



# REPORT

## Police Services Board

For Information

**PSB REC: OCT 19, 21**  
**LOG #52-21**  
**FILE CLASS: M13**

File Class: \_\_\_\_\_

Cross-Reference File Class: \_\_\_\_\_

DATE: October 12, 2021

SUBJECT: **CLOSED SPECIAL INVESTIGATIONS UNIT FILES 20-OFD-144, 21-OCI-062, 21-OCI-085, 21-OFD-120, AND 21-OCI-134.**

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-OFD-144, 21-OCI-062, 21-OCI-085, 21-OFD-120, and 21-OCI-134.

### 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-OFD-144 (Mr. E.C.)**

##### Executive Summary:

On June 20, 2020 at 5:14 p.m., 12 Division officers responded to a second floor apartment at 3425 Morning Star Drive, to check on the well-being of the complainant. According to information provided by the family, the complainant suffered from Schizophrenia and had not been taking his medication. Police were also advised that the complainant had been in the Psychiatric Ward, they were unsure how he was released as he was not discharged. At the

time of the call, he was acting confused, was in possession of a pocket knife and would not let anyone near him.

Upon arrival, the uniform officers along with family entered the unit and located the male sitting on a prayer rug. He was in possession of the pocket knife. While officers attempted to communicate with him, he reached under the prayer rug and produced a large kitchen knife which he pointed at the officers and demanded that they leave. The officers disengaged and removed the family from the apartment and Tactical officers were notified.

At 6:00 p.m. Tactical officers arrived and began negotiations with the complainant from outside the apartment door, however he was not compliant and would not cooperate with any requests. A Punjabi speaking officer attended the residence to assist them with translation. Over the course of the next two hours Tactical members were unable to convince the complainant to surrender his weapons so that the paramedics could examine him.

At 6:35 p.m. an update was made by W.O. #13 that;

- *According to the family, the male was taken by ambulance to the hospital for a similar situation last week.*
- *He possibly came back the next day.*
- *He was okay for a few days but has been deteriorating for the past week.<sup>1</sup>*

At 8:00 p.m. the complainant ceased all communications and no sounds could be heard in the apartment.

The complainant's family had advised officers that he was in poor health; he was diabetic, had a history of heart issues and recently had undergone lung surgery.

Due to concerns regarding potentially deteriorating mental and physical health, the decision by WO #10 was made to enter the apartment at 8:24 p.m.

The S.O., W.O. #2 and W.O. #8 used ladders to climb onto the balcony of the apartment. The S.O. was armed with a pistol and stood to the right of the balcony door. To his left were W.O. #2, armed with an ARWEN, and W.O. #8, armed with a CEW. The S.O. kicked open the balcony door, but it did not open fully. The door was kicked again and then pushed open by the S.O. At this time the complainant moved towards the officers holding a large kitchen knife.

W.O. #2 and W.O. #8 attempted to disarm the complainant using an ARWEN and a CEW however they were unsuccessful. The S.O. fearing for his safety and that of his team discharged two rounds from his pistol at the complainant striking him in his chest.

The complainant was pronounced at the scene by Dr. Hillier.

The Special Investigations Unit was notified 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 Special Investigations Unit and conduct an administrative review.

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<sup>1</sup> This information has not been corroborated. According to the Coroner's report; "On the day of death, this 62-year-old man left hospital against medical advice. He had been admitted for psychiatric reasons."

Findings of the Special Investigations Unit:

On March 31, 2021, 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 grounds in the evidence to proceed with criminal charges against the subject officer.”*

Furthermore, in the Director’s report to the Attorney General he states;

*“I find that the SO was justified pursuant to subsections 25(1) and 25(3) of the Criminal Code in using lethal force against The Complainant. While I have no evidence from the SO about his state of mind, WO #11 heard the SO say, “I had to do it, I had no choice,” immediately after the shooting. I am also able to infer from the circumstances that the SO held the subjective belief that he was required to use his firearm to protect himself and his partners from serious harm. Despite his frailty, The Complainant was armed with an edged weapon, a kitchen knife with a 20-centimetre blade, which could cause grievous injury or death. At the time of the shooting, lesser use of force, including use of a CEW and multiple ARWEN discharges, had failed to deter The Complainant. Indeed, The Complainant had moved within approximately three to four feet of the balcony doorway (about five to six feet from the SO) and had shown no intention of stopping before the SO discharged his weapon. There was no realistic way to retreat because the officers were perched on a small, crowded balcony they could only exit by using ladders. There was also no time to switch tactics and try other methods, such as using oleoresin capsicum spray or a baton, to disarm The Complainant. Any other option to respond to the threat, such as going hands-on with The Complainant or closing the balcony door (which swung into the apartment), would have increased the risk that the officers would suffer serious injury or death. As such, I believe the SO’s resort to his firearm was objectively reasonable, necessary and proportional to the threat posed by The Complainant, notwithstanding the tragic loss of life it caused.*

And further that,

*The offence of criminal negligence causing death is predicated, in part, on conduct that amounts to a marked and substantial departure from the level of care that a reasonable person would have exercised in the circumstances. Notwithstanding the aforementioned-concerns, I am unable to form reasonable grounds to believe that the responding officers’ conduct approached this level of negligence. In fact, it appears the officer in charge, WO #10, made appropriate use of the available resources and reasonable choices in an ultimately failed attempt to safely apprehend The Complainant.*

And finally,

*A more difficult question is whether WO #10 was criminally negligent in the PRP’s approach to apprehending The Complainant. I cannot find fault in the initial plan to contain The Complainant, keep other tenants sheltered and try to negotiate The Complainant’s safe surrender with an interpreter. Instead, the real question is whether executing the DAP was criminally negligent. The police were aware that*

*The Complainant was afraid of police. Moreover, there is the real possibility that The Complainant was unable to understand the officers as they did not speak Punjabi. On the other hand, the hope was that the element of surprise would prevent The Complainant from taking defensive action and that the use of multiple officers would mean there were more “less lethal” use of force options (such as a CEW or ARWEN) to facilitate a safe apprehension should circumstances turn volatile. In addition, WO #9 had already explained in Punjabi to The Complainant the officers’ concerns about the knife.*

*It is significant that the DAP was not implemented until after The Complainant became non-responsive and its necessity had crystalized. The approximately 20-minute long period of non-responsiveness alarmed WO #10, who was worried that The Complainant was at risk for self-harm. Beyond that, WO #10 was concerned about The Complainant’s physical condition. He was of the understanding that The Complainant was not taking his medication, had diabetes, a history of heart issues and recently had lung surgery. He had been advised that The Complainant could barely walk or breathe and was concerned The Complainant’s breathing was exasperated by the heat of the day. Faced with these concerns, and being unable to gain a visual on The Complainant, WO #10 was in a position where he had to weigh the risk of immediate intervention with the risk of not acting in the event The Complainant was in medical distress. While I accept WO #10’s choice to intervene set in train a series of events with devastating consequences, I am unable to determine that this was a departure from what a reasonable person faced with the same choices would do, let alone a marked and substantial departure.*

*In the final analysis, as I am not reasonably satisfied for the foregoing reasons that the shooting of The Complainant amounted to legally unjustified force or was the culmination of a criminally negligent course of conduct, there is no basis to proceed with criminal charges in this case notwithstanding The Complainant’s tragic death. This file is closed.”*

### Conclusion:

As a part of the administrative investigation, the incident was reviewed from the perspective of best practices and current training guidelines. Superintendent Dawn Orr of Emergency Support Services provided input with respect to the Command decision to enter the apartment. Sergeant Auden Whyte and Sergeant Blair Herd, both Use of Force instructors certified by the Ministry of the Solicitor General at the Ontario Police College, have provided input regarding the actions of the Tactical officers once authorized to enter the apartment. Sergeant Whyte 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.

A detailed analysis of the decision-making and actions was conducted by experienced members of the Emergency Support Operations and Incident Response and Training Unit. This established that the officers’ actions were Necessary, Risk Effective and Acceptable.

The Incident Commander in this situation followed the principles of ICEN (Isolate, Contain, Evacuate and Negotiate) and SMEAC (Situation, Mission, Execution, Administration, and Command and Control). The Incident Commander developed a mission statement which was his intent to negotiate the surrender of the subject however when the subject became

unresponsive the Incident Commander used the risk management tool, NRA to authorize the Deliberate Action Plan (DAP).

The Incident Commander lost communication with the subject. Given all of the subject's medical issues, lack of air conditioning in the apartment in addition to the temperature that day being 29 degree's. The Incident Commander felt it **necessary** to intervene to render aid as he felt there were "Critical medical issues" facing the subject.

The Incident Commander relied on the Tactical TL to provide him with the most robust safest plan. The Incident commander discussed options to see into the apartment however the curtains were drawn. A gas plan was discussed however due to the subject's lungs and breathing issues this was not approved. Additional tactical officers had arrived allowing for less lethal options at both entry points. Tactical medics were in the lineup at the door with Tactical officers. The Incident Commander felt this was the most **risk effective** plan available to him.

The Incident Commander felt that it was **morally ethically legally acceptable** to enter the apartment to render lifesaving assistance to the subject. The male was believe to be in medical crisis and it would not be acceptable to stand by and not render first aid.

As such, the Incident Commander (W.O. #10) acted in accordance with his Incident Command Training.

The S.O. perceived an immediate threat when presented with the Complainant pointing a large kitchen knife at him. The decisions leading up to the interaction that the S.O. had with the Complainant also provides insight into his decision making:

Upon entry it was **Necessary** for the S.O. to engage the Complainant with his firearm as the Complainant presented a lethal threat holding a knife and advancing from close proximity after a CEW and ARWEN deployment were unsuccessful.

It was **Risk Effective** for the S.O. to discharge his firearm in order to stop an imminent lethal threat rapidly advancing on him and his fellow officers.

It was **morally, ethically and legally acceptable** for the S.O. to fire his pistol with the intent of stopping the subject who was armed with a knife and pointing it directly at the S.O. and his other team members.

The actions of the S.O. also meet the parameters of Necessary, Risk Effective and Acceptable

No conduct issues were identified.

An in-depth analysis of all applicable Federal Legislation, Provincial Legislation, Peel Regional Police policies and procedures was also conducted by members of the Investigative Support Bureau pursuant to Section 11(1) and (2) of Ontario Regulation 267/10 of the Police Services Act. The review has determined that the S.O. was compliant with all applicable legislation, policy and procedures.

Based on the Special Investigations Unit investigation, the Director, Mr. Joseph Martino, determined that the tactics and force used by the officers was legally justified and there were no grounds for proceeding with criminal charges against the subject officer.

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**21-OCI-062 (Mr. J.G.)****Executive Summary**

On Friday February 26, 2021, at approximately 11:00 a.m., there was a motor vehicle collision near the intersection of Queen Street East and West Drive, Brampton. The damaged vehicles as well as two tow trucks moved into the parking lot of St. Leonard's Place, located at 1105 Queen Street East.

Civilian Witness #1 was the owner/operator of the first tow truck and Civilian Witness #2 was the owner/operator of the second tow truck.

While the tow operators were interacting with the drivers of the damaged vehicles, Mr. J. G., the complainant, was wandering through the same parking lot. He noticed the open windows of CW #2's vehicle, reached in and stole a two-way radio system, an iPhone cellular telephone, as well as the recharging wires for both. A few minutes later, CW #2 noticed the items missing. Using a tracking app, CW #1 tracked the iPhone to the Tim Hortons in the plaza on the south-west corner of the above intersection.

Both tow operators confronted the complainant in the restaurant and the dispute moved out into the parking lot. The complainant produced an edged weapon and began lunging at the tow operators in a stabbing motion. CW #1 retreated toward his tow truck and retrieved an aluminum tire-checker bat, while the complainant followed. There was a brief physical altercation between the two males.

The complainant then entered the drivers compartment of the tow truck (engine was already running) and hastily fled the parking lot. CW #2 followed CW #1's truck, contacted police, and provided regular updates on its direction of travel and speed.

The complainant drove the stolen tow truck:

- (i) northbound on Laurelcrest Street,
- (ii) Westbound on Vodden Street East,
- (iii) While westbound on Vodden Street East, W.O. #1, Constable A.C. attempted to execute a traffic stop of the stolen tow truck. The complainant refused to stop, and proceeded through a red light at Rutherford Road North. W.O. #8, Acting Sergeant K. R. directed Constable A.C not to pursue and he complied.
- (iv) The complainant continued southbound on Rutherford Road North,
- (v) Westbound on Queen Street East,
- (vi) Entered the plaza at 284 Queen Street East. While in this parking lot, he struck four separate vehicles, caused considerable damage, failed to remain, exited the plaza and fled northbound on Hansen Road North,
- (vii) While northbound on Hansen Road North, the complainant was relocated by S.O. #1 and he initiated a pursuit, despite the earlier direction by Acting Sergeant K. R. Shortly after providing dispatch with all of the pertinent details, W.O. #4, Sergeant G. M. directed S.O. #1 to discontinue. S.O. #1 immediately complied.
- (viii) Nearing #363 Hansen Road North, the road veers 90°. The complainant was unable to negotiate this turn and drove directly into a snow bank on the north side boulevard.

Within a few moments, three marked police cruisers boxed the complainant in, one on each side and the third at the rear. Several times, the complainant maneuvered forward/reverse attempting to break out.

Several officers exited their cruisers, quickly approached on foot and attempted to remove the complainant from the tow truck. It was a spirited effort including multiple Taser applications, an application of OC spray and several open palmed distractionary techniques. Eventually, the complainant was removed, forced to the ground and handcuffed.

As a result, the complainant sustained minor injuries and an ambulance was dispatched. He was transported to Brampton Civic Hospital and as a result of some x-rays, it was confirmed that he sustained a broken nose.

The Special Investigations Unit was notified and Ms. Marian Abs-Eskharon 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.

A parallel investigation was conducted by 21CIB and Mr. J. G. was charged with the following offences:

- (1) Theft Under \$5000, Section 334(b) Criminal Code of Canada,
- (2) Theft of Motor Vehicle, Section 333.1
- (3) Flight From Peace Officer, Section 320.17, and
- (4) Dangerous Operation of a Motor Vehicle, Section 320.13(1).

These charges are still before the courts.

#### Findings of the Special Investigations Unit:

On July 5, 2021 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 two officials.”*

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

*“The subject officials were aware that the Complainant had stolen the pickup truck and operated it in a dangerous fashion before he failed to negotiate the turn on Hansen Road North. The Complainant was clearly subject to lawful arrest.*

*Thereafter, though the Complainant was on the receiving end of significant force, I am satisfied the officers did not exceed the limits of permissible force. For starters, I am unable to fault the officers for deploying their CEWs. The Complainant had demonstrated a reckless disregard for the safety of the public around him as he drove the pickup truck, smashing it into several other vehicles en route to the scene, and was attempting to break free from a police blockade on Hansen Road North as the officers approached his vehicle. In the circumstances, the officers had cause to want to arrest the Complainant as soon as*

*possible to prevent his further operation of the pickup truck. The successful deployment of a CEW promised to do just that. As it turned out, it does not appear that the probes from any of the weapons actually penetrated to the Complainant's body, rendering them ineffective.*

*I am also satisfied that the strikes delivered by the officers and the use of OC spray fell within the range of what was reasonably necessary in the circumstances. The Complainant was a formidable challenge. He was unaffected by the CEW discharges and continued to struggle vigorously against the officers' efforts to remove him from the truck. Even after the multiple blows struck by SO #1 and SO #2, the Complainant's fight did not wane. In fact, it was only after the driver's door was finally opened did the officers manage to overcome the Complainant's resistance and pull him from the vehicle, and then only with the combined manpower of all three officers. On this record, I am unable to reasonably conclude that SO #2's deployment of OC spray and the strikes delivered by the officers, including the knee strike delivered by WO #6 when the Complainant was on the ground but still refusing to surrender an arm, was something other than a commensurate and proportionate response to the situation at hand.*

*It remains unclear at the conclusion of the investigation how precisely the Complainant's nose was fractured. While I accept that it could well have resulted from the blows delivered by the officers, it could also have occurred in the course of the Complainant's physical confrontation with CW #1 or the several vehicular collisions that he was involved in prior to his confrontation with police. Be that as it may, as there are no reasonable grounds to believe that the subject officials conducted themselves other than lawfully."*

## Conclusion

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that the tactics used by the officers were legally justified, and there were no grounds for proceeding with charges against the officers notwithstanding the injury to Mr. J. G.

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 11(1) and (2) of Ontario Regulation 267/10 of the Police Services Act. There was one minor procedural infraction identified as a result of this review, non-compliance with PRP Procedure I-B-607, Suspect Apprehension Pursuits.

During the S.O. #1 debrief sessions with his supervisors, it became readily apparent that he:

- (a) became very focused on driving the area and attempting to locate the stolen tow truck,
- (b) upon locating the stolen truck, he gathered as much information as possible and shared it with the dispatcher and his fellow responding officers, but
- (c) openly admitted to missing some of previous radio transmissions as a result of being over-absorbed in his own activities.

It should be noted that once he finally processed the supervisors and dispatchers direction, he immediately complied. This momentary lapse did not swell into any larger issues. Moments later, the pursuit termination technique chosen, i.e., the three-cruiser containment was deemed

necessary and well executed. All use of force applications were also viewed appropriate given the circumstances.

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## **21-OCI-085 (Mr. S.T.)**

### **Executive Summary**

On March 16, 2021, the complainant was admitted to hospital on a Mental Health Act (M.H.A.) Form. At this time, he was being treated for alcohol withdrawal and no other Mental Health diagnoses had been determined.

On March 18, 2021, at 5:04 p.m. Trillium Hospital advised police that he had walked away from their facility, and that a Form 1 and Form 42 (M.H.A.) existed for his return.

The complainant was located in Toronto by Toronto Police Service and was transported to Trillium where PRP officers took custody of him. At this time, the complainant was heavily intoxicated.

He was returned to his room, where officers searched his bags for safety reasons at which time they located a bottle of Vodka. Hospital staff advised that they would dispose of it, which caused the complainant to become irate. The complainant began to challenge the officers and tried to push past the officers in an effort to leave the hospital.

The officers took hold of the complainant, spinning him onto the hospital bed. As the complainant landed on the bed his nose made contact with the metal railing on the far side of the bed. As a result, the complainant sustained an injury to his nose, which was later determined to be fractured.

The Special Investigations Unit was notified and Mr. Rob Watters 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 July 15, 2021 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 two officials.”*

Furthermore, in the Director’s report to the Attorney General, he stated;

*“I am also satisfied that the force used by the officers was no more than was reasonably necessary to effect their purpose. The Complainant had already left the hospital without permission earlier in the day and was indicating he intended to do so again, even if he*

*had to physically make his way through the officers. In the circumstances, when the Complainant rose to his feet and attempted to do just that, SO #1 and SO #2 were within their rights in acting to prevent that from happening. They grabbed hold of the Complainant's arms, a moderate and sensible intercession to thwart his continued movement. Thereafter, when the Complainant struggled to free himself, the officers were within their rights to force him onto the bed. With the Complainant in a prone position on the bed, the officers would be in a better position to manage any further resistance and quickly restrain him in handcuffs. It is regrettable that the Complainant struck his nose on a raised bedrail, but I am unable to attribute the injury to any wanton conduct on the part of the officers. Rather, the injury was in all likelihood the inadvertent result of a fluid and dynamic situation. It does not appear that any blows were struck by the officers.*

*For the foregoing reasons, I am unable to reasonably conclude that either of SO #1 and SO #2 comported themselves unlawfully throughout their engagement with the Complainant. Accordingly, there is no basis for proceeding with charges in this case, and the file is closed."*

## Conclusion

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that the force used by the officers was legally justified, there were no grounds for proceeding with charges against the officers notwithstanding the injury caused to 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 Section 11(1) and (2) of Ontario Regulation 267/10 of the Police Services Act. There were no identified issues as a result of this review.

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## **21-OFP-120 (Mr. S.K.)**

### Executive Summary

On Thursday April 15, 2021 at 5:20 a.m. officers responded to the area of Morningstar Drive and Goreway Drive in the City of Mississauga, where the Complainant was threatening to shoot someone because he was unable to purchase cigarette's at the Petro Canada gas station. The Complainant indicated he had a Glock handgun and had begun a one-minute countdown before he shot someone.

The complainant was located in front of the Dollarama store at this location. He approached officers with his hands hidden in his coat pocket and disobeyed commands to show them as he walked towards them.

The Subject Officer discharged his ARWEN striking the Complainant who fell to the ground. The Complainant continued to disobey commands to show his hands at which time a CEW was also utilized.

The Complainant was apprehended under the Mental Health Act (MHA). He did not sustain any serious injuries as a result of the interaction and apprehension.

The Special Investigations Unit was notified and Ms. Marian Abs-Eskharon 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 August 13, 2021 Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraiappah (Appendix I). In his letter Mr. Martino stated,

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

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

*“I am further satisfied that the SO’s ARWEN discharges were legally justified in aid of the Complainant’s arrest. After initially appearing to surrender – on his knees with his hands up – the Complainant suddenly rose to his feet and resumed his approach toward the officers when he was struck by two or more ARWEN rounds fired by the SO. At the time, the SO was aware that the Complainant had reported being in possession of a gun and threatening to harm people with it. Though he had not seen a gun in the Complainant’s possession, the officer could not be sure that he did not have one concealed on his person and readily accessible. In the circumstances, I am unable to fault the SO for attempting to neutralize a potentially lethal threat with less-lethal force from a distance. It should be noted that the ARWEN discharges were effective in temporarily incapacitating the Complainant, and that no shots were fired by the SO after the Complainant was on the ground.*

*For the foregoing reasons, there are no reasonable grounds to believe that the SO comported himself other than within the confines of the criminal law throughout his engagement with the Complainant. Accordingly, there is no basis for proceeding with criminal charges in this case, and the file is closed.”*

#### Conclusion

As a result of the Special Investigations Unit investigation, the Interim Director, Mr. Joseph Martino determined that the force used by the officers was legally justified, there were no grounds for proceeding with charges against the Subject Official.

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 11(1) and (2) of Ontario Regulation 267/10 of the Police Services Act. There were no identified issues as a result of this review.

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**21-OCI-134 (Mr. J.B.)****Executive Summary**

On Saturday, April 24, 2021, at 4:03 p.m. officers were dispatched to 375 Dundas Street East in Mississauga, for a male (the complainant) who had threatened a business owner with a knife.

Responding officers located the complainant, matching the description, nearby. The complainant, resisted arrest and was taken to the ground and arrested. Search incident to arrest led to the recovery of the weapon and a small quantity of drugs believed to be Methamphetamine.

The complainant made no complaint of injury during 'booking' at the Division.

In the morning, the complainant disclosed to Prisoner Escort officers that he had pain in his ribs. Subsequently the complainant was transported to Trillium where x-rays revealed he had two non-displaced fractured ribs on the left side of his chest.

The Special Investigations Unit was notified and Mr. Frank Pohl 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 August 23, 2021 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 official."*

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

*"I am further satisfied that the force used by the SO – a grounding followed by two knee strikes to the Complainant's left side and eight or nine punches to the torso – was not excessive. The SO had reason to believe that the Complainant had a knife with him – a knife that he had just used to threaten a third-party. In the circumstances, when the Complainant resisted his arrest by attempting to face the officers, the officers had cause to fear that he might wield a knife in their direction. Taking the Complainant to the ground as quickly as possible was a reasonable tactic on this record as it would immediately place the officers in a better position to deal with any weapons at the Complainant's disposal.*

*Thereafter, when the Complainant continued to struggle on the ground, attempting to get back to his feet on several occasions, I am unable to fault the SO for resorting to a measure of force to prevent that from happening. The two knee strikes and multiple*

*punches, though a significant level of force that caused the rib fractures, were reasonably necessary in my view given the prospect of a dangerous weapon being brought to bear by an uncontained Complainant.*

*It should be noted that there was some evidence indicating an unnecessary application of force by the officers, but it would be unwise and unsafe to rest charges on the strength of this evidence for a number of reasons. For example, this evidence indicated that the Complainant did not resist his arrest after being grounded and did as he was instructed by the officers. However, that evidence was belied by the independent accounts of multiple eyewitnesses.*

*For the foregoing reasons, there are no reasonable grounds to believe that the SO comported himself other than lawfully throughout his engagement with the Complainant. Accordingly, there is no basis for proceeding with criminal charges against the officer, and the file is closed."*

### Conclusion

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that the force used by the officers was legally justified, there were no grounds for proceeding with charges against the officer notwithstanding the injury caused to 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 Section 11(1) and (2) of Ontario Regulation 267/10 of the Police Services Act. There were no identified issues as a result of this review.

### **Approved for Submission:**

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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](mailto:william.ford@peelpolice.ca)*

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