



IC09-01-24

REPORT
Police Services Board

For Information

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DATE: December 12, 2023

SUBJECT: **CLOSED SPECIAL INVESTIGATIONS UNIT FILE 23-OCD-210, 23-OVI-232, 23-OCI-234, 23-OFP-240, 21-OCI-273, 23-OVI-262, AND 23-OCI-286.**

FROM: Nishan Duraiappah, Chief of Police

RECOMMENDATION

It is recommended that this document be received as information concerning Special Investigations Unit (S.I.U.) file 23-OCD-210, 23-OVI-232, 23-OCI-234, 23-OFP-240, 21-OCI-273, 23-OVI-262 and 23-OCI-286.

REPORT HIGHLIGHTS

- Details describing the involvement of the S.O.'s and the S.I.U. complainants.
- Findings of the Special Investigations Unit.
- Conclusions concerning the services provided by the police service and the officer's compliance with policies and procedures.
- Subject Officer is abbreviated S.O. and Witness Officer is abbreviated W.O.

DISCUSSION

23-OCD-210 (Mr. K.A.)

Executive Summary:

On May 23, 2023, members of the Intimate Partner Violence Unit (IPV) commenced an investigation for multiple domestic related incidents, some of which involved serious firearm related offences.

IPV, initially were unable to locate the affected person and obtained a tracking warrant for his cell phone.

On June 1, 2023, IPV members commenced surveillance at 551 The West Mall, an Operational Plan was authorized and a Feeney warrant was obtained. Tactical officers with support from K9 and the Arial Surveillance Unit prepared to affect an arrest.

Tactical officers defeated the apartment lock with a "Shot Lock" and utilized their robot to clear the common areas of the apartment. The affected person was located in one of the bedrooms with a single self-inflicted gunshot wound to the right side of his head.

The Special Investigations Unit was contacted and Mr. Claude Chapedos was assigned as the lead investigator. Detective Sergeant Babensee and Detective Bassier, of the Investigative Support Bureau were assigned to liaise with the S.I.U. and conduct an administrative review.

Findings of the Special Investigations Unit:

On September 29, 2023, Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraiappah (Appendix I). In his letter Mr. Martino states,

"The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official."

Furthermore, in his report to the Attorney General, the Director stated;

"The officers were within their rights in attending at the apartment at 551 The West Mall to arrest the Complainant. They were in possession of a facially valid arrest warrant permitting their forced entry into the unit to take the Complainant into custody.

I am also satisfied that the officers comported themselves with due care and regard for the Complainant's well-being throughout the series of events that preceded their discovery of his body. They forced entry into the unit after announcing their presence at the door, following which they proceeded into the residence cautiously. They were right to do so in light of information at their disposal that the Complainant was armed with a gun. On the evidence collected by the SIU, there was very little the officers could have done, if anything, to prevent the Complainant shooting himself. Indeed, the evidence leaves open the distinct possibility that the Complainant shot himself before the police had even convened in front of the unit's front door or entered the apartment.

In the result, as there are no reasonable grounds to believe that the SO of the TRU, or any other members of the TRU team, transgressed the limits of care prescribed by the criminal law during their engagement with the Complainant, there is no basis for proceeding with criminal charges. The file is closed."

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that based on information obtained throughout their investigation, there were no grounds for proceeding with charges against the officers notwithstanding the fatal injury sustained by the affected person.

Furthermore, an in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was conducted by members of the Investigative Support Bureau pursuant to Section 32 of Ontario Regulation 268/10 of the Police Services Act. There were no identified issues as a result of this review.

23-OVI-232 (Ms. R.C.)**Executive Summary:**

On Sunday June 18, 2023, at approximately 4:45 a.m., Mr. K. M. was operating a 2015 Audi S5 southbound on Dixie Road just south of Derry Road East, City of Mississauga, at a rate of speed much higher than the posted limit.

Observing this HTA infraction, the Subject Official was able to catch up to the vehicle, record the licence plate, activate his roof lights and siren, and initiate a traffic stop. The Audi pulled to the curb and was about to stop; however the driver suddenly accelerated away, continuing southbound and turned his headlights off. The S.O. immediately deactivated his emergency equipment.

The S.O. accelerated with the Audi for a short distance, however, as it became apparent that he could not keep pace, he slowed to the rate of traffic. He soon lost sight of the Audi, however, continued along the same southbound path.

A few minutes later and approximately 2.5 km away, he happened upon a fresh MVC, involving the same vehicle. He notified the dispatcher of his observations, provided details sufficient to dispatch ambulance and reported that the Audi driver had exited the vehicle and was running from the scene. After a short foot chase, the driver was apprehended by the S.O.

The Audi contained two female passengers, both injured. The affected person, who was seated in the rear passenger compartment, was transported to Sunnybrook Trauma Center for examination.

She sustained the following injuries:

- Fractured vertebrae to her neck (C2 & C7),
- Several broken ribs, and
- A lacerated liver.

The S.I.U. was contacted and Mr. Bill Harris was assigned as the lead investigator. The Investigative Support Bureau was assigned to liaise with the S.I.U. and conduct an administrative review.

The vehicle was on file as “stolen” with Toronto Police. The licence plate that had been affixed to the vehicle was the property of Mr. K. M.’s mother. K.M. was a G1 licensed driver.

The Audi’s Event Data Recorder was downloaded which revealed the top speed while southbound on Dixie Road was 223 km/h.

The driver, Mr. K.M. was charged with the following offences:

- (i) Possession of Property Obtained by Crime, contrary to section 354(1)(a) of the Criminal Code of Canada,
- (ii) Flight from Police, contrary to section 320.17,
- (iii) Dangerous Operation of a Motor Vehicle Causing Bodily Harm, contrary to section 320.13(2), and
- (iv) Fail to Remain at the scene of an Accident, section 320.16(1).

All four charges are still before the courts.

Findings of the Special Investigations Unit:

On October 16, 2023 the Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraipappah (Appendix I). In his letter Mr. Martino states,

“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”

Furthermore, in his report to the Attorney General, the Director stated,

“In the instant case, the issue is whether there was a want of care in the manner in which the SO operated his vehicle, sufficiently egregious to attract criminal sanction, that caused or contributed to the collision. In my view, there was not.

There is nothing to suggest that the SO’s decision to stop the Audi for speeding was unlawful. Though the officer did not come in for an interview or authorize the release of his notes, he authored an occurrence report in which he indicated as much, and there is no conflicting evidence on the matter.

With respect to the manner in which the officer operated his cruiser throughout his engagement with the Audi, I am satisfied that the SO comported himself with due care and regard for public safety. Though the SO reached very high speeds himself after the Audi took off from the traffic stop, he quickly thought better of it and began to slow down, disengaging from active pursuit. CW #1 was accelerating at breakneck speed and the officer’s continued engagement would have only added to the danger on the roadway without any real prospect of catching up to the Audi. There is no suggestion that the SO unduly pushed CW #1 or left him no real opportunity to scale down his speeds. The evidence indicates that the officer was well back of the Audi at the time of the collision, and had been so for at least the last kilometre before the Shawson Drive intersection.

In the result, as there are no reasonable grounds to conclude that the SO transgressed the limits of care prescribed by the criminal law in his brief pursuit of CW #1 and the Audi, there is no basis for proceeding with charges in this case.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that there were no grounds for proceeding with charges against the officer notwithstanding the injury the complainant sustained.

As a part of the administrative review, this incident was also examined from the perspective of best practices and current training guidelines by, Mr. Hugh Anderson #630c, a Driver Training Specialist. The S.O. was deemed to be compliant with all facets or Provincial Standards and PRP policy, except that, he should have notified the Communications dispatcher of the vehicle fleeing from him the moment it occurred, rather than after the accident was happened upon. The officer was spoken to with regards to notifying Communications in the circumstances.

23-OCI-234 (Mr. O.N.)

Executive Summary:

On Wednesday June 21, 2023, during the early morning hours, 21 CIB were investigating the theft of a Mercedes and were engaged with the owner tracking the vehicles movements. At approximately 8:00 a.m., the vehicle became stationary in the Walmart plaza located at Bramalea Road and Mayfield Road, Brampton. Members of 21 CIB set up static surveillance on the vehicle.

Officers observed several parties access the vehicle, stay seated in the vehicle for a short period of time and then exit.

At approximately 10:05 a.m., Mr. O.N was observed seated in the stolen vehicle. He then exited and walked to a secluded area of the parking lot.

The officers moved in to effect an arrest, identified themselves and issued a series of commands. The male was non-complaint and one of the officers was able to control him in a bear-hug style restraint and grounded him. After a brief struggle, the male was handcuffed. Immediately after the arrest, the male complained about pain to his shoulder.

In short order, investigating officers ascertained that the male was wanted on an outstanding Warrant in the First Instance.

Uniform officers subsequently attended and transported him to 21 Division, where after a brief interview with the on-duty Staff Sergeant, he was re-routed to BCH.

After x-rays, the physician confirmed that the male has sustained a fractured clavicle.

The Special Investigations Unit was contacted and Mr. Chris Leining was assigned as the lead investigator. Detective Sergeant Babensee and Detective Bassier of the Investigative Support Bureau were assigned to liaise with the S.I.U. and conduct an administrative review.

Findings of the Special Investigations Unit:

On October 19, 2023 Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraiappah (Appendix I). In his letter Mr. Martino states,

“The file has been closed and no further action is contemplated. In my view, there is no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”

Furthermore, in his report to the Attorney General, the Director states;

“Based on the information they had from the owner of the Mercedes, including GPS location data, and their own observations of the Complainant inside the vehicle, I am satisfied that the officers were within their rights in seeking to arrest the Complainant in connection with the theft of the automobile.

As for the force used by the SO, namely, a takedown, I am unable to reasonably conclude that it was unlawful. In one body of evidence, it is alleged that the Complainant was walking in the area of the arrest when he was approached by four plain-clothed officers, two of whom grabbed his arms and pulled him to the ground. There is no mention, in this allegation, of any resistance on the Complainant’s part or attempt at flight. On the other hand, the SO indicates that the Complainant moved as if he was preparing to run as the officers approached and that, as he did, the officer observed a silver object hanging out of his front right pocket that he feared could be a weapon. In response, the SO tackled the Complainant to the ground to neutralize both contingencies. Though the other arresting officers – three of them – make no mention of any ‘silver object’ being a concern, there is reference in their accounts to the Complainant seemingly preparing to run before he was grounded. The one account paints a picture of excessive force. The other suggests force that was tailored to the exigencies of the moment. In the final analysis, as it is unclear that either rendition is more likely to be closer to the truth than the other, there are no reasonable grounds to conclude that the force used by the SO was unjustified.

For the foregoing reasons, while I accept that the Complainant’s clavicle was broken in the takedown, there is no basis for proceeding with criminal charges in this case. The file is closed.

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that there were no grounds for proceeding with charges against the officer notwithstanding the injury the Complainant sustained.

Furthermore, an in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was conducted by members of the Investigative Support Bureau pursuant to Section 32, Ontario Regulation 268/10, Ontario Police Services Act. There were no identified issues as a result of this review.

23-OfP-240 (Mr. L.M. G.)

Executive Summary:

On Saturday, June 24, 2021, at approximately 7:25 p.m. two C.I.B. officers were entering the Highway 403 ramp from westbound Eglinton Avenue, Mississauga, when they came across a single motor vehicle collision into the guardrail where the eastbound Highway 403/410 divide from eastbound Highway 401 ramp.

As the officers exited their unmarked police vehicle, the driver (affected person) exited his vehicle and proceeded towards them with a hammer in his left hand. The officers identified themselves as police and commanded that he drop the hammer.

The affected person, refused to obey the commands and the S.O. discharged one round of his pistol at him. The bullet missed the affected person, glancing off the driver's side bumper of their un-marked cruiser, striking the passenger front quarter panel of another vehicle at the scene. No one was injured as a result of the firearm discharge.

The affected person was un-deterred by the shot and proceeded to enter the driver's seat of the un-marked police vehicle. W.O. #1 immediately engaged the affected person as he attempted to drive away and a struggle ensued. The affected person was briefly successful in putting the vehicle in motion, however W.O. #1 was able to put the vehicle in neutral and bring it to a safe stop. The S.O. was able to assist bringing the affected person under control without injury after deploying his CEW.

The Special Investigations Unit was notified due to the discharge of the firearm and Mr. Barry Millar was assigned as the lead investigator. Detective Sergeant Babensee and Detective Bassier of the Investigative Support Bureau were assigned to liaise with the Special Investigations Unit and conduct an administrative review.

Findings of the Special Investigations Unit:

On October 20, 2023 Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraiappah (Appendix I). In his letter Mr. Martino states,

"The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official."

Furthermore, in his report to the Attorney General, the Director stated;

"I am further satisfied that the nature and extent of the force used by the SO – a single gunshot – was reasonable in the circumstances. The Complainant had armed himself with a hammer - an object capable of inflicting grievous bodily harm or death - and was walking with purpose in the direction of the officers. He had been given a reasonable opportunity to drop the weapon and was within three to four metres of WO #1 when the SO fired his weapon. At that moment, the SO had a difficult decision to make. The scene was a highly congested highway with plenty of other motorists in the vicinity, third-parties who were at risk themselves of serious injury or death from a gunshot. On the other hand, the Complainant was within a step or two of launching a potentially lethal attack on WO #1. In the split-second in which he had to choose, I am unable to reasonably conclude that the SO was reckless in deciding to fire his weapon. For his part, it is important to note that WO #1 was ad idem with the SO; he feared for his own life and was readying to fire his weapon when he heard the gunshot. As for the prospect of a continued retreat from the Complainant, that option was restricted by the nature of the scene. While some traffic had come to a stop, other vehicles were still travelling in the area.

In the result, as there are no reasonable grounds to believe that the SO comported himself other than within the limits of the criminal law when he fired at the Complainant, there is no basis for proceeding with charges in this case. The file is closed.

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined on reasonable grounds that no offence was committed by any particular officer whose presence at the scene was confirmed by the S.I.U.

As a part of the administrative investigation, the incident was reviewed from the perspective of best practices and current training guidelines by Sergeant Blair Herd, a Use of Force instructor certified by the Ministry of the Solicitor General at the Ontario Police College and a Force Science Institute (FSI) specialist. During his review, Sergeant Herd determined that the S.O. was not compliant with the following;

- Policy: I-A-706 (F) "Soft Body Armour" for having his CEW affixed to his vest. It should be noted that although the Policy states CEW shall be worn on the officer's duty belt, those officers in an investigative role, cannot wear a CEW on their belt as they would be too conspicuous to those they are surveilling, should they have to exit their vehicle over the course of their detail. Officers are expected to have all use of force options available to them. This may be a case of a gap in Service Policy.
- Policy: I-A-401 (F) "Radio Communications" for not logging on with the Divisional Communicator before changing over to the radio channel they were to be conducting surveillance on.

An in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was conducted by members of the Investigative Support Bureau pursuant to Section 32 of Ontario Regulation 268/10 of the Police Services Act. No other infractions were identified.

21-OCI-273 (Mr. D.N.)**Executive Summary:**

On August 26, 2021, O.P.P. officers became involved in a motor vehicle pursuit where the Affected Person intentionally made contact with a police cruiser in the area of Hurontario Street and John Street in the City of Mississauga. The O.P.P. terminated the pursuit in the area of Mississauga Valley Road and notified Peel Regional Police of the incident and provided descriptors for the culprit vehicle.

P.R.P. Officers from 12 Division located the vehicle and again, the culprit vehicle made contact, this time with a Peel Regional Police cruiser. The Affected Person then exited the vehicle and attempted to flee on foot. At one point, the Affected Person jumped over a hedge where he tripped and fell. Tactical officers caught up to the Affected Person, at which time a struggle ensued. Several CEWs were deployed and the culprit was eventually arrested. During the arrest, the male sustained a bloody nose. He was taken to Mississauga Hospital, where it was determined he had a possible concussion and a broken jaw.

The Male was attended to by on-call physicians.

The Special Investigations Unit was contacted and; Mr. Arun Rai was assigned as the lead investigator. The Investigative Support Bureau was assigned to liaise with the S.I.U. and conduct an Administrative Review.

The Affected Person, Mr. D.N. was charged with the following;

- 1) Flight from Police (x3)
- 2) Possession of Property Obtained by Crime
- 3) Dangerous Operation of a Motor Vehicle
- 4) Drive Under Suspension

Note: The above charges were all withdrawn when the Affected Person entered into a Peace Bond with the Courts.

Findings of the Special Investigations Unit:

On April 25, 2022, the S.I.U. charged Sergeant J.R. with one count of Assault Level 1.

Analysis:

As part of the Administrative Review Process, all Body Worn Camera (BWC) footage was reviewed.

During this incident, Constable I.F., who was wearing BWC, was determined to deliberately cover his BWC to prevent the struggle with officers during the A.P.'s arrest to be captured. This action, created doubt on the part of investigators as to the legitimacy of the force used in the

A.P.'s arrest. At the time, the A.P. was not handcuffed and actively resisting his arrest. These actions were immediately brought to the attention of the OIC of Professional Standards and a Chief's complaint was initiated. As a result of this investigation, Constable I.F. was docked 8 hours pay and received remedial training relating to the BWC policy.

As part of the Service's obligation to co-operate with S.I.U. investigations, all relevant BWC footage of the incident were shared with the S.I.U. As a result, Constable I.F.'s BWC was shared. This officer's footage, at one point when the officer's hand was not covering the lens, shows the S.O. approach the A.P. and kick him in the leg while he was struggling with the arresting officers. While this kick was not the cause of the A.P.'s serious injury, it did lead to the re-designation of the S.O. (who was initially designated as a witness officer) and a criminal charge of assault laid against him.

Finally, during the review of all officers BWC; Constable L.D. accidentally had his BWC recording while in the report room. This footage showed, Constable L.R., an officer who was being sequestered for his involvement in the S.I.U., looking at photographs of the scene which had been shared with him in contravention of S.I.U protocols relating to the "Conduct and Duties of Police Officers Respecting Investigations by the Special Investigations Unit". These breaches of PRP policy have been forwarded to the Incident Response Review Committee for discussion and follow-up.

Crown Decision to Withdraw Assault Charge against S.O. Explained:

On Monday, October 30, 2023, the S.O.'s matter was addressed at the A. Grenville and William Davis Courthouse in Brampton. At this time the charge was withdrawn by the Crown citing that "it would not be in the Public's interest to proceed". According to the transcript, the Crown, "recently came into possession of some new information that caused us to reassess our confidence in the prosecution from a new perspective...".

Other factors contributing to the Crown's decision to withdraw were extracted from the Court transcript.

- 1) The charge of assault as it pertains to the excessive use of force was minor in nature and did not lead to an injury, and for which the Crown had elected to proceed summarily.
- 2) He is a long serving member of the Service with no discipline history.
- 3) He agreed to undertake some remedial Incident Response Training.
- 4) That there was a section 11(b) Charter application submitted by the Defense.

Conclusion:

On April 25, 2022, the S.I.U. charged the S.O. with one count of Assault. However, on October 30, 2023, the Crown elected to withdraw the charges stating that it was not in the public's interest to proceed.

Furthermore, an in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was conducted by members of the Investigative Support Bureau pursuant to Section 32 of Ontario Regulation 268/10 of the Police Services Act. Aside from the policy infractions listed in the analysis, namely; PRP Policy I-B-173' (F) "Body Worn Cameras", and the S.I.U. Act 2019: "Conduct and Duties of Police Officers Respecting

Investigations by the Special Investigations Unit”, there were no other identified issues as a result of this review.

23-OVI-262 (Mr. S.S. R.)

Executive Summary:

On Monday, July 10, 2023 at 1:50 a.m., the Affected Person, Mr. S.S.R. attended 44 Switchback Trail, Brampton, with three associates. At that time, this was a newly built residential area with some of the homes recently inhabited and others still under construction.

The Affected Person arrived at the scene in a 2016 white Mercedes Sprinter van. The van was on file as stolen with South Simcoe Police and the plate on file as stolen with London O.P.P. The van was towing an un-plated white Kodiak camper trailer.

The four men were observed by one of the nearby residents taking construction equipment and loading it into the trailer. Police were notified via 9-1-1. Several 21 Division officers were dispatched.

Upon arrival, the first unit quickly transmitted to the other responding officers that the vehicle was already gone on arrival. The additional units began checking the area.

At approximately 1:54 a.m., one of the Witness Officials located the vehicle westbound on Countryside Drive, and attempted a traffic stop. The vehicle refused to stop and the Witness Official did not pursue. He did relay back to Communications that the last known direction of travel was southbound on Torbram Road from Countryside Drive.

The Subject Official was approaching the same area on Torbram Road. He immediately stopped his cruiser at Australia Drive and deployed his Stop Stick¹. Moments later, the Mercedes van approached, rolled over the Stop Stick and within a very short distance, rolled over.

Several officers converged on the rollover and all four parties were arrested without incident.

The Affected Person quickly advised that his arm was injured. He was conveyed to Brampton Civic Hospital and examined by the on-call physician. X-rays confirmed that the Affected Person had sustained a fractured wrist.

The S.I.U. was contacted and Mr. Carm Piro was assigned as the lead investigator. The Investigative Support Bureau was assigned to liaise with the S.I.U. and conduct an administrative review.

The Affected Person was charged with the following offences:

- Four counts of Possession of Property Obtained by Crime, contrary to section 354(1)(a) of the Criminal Code of Canada.

On September 28, 2023, the Affected Person failed to appear before the Ontario Court of Justice, 7755 Hurontario Street, Brampton. A bench warrant was issued for the Affected Person and all charges are still before the courts.

¹ Tire deflation device.

Findings of the Special Investigations Unit:

On November 7, 2023 the Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraiappah (Appendix I). In his letter Mr. Martino states,

“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”

Furthermore, in his report to the Attorney General, the Director stated,

“The SO was in the lawful execution of his duty when he decided to try to stop the van. Given the information that had come over the police radio of the theft of construction material from a home and the flight of the persons suspected of the theft in a van, the officer had cause to take the van’s occupants into custody.

With respect to the manner of the SO’s intervention, namely, the deployment of a tire deflation device, I am satisfied that the officer comported himself with due care and regard for public safety. The van had fled the scene of a reported criminal offence at speed and was travelling southbound at about 100 km/h in the northbound Torbram Road lanes. Clearly, the vehicle constituted a danger on the roadway and there was some imperative in stopping it. The use of a tire deflation device, or a ‘spike stick’, was one such way the van might be stopped. Ideally, the device results in a controlled deflation of tires that are punctured as a vehicle travels over it. It too carries a risk to public safety where, for example, a vehicle swerves to avoid the device or something other than a controlled deceleration results. In the case at hand, it appears the SO weighed the competing risks and made a reasonable decision. The roadway was straight, dry and in good repair (mitigating the dangers of a loss of vehicle control caused by the device) and there was little if any third-party traffic in the area given the time of day.

In the result, as there are no reasonable grounds to believe that the SO transgressed the limits of care prescribed by the criminal law in the deployment of the tire deflation device, there is no basis for proceeding with charges in this case.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that there were no grounds for proceeding with charges against the officer notwithstanding the injury the Affected Person sustained.

In his revised closing letter, the Director made the following comments:

“I note that Cst J.A., though equipped with a body-worn camera, did not have it turned on as he set about to deploy the tire deflation device. Regrettably, that oversight meant that the SIU was left without the best possible evidence in its investigation. Conduct of this nature undermines the credibility of SIU

investigations and erodes public confidence in policing. I ask that your service look into this matter and take such steps as may be appropriate to mitigate the risk of these types of oversights in the future.”

Analysis of the event revealed that the officer had seconds to exit his cruiser, access the Stop Stick device and deploy it as the vehicle was barreling towards him. Given the dynamics of this unfolding situation, the officer’s safety was of the utmost importance, and was a reasonable allowance for the slight delay in activating his BWC.

Lastly, a further in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was conducted by members of the Investigative Support Bureau pursuant to Section 32, Ontario Regulation 268/10, Ontario Police Services Act. There were no identified issues as a result of this review.

23-OCI-286 (Mr. A.S.)

Executive Summary:

On July 24, 2023, officers were dispatched to investigate a fail to remain collision involving the Affected Person (A.P.) who was suspected of being impaired at the time. The male was located in the driveway of a residence on Laddie Crescent in Mississauga.

When the officers attempted to arrest the A.P., he pulled away, accessed a knife from his pocket and began running along Derry Road towards Goreway Drive.

Officers caught up with the male at the driveway to the McDonalds restaurant, and one of the officers deployed a CEW. The CEW was successful in facilitating a full neuro-muscular incapacitation causing him to lock out, fall backwards and strike his head on the ground. While unconscious the knife was successfully removed from the male’s hand and he was taken into custody.

The A.P. was transported to Etobicoke General Hospital where on-call physicians determined that he had suffered a brain bleed and was admitted to hospital for treatment.

The Officers’ involvement with the A.P. was captured on BWC.

The Special Investigations Unit (S.I.U.) was notified and Mr. Barry Millar was assigned as the lead investigator. Detective Sergeant Babensee and Detective Bassier of the Investigative Support Bureau were assigned to liaise with the Special Investigations Unit and conduct an administrative review.

Findings of the Special Investigations Unit:

On November 21, 2023 Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraipappah (Appendix I). In his letter Mr. Martino states,

“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”

Furthermore, in his report to the Attorney General, the Director stated;

“The Complainant was subject to arrest at the time the SO fired his CEW. The police had reason to believe that he had operated a motor vehicle while under the influence of alcohol. Moreover, he had brandished a knife at officers when they attempted to take him into custody.

With respect to the SO’s use of the CEW, I am satisfied that it was legally justified. As his flight from police suggested, the Complainant was determined to avoid apprehension. He was also in possession of a switchblade, a weapon capable of inflicting serious bodily harm and death. In the circumstances, it made sense to try to temporarily incapacitate the Complainant from a distance as a physical engagement at close quarters risked harm to the officers. Moreover, the Complainant had by that time been given reasonable opportunity to drop the knife, as directed by the police, and he was within several metres of the surrounding officers. While the use of a CEW always risks injury by way of an uncontrolled fall by the subject, it would appear that the SO’s decision to deploy the weapon represented a reasonable weighing of that risk with the countervailing dangers associated with not using the weapon when he did.

In the result, while it is most unfortunate that the Complainant struck his head and suffered a serious injury with the use of the CEW, I am satisfied that the SO comported himself within the limits of the criminal law throughout their engagement. As such, there is no basis for proceeding with criminal charges in this case. The file is closed.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that there were no grounds for proceeding with charges against the officers notwithstanding the injuries sustained by the Complainant.

Furthermore, an in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was conducted by members of the Investigative Support Bureau pursuant to pursuant to Section 32, Ontario Regulation 268/10. There were no identified issues as a result of this review.

Approved for Submission:



Chief Nishan Duraiappah

For further information regarding this report, please contact Inspector Bill Ford at extension 6080 or via e-mail at william.ford@peelpolice.ca

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