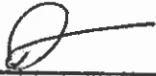


IC13-04-22



FORWARDED TO
POLICE SERVICES BOARD

DATE APRIL 22, 2022



CHIEF OF POLICE

In Camera REPORT
Police Services Board

For Information

File Class: 1-01-02-01

Cross-Reference File Class: _____

PSB REC: APRIL 22, 2022
REVISED: APRIL 26, 2022
LOG #20-22
FILE CLASS: M13

DATE: March 28, 2022

SUBJECT: CLOSED SPECIAL INVESTIGATIONS UNIT FILES 20-OFI-109.

FROM: Nishan Duraiappah, Chief of Police

RECOMMENDATION

It is recommended that this document be received as information concerning Special Investigations Unit (S.I.U.) files 20-OFI-109.

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.

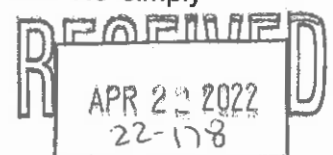
DISCUSSION

20-OFI-109 (Ms. C.K.)

Executive Summary:

On Sunday, May 10, 2020, Mr. G.B. contacted Peel Regional Police (PRP) Communications to report a domestic dispute between his ex-wife and himself, Ms. C.K. (refer to occurrence #PR20-0150593 for details).

Constable T. BM. (acting in the capacity of a Field Training Officer) and Constable V.B. (probationary Constable) were dispatched and at 9:07 p.m., attended the home of Mr. G.B. The crux of his complaint amounted to a series of unwanted text messages from her. He simply



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requested that she be asked to discontinue messaging him, save and except any messages dealing directly with child care issues.

At approximately 10:16 p.m., the officers attended, the home of Ms. C.K. and her boyfriend, Mr. M.H, located in Mississauga. There was no response at the front door, but the officers did make eventual contact with Ms. C.K. via telephone. The couple then emerged from the home to meet the officers.

The officers attempted to converse with Ms. C.K., however, Mr. M.H. inserted himself into that conversation and became verbally and physically aggressive. This evolved into Mr. M.H. assaulting Constable T.BM. (refer to occurrence #PR20-0150933 for details). The officers had considerable trouble subduing this male and Constable T.BM. ultimately deployed his CEW.

In the process of handcuffing Mr. M.H, Ms. C.K. advanced aggressively from the front step of her residence towards the officers. Constable V.B fearing for her safety and that of the officers present, intended to access her CEW as well, however, mistakenly retrieved her firearm instead.

Constable V.B. discharged her firearm once striking Ms. C.K. in the abdomen area. Ms. C.K. was immediately transported to the Sunnybrook Health Sciences Centre where she received medical care.

The Special Investigations Unit (S.I.U.) was contacted and Ms. Brooke Smyth was assigned as the lead investigator.

While PRP processed the scene, it became apparent that there was a considerable amount of cannabis marijuana at the home, a great deal of drug paraphernalia, and a large quantity of Canadian currency. 11 Division CIB was notified.

The arrest of Mr. M.H. resulted in the following charges being laid:

- (a) Obstruct Peace Officer, section 129(a) Criminal Code of Canada, and
- (b) Assault a Peace Officer, section 270(1)(a) Criminal Code of Canada.

He was later released on Promise to Appear and an Undertaking with conditions.

On Monday May 11, 2020, 11 CIB executed a search warrant at the residence. They found and seized the following items:

- (1) 8.924 lbs of Cannabis marijuana,
- (2) \$6075 in Canadian currency,
- (3) Various items consistent with drug trafficking, i.e., containers, ledgers, price lists, vacuum bags, vacuum sealer, a scale, and business cards for Cannabis sales.

As a result, on May 28, 2020, both Ms. C.K. and Mr. M.H. where charged with:

- (i) Possession for the Purpose of Distributing, section 9(2) Cannabis Act, and
- (ii) Laundering Proceeds of Crime, section 462.31 Criminal Code of Canada

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 June 10, 2020, the Subject Official, Constable V.B., provided the SIU with a fully voluntary and inculpatory statement.

During this interview she indicated that when presented with the assaultive behavior of Ms. C.K. she accessed what she believed to be her CEW but it was in fact was her firearm. As Ms. C.K. moved towards her and her partner she discharged it. It was at this time she realized her mistake and immediately provided first aid while requesting paramedics.

On June 30, 2020, Constable V.B. resigned from PRP.

On July 16, 2020, the SIU charged the S.O. with:

- Careless use of a firearm,
- Criminal negligence causing bodily harm, and
- Assault with a Weapon.

Her first scheduled court appearance was set for August 4, 2020.

Court Process:

The court process for the S.O. began on August 4, 2020. On November 12, 2021, the S. O. plead guilty to one count of Careless Use of a Firearm and was granted a conditional discharge as well as an 18-month probation. The notable conditions of this probation include:

- No contact with the complainant, Ms. C.K.
- Prohibited from possessing weapons, and
- 150 hours of community service.

The other charges of Criminal Negligence Causing Bodily Harm and Assault with a Weapon were withdrawn.

In relation to the charges against Ms. C.K. and Mr. M.H., , the Cannabis and Laundering charges were withdrawn on February 5, 2021, and the Assault Peace Officer and Obstruct charges were withdrawn against Mr. M.H. on March 23, 2021

Conclusion:

As a part of the administrative investigation, the incident was reviewed from the perspective of best practices and current training guidelines. Sergeant Blair Herd, a Use of Force instructor certified by the Ministry of the Solicitor General at the Ontario Police College, has provided input regarding the actions of the officers. Sergeant Herd is also recognized by the Force Science Institute (FSI) as having completed training in the principles of Force Science and is certified to apply these principles to the analysis of use-of-force incidents.

Constable V.B. inappropriately discharged her firearm against an unarmed civilian. It is clear that the actions of Constable V.B. were not act in accordance with her training, legal standards and /

or PRP policies and procedure. Sergeant Herd conducted a detail review of the matter and made several conclusions in this regard.

Sergeant Herd concluded that several factors led to this grave error by Constable V.B. First, due to her limited experience, she committed a "capture error"¹ when she accessed her pistol instead of her CEW.

Secondly, Constable V.B. committed an attribution error when Constable T. BM aimed his CEW laser sights at Ms. C.K's left thigh, Constable V.B. attributed those sights to what she thought was her own CEW, even though she had drawn her pistol.

Finally, Sergeant Herd identified that a lack of communication and a lack of de-escalation was also a factor in this interaction. The officers involved knew that Ms. C.K. had previous mental health issues and negative interactions with police on approximately 12 occasions. The officers did not ask for additional officers to attend based on Ms. C.K. previous history with police nor when the interaction began to escalate at the outset. The officers also failed to formulate a plan upon leaving the cruiser to meet Ms. C.K. and did not inform any parties they were under arrest and for what reasons. Furthermore, Constable T.BM., failed to indicate to his trainee that he had drawn his CEW or deployed it which added to the stress and confusion of the new recruit officer.

The Administrative Review has been forwarded to the Incident Response Review Committee for further discussion and action.

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

Authored By: *Detective Sergeant Andy Babensee #1585*

¹ "capture error" - can occur when an infrequent action like drawing a CEW is non-consciously substituted by a similar, more familiar, and more practiced action - like drawing a firearm.