonable in the circumstances.
- (2) In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:
- (a) the nature of the force or threat;
 - (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
 - (c) the person's role in the incident;
 - (d) whether any party to the incident used or threatened to use a weapon;
 - (e) the size, age, gender and physical capabilities of the parties to the incident;
 - (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
 - (f.1) any history of interaction or communication between the parties to the incident;
 - (g) the nature and proportionality of the person's response to the use or threat of force; and
 - (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.
- (3) Subsection (1) does not apply if the force is used or threatened by another person for the purpose of doing something that they are required or authorized by law to do in the administration or enforcement of the law, unless the person who commits the act that constitutes the offence believes on reasonable grounds that the other person is acting unlawfully.

ANALYSIS AND DIRECTOR'S DECISION

Complainant #1 passed away in Innisfil on August 15, 2024, the result of police gunfire. Complainant #2 was seriously injured by the same gunfire. The SIU was notified of the incident and initiated an investigation naming four SSPS officers subject officials – SO #1, and SO #2, SO #3 and SO #4. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that any of the subject officials committed a criminal offence in connection with the events in question.

Section 34 of the *Criminal Code* provides that conduct that would otherwise constitute an offence is legally justified if it was intended to deter a reasonably apprehended assault,

actual or threatened, and was itself reasonable. The reasonableness of the conduct is to be assessed in light of all the relevant circumstances, including with respect to such considerations as the nature of the force or threat; the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force; whether any party to the incident used or threatened to use a weapon; and, the nature and proportionality of the person's response to the use or threat of force.

The subject officials were lawfully placed and engaged in the execution of their duties through the series of events culminating in the shooting. With information that Complainant #1 and Complainant #2 had assaulted CW #4 and were at their home on Shoreview Drive, the officers were within their rights in seeking to take them into custody. There was also cause to believe that a prompt intervention was necessary given the Complainants' erratic behaviour and a concern for their well-being left to their own devices in the home.

I am satisfied that the subject officials acted with the purpose of defending themselves and/or their colleagues from a reasonably apprehended attack when they fired their weapons. That was clearly the case in respect of the initial gunshots fired by SO #1, who gave firsthand evidence to that effect in his SIU interview. The circumstances bear him out, namely, an SUV accelerating in his direction despite its driver having been told repeatedly to not move the vehicle. There are grounds to believe that the same holds true with the second volley of gunfire, consisting of shots discharged by all four subject officials. Though none of the officers were in the immediate path of the SUV at the time, they would have had reason to believe that Complainant #2 was preparing to drive at them again; the officers had just seen Complainant #1 seemingly drive at SO #1, and now Complainant #2 was putting the vehicle in motion again having repeatedly been ordered to desist.

I am also satisfied that the officers' gunfire constituted reasonable force. SO #1 would have legitimately believed that his life and those of his colleagues were in peril as the SUV picked up its speed in his direction. An immediate response was required in the circumstances. While he could not be sure that incapacitating the driver of the SUV would effectively eliminate the threat of a moving vehicle, it was a risk worth taking by the officer, who had little space in which to maneuver and only split seconds in which to decide on a course of action. Only one weapon at his disposal had the stopping power needed in the moment – his firearm. While the second volley of gunfire is less easily reconciled as reasonable, I am unable to reasonably conclude on the evidence that it was without justification. It might have been possible for the officers to seek positions of cover if they believed that Complainant #2 was gearing up for another run at them in the SUV. This, however, would have risked Complainant #2 fleeing the scene in the vehicle, a contingency that would have created public safety concerns and prevented Complainant #1, clearly injured from the initial gunfire, from receiving the emergency medical care he needed. On this record, it would appear the officers had a basis to stand their ground. Having done so, hoping it would bring the matter to an end without more gunfire, they were again confronted with the very real possibility of being in the path of a moving vehicle when Complainant #2 began to reverse the SUV. On this record, the use of lethal force was commensurate with the exigencies of the situation.

For the foregoing reasons, there is no basis for proceeding with criminal charges in this case. The file is closed.

Date: December 12, 2024

Electronically approved by

Joseph Martino
Director
Special Investigations Unit