



In Camera REPORT Police Services Board

For Information

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DATE: August 31, 2023

SUBJECT: **CLOSED SPECIAL INVESTIGATIONS UNIT FILE 20-OSA-211, 23-OCI-014, 23-OCI-037, 23-OCI-042, 23-OCI-055, 23-OSA-060, 23-OCI-078, 23-OCI-011, 23-OCI-055, 23-OCI-116 AND 23-OCI-191.**

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 20-OSA-211, 23-OCI-014, 23-OCI-037, 23-OCI-042, 23-OCI-055, 23-OSA-060, 23-OCI-078, 23-OCI-011, 23-OCI-055, 23-OCI-116 and 23-OCI-191.

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-OSA-211 (Ms. V.G.)

Executive Summary:

On August 25, 2020, Ms. V.G. attended the front desk of 22 Division in Brampton, advising that she wanted to report an historic sexual assault dating back to 1992. Ms. V.G. detailed that the

person responsible for the sexual assault was retired, Staff Sergeant P.C. who was a Detective at the time of the incident. She alleged that he sexually assaulted her on two separate occasions.

Ms. V.G. stated that when she was 18 years old she was sexually assaulted by a male who she babysat their children for. When she reported the sexual assault to Peel Regional Police in 1990, Det. P.C. was assigned to investigate the incident.

Ms. V.G. alleged that sometime during the ensuing investigation, Detective P.C. met with her, while off-duty, in a Presbyterian church parking lot in Barrie, Ontario. The two of them were in his van and moved into the backseat, where Detective P.C. had non-consensual intercourse with her.

During her attendance at 22 Division front desk, Ms. V.G. did not provide details of the second alleged sexual assault as sufficient detail had been established to warrant notifying the S.I.U.

The Special Investigations Unit was notified and Mr. Reddington 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 December 17, 2020, Mr. P.C. was charged with one count of sexual assault that was alleged to have occurred between May 1 and October 1 of 1992.

On January 5, 2023, The Crown asked that the Court enter a stay of proceedings based on a medical report outlining reasons why the Defendant was unfit to stand trial as a result of diminished mental capacity brought on by advanced dementia.

Conclusion:

On December 17, 2020, Mr. P.C. was charged with one count of sexual assault that was alleged to have occurred between May 1st and October 1st of 1992. However, as a result of Mr. P.C.'s diminished mental capacity due to dementia, no evidence had been presented to the courts through the trial process.

No evidence to support the allegation has been received by the Investigative Support Bureau through the request for disclosure through the Section 32 process from the S.I.U.

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.

There was no evidence identified to support a breach of any Peel Regional Police Policy in existence at the time that this sexual assault was alleged to have occurred. Mr. P.C. was not interviewed given his current medical condition. Retired Detective P.B. who was Mr. P.C.'s

partner for the assigned case, advised that he could not recall any inappropriate conduct by Mr. P.C. in his dealings with the Complainant.

There were several incidents through Ms. V.G.'s previous contacts with the Peel Regional Police that calls into question her credibility. Namely, two previous cases of making false claims of an offence (one of common assault and one of sexual assault).

23-OCI-014 (Ms. T.J.)

Executive Summary:

The Complainant, Ms. T.J. is the owner of a house on Cawthra Road, Mississauga. The home has been divided into a number of separate residences that are rented out on a short term basis.

On Saturday November 12, 2022, at approximately 5:55 a.m., one of the boarders, Mr. B.S., called 911 advising that there was an unbearable smell emanating from the basement. When asked to describe the smell by the call-taker, he suggested "a dead body". As a result, several 12 Division officers were dispatched.

At approximately 6:03 a.m., four nightshift units attended. They spoke with Mr. B.S. and in addition to the awful smell, he also reported there was an intruder in the home. Given the gravity of those two situations, they thought it prudent to "clear the residence".

The homeowner was present and she was advised that given the risk to her well-being, they would complete a sweep of the residence to ensure everyone's safety. She disagreed with this, entered the residence and refused to leave. In order to effect an Investigative Detention, Subject Official #1 used a simple straight arm bar takedown, and lowered the Complainant to the floor. Subject Official #2 assisted with handcuffing.

Moments later, the Complainant's son, Mr. F.J. was located in the residence, was fully compliant, and detained without incident.

Once the home had been rendered safe, the mother and son were immediately released. It was at this stage, that the Complainant complained of a sore shoulder. She was seen by attending Paramedics who then transported her to Trillium Health Partners, located at 150 Sherway Drive, Etobicoke. She was examined, and after x-rays, it was confirmed that she had sustained a small right inferior glenoid fracture. She was admitted for four days. This injury or the fact that she was admitted, were not immediately conveyed to any of the attending officers.

On December 6, 2022, the Complainant contacted the SIU and lodged a complaint. She was unable to produce sufficient medical documentation to substantiate her injuries, and the SIU did not invoke their mandate. But, the Intake Supervisor liaised with the Investigative Support Bureau to clarify certain information, i.e., incident number and names of involved officers. It was determined at that point, some 24 days after the event, that no occurrence had been submitted. Furthermore, it was established that the attending officers entered "No" under its call disposition. Given this obvious shortcoming, 12 Division Administration was advised and it was determined that an immediate divisional review would be undertaken.

On December 13, 2022, the aforementioned occurrence outlining the detention of the Complainant and her son was submitted.

On January 5, 2023, the Complainant made contact with the SIU for a second time, surrendered the proper medical documentation and now having met their threshold for injury, they invoked their mandate. Mr. Alex Kravchenko 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.

The detention(s) were captured on Body Worn Cameras worn by both Subject Officials and two Witness Officials.

Findings of the Special Investigations Unit:

On May 5, 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 officials.”

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

“Pursuant to section 25(1) of the Criminal Code, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law.

A police officer’s foremost duty is the protection and preservation of human life. At the time of the incident under investigation, SO #2 and SO #1 had reason to believe that an intruder might be present in the Complainant’s home. As they had tried and failed to keep the Complainant from the interior of the home, the officers were left with little choice but to detain her momentarily so they could remove her from the home, in the interests of her own safety, and proceed to quickly investigate the reported break and enter. Considering the Complainant’s agitated state, I am further satisfied that the officers were within their rights in restraining her in handcuffs.

As for the force used by the officers, I am unable to reasonably conclude that it was excessive. This consisted of a takedown performed by SO #2, and SO #1’s intervention once the Complainant was on the floor to restrain her in handcuffs...There was a real imperative to dealing with the Complainant as soon as possible arising from the reports of an intruder in the home and a possible dead body. The takedown, which was not unduly aggressive on my review of the BWC footage, would have done just that, namely, facilitate the Complainant’s prompt detention by placing her in a position of disadvantage so she could be handcuffed.

In arriving at this conclusion, I am mindful that the law does not expect police officers embroiled in dynamic and potentially dangerous situations to measure their

force with precision; what is required is a reasonable response, not an exacting one; R v. Nasogaluak.”

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 injury the Complainant sustained.

An in-depth analysis of the above events was then evaluated against the current policies and procedures of the Peel Regional Police. This analysis identified several procedural issues, namely;

- The officers detained two subjects of the residence for the purpose of facilitating a proper security search of the rooming house and did not document the detention in an occurrence report.
- An application of force was used against one of the detainees that resulted in a potential injury for which the female was taken to the hospital as a precaution, requiring a Use of Force Report be submitted. This was not done.
- No Supervisor was adequately updated regarding the outcome of the call. As a result, the female was taken to hospital and no follow-up was done to determine the extent of the injury. The injury met the threshold for notification of the S.I.U.

Prior to S.I.U. involvement, the identified issues had been assigned for investigation and attention at the Divisional level. Subsequently, following the conclusion of the S.I.U. investigation, the Administrative Review, with its findings were returned to the Division for attention. The involved officers were counselled.

23-OCI-037 (Mr. S.I.)

Executive Summary:

On February 3rd, 2023, officers responded to the area of Square One shopping center for reports of a gunshot. The caller reported a black GMC Yukon Denali, bearing Ontario license plate CWMK146 fleeing the area immediately after.

The aforementioned vehicle was located moments later in the area and stopped; the complainant was an occupant of the vehicle.

Investigation revealed that the complainant was subject of multiple release orders for a plethora of Threat, Assault, and Weapon related offences. One condition of these release orders was to

“remain in your residence at all times except in the direct presence of your surety for medical emergencies involving you or a member of your immediate family (spouse, child, parent, sibling).”

The complainant was found to be breaching this condition and was arrested, searched, incident to arrest and returned to 11 Division.

While in an interview room, the complainant became increasingly lethargic and investigators were unable to conduct an interview. He was subsequently returned to a cell where the on-duty Staff Sergeant attended to assess his well-being. As a result, paramedics were contacted, however, they advised of a significant delay. Officers were assigned to transport the complainant to the hospital.

While at the hospital the complainant was admitted for treatment relating to a drug overdose and high blood pressure.

The Special Investigations Unit was notified and Mr. Scott Maclean 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 June 3, 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 the Director’s report to the Attorney General, he states;

“At the outset, it bears noting that the Complainant was in lawful custody throughout the events in question. He was in a vehicle that police had reason to believe was connected with a weapons-related call. He was also in breach of a bail condition that required he remain inside his home.

Once in custody, I am satisfied that the officers who dealt with the Complainant comported themselves with due care and regard for his health and well-being. The Complainant was repeatedly asked about his symptoms and consistently denied drug consumption. He explained that he suffered from high blood pressure and indicated that he would be receiving his medication for that condition the following day. When his symptoms worsened, the officers sought medical attention in a timely fashion, transporting the Complainant to hospital themselves when it seemed the ambulance would be delayed. It is true that the Complainant was seemingly able to enter a cell with apparent illicit substances on his person - substances which he may or may not have ingested while in police custody – but I am unable to attribute any neglect on the part of the SO, who performed the search at the station. After all, a similar search in the field by WO #1 had also failed to turn up any drugs. It may be that a more invasive search would have detected the drugs – a strip search, perhaps. That said, it is not at all clear that the officers had the necessary grounds to strip search the Complainant pursuant to the law set out in R v Golden, [2001] 3 SCR 679; the Complainant had not been arrested for a drug offence, denied drug consumption, and provided a plausible and innocent explanation for his symptoms.

In the result, as I am unable to reasonably conclude that the SO or any of the officers who dealt with the Complainant transgressed the limits of care prescribed by the criminal law, 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 need for the Complainant's admission to hospital.

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.

23-OCI-042 (Ms. A.L.P.)

Executive Summary:

On February 12, 2023, 11 Division officers were dispatched to investigate a single motor vehicle that had driven off the roadway into a ditch on the off-ramp of Highway 401 at Mavis Road, in Mississauga.

Upon arrival, a male was located in the driver's seat and the Complainant was in the front passenger seat. The male was determined to have a blood/alcohol concentration which was above the legal limit and he was arrested without incident.

During the arrest, the Complainant, who was also exhibiting signs of intoxication, approached the scene of the driver's arrest. She was upset with what was happening with the male. She was also annoyed because she was told to keep her distance by the S.O. as she was interfering with the arrest.

The Complainant began to walk away from the officer, down the ramp towards the westbound lanes of the highway, falling twice in the process. The S.O. called out to the Complainant advising that she was not allowed to enter the expressway on foot and moved to follow after her. The Complainant removed her shoes and began to run from the officer, however due to her intoxicated state she tripped and fell to the pavement, using her hands to break her fall.

The SO caught up with the Complainant after her second fall and placed her under arrest for being intoxicated in a public place.

Shortly after the Complainant's arrest, she complained of soreness to her hand and was transported by ambulance to hospital where she was diagnosed with a fractured right thumb.

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 June 12, 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 possibility that the SO broke the Complainant’s thumb when he grabbed it in the handcuffing process is not borne out by the BWC footage that captured the incident. Rather, it seems much more likely that the Complainant’s injury was incurred in one or both of her falls prior to her arrest.

In the result, as there are no reasonable grounds to believe that the SO comported himself other than lawfully in his engagement with 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 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 pursuant to Section 81, Community Safety and Policing Act, 2019. There were no identified issues as a result of this review.

23-OCI-055 (Mr. I.K.)

Executive Summary:

On Friday February 24, 2021 officers were investigating a domestic between mother and son (the complainant). Prior to police arrival the complainant had fled the residence commenting to his mother that he intended to commit suicide. At 6:40 p.m. the complainant was located in Chinguacousy Park, Brampton.

During interactions with the attending officers, the complainant gave a false name and initially refused to remove his hands from his pockets. When he finally did remove his hands he was brandishing a knife in his right hand. Two CEWs were deployed simultaneously, resulting in a

full 'lockout'. The male fell backwards and struck his head on the pavement. The complainant was quickly disarmed of the knife and handcuffed.

The complainant was transported to BCH where Dr. Solazzo determined he had fractured his occipital bone (left side).

The S.I.U. was contacted and Mr. Uman Ahmad 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 and administrative review.

The entire interaction was captured on BWC.

Findings of the Special Investigations Unit:

On June 23, 2023 Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraipah (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 subject officials."

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

"I am further satisfied that the force used by the subject officials, namely, CEW discharges, was legally justified. Given what they knew of the Complainant's mindset at the time, the officers had cause to be concerned that the Complainant would attempt to harm himself. When he removed his right hand from a pocket holding a knife, they also would have been fearful for their own safety given their proximity. In the circumstances, I am unable to fault the subject officials for attempting to immediately incapacitate the Complainant from a distance with the use of their CEWs. Indeed, while it is unfortunate that he fell and fractured his skull in the process, the use of the weapon did prevent the Complainant from using the knife to inflict grievous bodily harm on himself or, had he been inclined, the officers. The final CEW deployment as the Complainant was on the ground was also warranted – the knife was still in the Complainant's hand and continued to represent a threat.

In the result, as there are no reasonable grounds to believe that SO #1 and SO #2 comported themselves other than within the limits of the criminal law in their engagement with the Complainant, 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.

23-OSA-060 (Ms. B.G.)

Executive Summary:

During the early months of 2022, the 16-year-old female complainant resided with her mother on Landsbridge Street, Bolton. She was registered as a student with St. Jean Augustine Secondary School located in Brampton.

The complainant has been diagnosed with mental health issues and has been apprehended under the MHA in the past. In addition, she has a history of being a habitual runaway. Arrangements were already in place with school administration, should she fail to attend school to report her as "missing".

On Tuesday March 1, 2022, at approximately 10:00 a.m., it was discovered that the complainant did not attend school. The principal contacted PRP and reported the complainant missing (refer to PR22-0071603 for details). Approximately 18 uniformed officers from 22 Division were utilized in the search. Multiple locations and addresses were checked.

At approximately 1:28 p.m., she was located, hiding in a basement closet in a residence on Banbridge Crescent, Brampton. The above occurrence was submitted detailing the events.

On January 27, 2023, the complainant was involved in a court proceeding in York Region. At that time, she made an utterance that back in 2021 (in error), she was touched inappropriately by two male police officers, after being located on a missing person search. When asked where this occurred, she indicated Toronto.

On February 24, 2023, she was formally interviewed by two members of the Toronto Police Professional Standards Unit. She provided further information:

- She skipped school and was hanging out at a friend's house; near her high school in Brampton.
- Two male officers found her, dragged her from a basement closet and handcuffed her.
- She was only wearing her bra, panties, and socks.
- They escorted her outside, in that state, and searched her, unnecessarily touching both her vaginal area and breasts.
- She did not report this to anyone at the time.

The Special Investigations Unit was notified and Mr. Bill Marshall was assigned as the lead investigator.

Investigation revealed that the allegations stem from the 2022 "Missing Person Located" incident. The body worn camera footage for the involved officers quickly confirmed:

- There were at least a half dozen officers in the basement conducting the search,
- The owner of the residence, an adult was also present in the basement,
- She was found in a basement bedroom closet, fully clothed,
- She came out of the closet of her own volition,

- She was not handcuffed, but escorted through the basement, upstairs and out to a marked police vehicle, by two male officers, one on each arm.
- She was turned over to a female officer,
- She was searched by this female officer, and only after uttering threats to harm herself, was she handcuffed.

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 June 23, 2023 the Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraippah (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 in this case.”

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

“On February 25, 2023, the TPS contacted the SIU to report that they were in receipt of information in which it was alleged that a young female – the Complainant – had been sexually assaulted in the course of a search of her person following her arrest by a male officer in 2021. The SIU initiated an investigation, which identified the arrest in question as having involved PRP officers on March 1, 2022.

In an earlier statement to TPS officers in February 2023, the Complainant explained that she had been removed from the home wearing only a bra and underwear. According to the Complainant, she was bent over a cruiser and then searched by a male. The officer, it was said, touched her breasts and her inner legs during the search, after which he placed her in the cruiser.

The BWC footage that captured the incident, however, establishes that no such thing occurred. Rather, it indicates that the Complainant was fully clothed when she was located and escorted outside of the cruiser, and that she was then searched over her clothing by a female officer.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that based on information provided by the complainant, there were no grounds for proceeding with charges against the officers notwithstanding the allegation made 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 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 -078 (Mr. S.P.)**Executive Summary:**

On Saturday March 11, 2023, at approximately 12:10 a.m., 22 Division officers were dispatched to reports of a suspicious vehicle in the area of Hurontario Street and Conservation Drive, Brampton (refer to PR230080225). Two males associated to this suspicious vehicle, were observed wearing masks and trying to get into several vehicles on the street.

The S.O. was travelling northbound on Hurontario Street, just north of Vodden Street East, and had his emergency equipment activated.

As the S.O. approached the McDonalds driveway located at Kingspoint Plaza, (372 Main Street North) the Complainant exited the driveway and stopped his vehicle on the roadway, immediately in the path of the northbound cruiser.

The officer attempted to avoid a collision, however, struck the civilian vehicle.

The Complainant was initially transported to Brampton Civic Hospital and examined by Dr. Sollazzo. It was confirmed at that time that he sustained multiple spinal fractures (T2, T3, T12, L1, L2, L3, L4). He was transferred to St. Michael's Hospital (Toronto) for specialized spine treatment.

The Special Investigations Unit was notified and Mr. Uman Ahmad 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.

The Complainant was charged by the Major Collision Bureau, with the following offences (These charges are still before the courts.);

Count 1: Fail to Stop on approach of an Emergency Vehicle, Section 159(1)
Highway Traffic Act.

Count 2: Careless Driving, Section 130 Highway Traffic Act.

Count 3: Drive Motor Vehicle - No Licence, Section 32(1) Highway Traffic Act.

Findings of the Special Investigations Unit:

On July 7, 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 official."

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

"...an officer engaged in the discharge of their duty is exempt from the speed limit while operating a police cruiser by virtue of section 128(13)(b) of the Highway Traffic Act. This does not give officers carte blanche to speed as they wish – public safety remains their foremost duty – but it does recognize that officers may have to assume risks that the ordinary travelling public cannot depending on the nature of their travel. The risks inherent in the SO's speed were also mitigated by the officer's use of his emergency lights and siren, which would have provided other motorists additional notice of the cruiser's presence, and the lower traffic volumes present on the roadway at the time of day. On this record, I am unable to reasonably conclude that the SO departed markedly from a reasonable standard of care in the manner in which he operated the cruiser.

In the final analysis, it remains unclear why it was that the Complainant did not see the emergency lights and adjust his driving accordingly. Positioned where he was, the Complainant was under a legal duty to yield to the police vehicle. Be that as it may, as there are no reasonable grounds to conclude that the SO transgressed the limits of care prescribed by the criminal law, there is no basis for proceeding with charges. 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 injuries 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 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 -011 (Mr. A.S.)

Executive Summary:

On Saturday January 7, 2023, at approximately 8:00 a.m., the owner of the In-N-Out Car Wash located at 9499 Airport Road, Brampton, opened his premise for business that day. He immediately noticed a suspicious vehicle parked near the do-it-yourself vacuums. Upon closer inspection, there was a male, seated in the driver's seat, sleeping. He made a note of the vehicle description, an older model silver Cadillac SUV, with Ontario licence #CWAD751, and at 8:26 a.m., called PRP.

A licence plate query by Communications immediately revealed that vehicle was outstanding as stolen with Durham Regional Police (2022-279373). Multiple 21 Division officers were dispatched including two patrol sergeants.

Sergeant A.W. was quick to take control of the call and coordinated the following activities:

- the first two units to arrive blocked the two access driveways, one onto Airport Road and the second onto Williams Parkway.
- He then directed two Stop Sticks¹ to be placed in a circle around the both rear wheels.
- He then canvassed of the responding units, who had cruisers equipped with "push bars" and those two units were placed at the front and rear of the Cadillac.
- He then positioned the front of his own cruiser at the driver door / front driver side tire.
- Lastly, one of the remaining officers was directed to wake the driver and issue commands.

As Mr. A.S., the complainant, was awoken, he immediately put the vehicle in gear and sharply depressed the gas, and attempted to smash out of the blockade. Because of the positioning of the two cruisers, the Cadillac did not move. Constable B. M. then moved in on foot and with the assistance of his ASP, broke the driver window. The male resisted arrest, a Taser was deployed, but was unsuccessful. The driver continued to change gears as well as effecting some steering input. Constable B.M., still having his ASP handy, struck at the driver's hands, to dissuade him from that activity. Eventually, other officers were able to reach in from the passenger side, and pull him from the vehicle and he was taken into custody.

Immediately after arrest, the male complained of soreness to his jaw. He was transported to Brampton Civic Hospital and assessed by Dr. Handler. After x-rays were completed, it was confirmed that the male had sustained a fractured right maxilla (cheek bone).

The S.I.U. was contacted and Mr. Allan Eaton was assigned as the lead investigator. Detective Sergeant Babensee and Detective Bassier were assigned to liaise with the S.I.U. and conduct an administrative review.

The entire event was captured on Body Worn Cameras worn by the Subject Official and multiple Witness Officials.

On that day, the Complainant was charged with the following offences:

- (i) Two counts of Possession of Property Obtained by Crime, contrary to Section 354(1)(a) of the Criminal Code of Canada,
- (ii) Dangerous Operation of a Motor Vehicle, contrary to Section 320.13(1),
- (iii) Obstruct Peace Officer, contrary to Section 129(a)
- (iv) Two counts of a Controlled Substance, contrary to section 4(1) of the CDSA,

In addition, it was determined that the Complainant was involved in a mischief / theft from the same premise, one week prior². Two addition charges were laid:

- (v) Mischief Under \$5000, contrary to Section 430(4),
- (vi) Theft Under \$5000, contrary to Section 334(B).

He was released on an Undertaking with conditions. All of these charges are still before the Courts.

¹ Tire deflation devices.

² Refer to PRP occurrence 23-0007067 for details.

Findings of the Special Investigations Unit:

On July 11, 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 Complainant was in possession of a stolen vehicle and, on that basis, was subject to arrest.

While approaching the line, in my view, the quantum of force used by the SO fell short of being excessive. The use by WO #7 and the SO of their CEWs had been ineffective – the Complainant continued to rev his engine attempting to escape the vehicle blockade – and the SO acted reasonably in attempting a different tact.

I am mindful of the common law principle that police officers engaged in volatile and dangerous situations are not expected to measure their use of force to a nicety; what is required is a reasonable response, not an exacting one: R v Nasogaluak, [2010] 1 SCR 206; R v Baxter (1975), 27 CCC (2d) 96 (Ont. CA).

There is no doubt that the Complainant had attempted to break through the vehicle blockade and, in so doing, placed the health and safety of the officers around the SUV in peril.

Be that as it may, given their proximity in time, I am unable to conclude with any confidence that the force used by the SO was not tied to a reasonably apprehended threat at the time.

In the result, while I accept that the Complainant’s facial fractures were very likely caused by the force used by the SO, I am not reasonably satisfied that they are attributable to unlawful force on the part of the officer.”

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 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-055 (Mr. I.K.)**Executive Summary:**

On Friday February 24, 2021 officers were investigating a domestic between mother and son (the complainant). Prior to police arrival the complainant had fled the residence commenting to his mother that he intended to commit suicide. At 6:40 p.m. the complainant was located in Chinguacousy Park, Brampton.

During interactions with the attending officers, the complainant gave a false name and initially refused to remove his hands from his pockets. When he finally did remove his hands he was brandishing a knife in his right hand. Two CEWs were deployed simultaneously, resulting in a full 'lockout'. The male fell backwards and struck his head on the pavement. The complainant was quickly disarmed of the knife and handcuffed.

The complainant was transported to BCH where Dr. Solazzo determined he had fractured his occipital bone (left side).

The S.I.U. was contacted and Mr. Uman Ahmad 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.

The entire interaction was captured on BWC.

Findings of the Special Investigations Unit:

On June 23, 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 two subject officials."

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

"I am further satisfied that the force used by the subject officials, namely, CEW discharges, was legally justified. Given what they knew of the Complainant's mindset at the time, the officers had cause to be concerned that the Complainant would attempt to harm himself. When he removed his right hand from a pocket holding a knife, they also would have been fearful for their own safety given their proximity. In the circumstances, I am unable to fault the subject officials for attempting to immediately incapacitate the Complainant from a distance with the use of their CEWs. Indeed, while it is unfortunate that he fell and fractured his skull in the process, the use of the weapon did prevent the Complainant from using the knife to inflict grievous bodily harm on himself or, had he been inclined, the officers. The final CEW deployment as the Complainant was on the ground was also warranted – the knife was still in the Complainant's hand and continued to represent a threat.

In the result, as there are no reasonable grounds to believe that SO #1 and SO #2 comported themselves other than within the limits of the criminal law in their

engagement with the Complainant, 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.

23-OCI-116 (Mr. G.D.)

Executive Summary:

On Tuesday April 18, 2023, officers from 22 Division CIB were conducting surveillance of an abandoned stolen motor vehicle, parked on Marshall Drive in the City of Brampton.

While set up on the vehicle, officers noticed a white Sprinter van park near the vehicle. An occupant exited, approached the stolen vehicle and removed the Piranha devices³ from behind the tires and re-entered the van. The officers moved in, effectively pinning the Sprinter van, which attempted to ram its way out from between the police vehicles.

The affected person attempted to flee on foot; however, he was apprehended a short distance away.

Following the arrest, the affected person complained of pain in the area of his collarbone. He was subsequently transported to Brampton Civic Hospital, where Dr. Garay determined he had sustained a fracture on the left side of his collarbone.

The S.I.U. was contacted 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.

The arrest was captured on BWC.

Findings of the Special Investigations Unit:

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

³ The piranha is a pursuit prevention device used on stationary vehicles which results in tire deflation in three to five seconds.

“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 subject officials.”

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

“The Complainant gave the appearance of being linked to the stolen Tiguan when he removed the tire deflation devices that had been placed underneath it. He then rammed a police vehicle in an attempt to escape police apprehension. On this record, I am satisfied he was subject to arrest for being in possession of stolen goods and dangerous driving.

I am also satisfied that the force brought to bear by SO #2 and SO #1 in aid of the Complainant’s arrest was legally justified. The Complainant was intent on escape. He had just struck a police cruiser with the van he was operating and was running away from the police when he was tackled to the ground. SO #2 and SO #1 were within their rights in seeking to put an end to the Complainant’s flight, and I am unable to reasonably conclude that they acted with excess when they physically engaged the Complainant on the run. No punches or strikes of any kind were ever delivered.

In the result, while I accept that the Complainant’s fractures were incurred in his fall to the ground, they are not attributable to any unlawful conduct on the part of the subject officials. As such, there is no basis for proceeding with criminal charges against the officers. The file is closed.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that based on information provided by the complainant, there were no grounds for proceeding with charges against the officers notwithstanding the 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-OCI-191 (Mr. N.N.)

Executive Summary:

On Friday May 19, 2023, at approximately 10:15 p.m., an in-progress break & enter was reported by the residents of 3225 Cliff Road North, Mississauga. Numerous uniform officers as well as special services, i.e., TAC, K9, etc., were dispatched.

As the first officer arrived, he observed culprits fleeing the area and provided descriptions and direction of travel to the dispatcher.

While searching the nearby McKenzie Park (575 Mississauga Valley Boulevard), Constables C.D. and S.H., located one of the culprits, Mr. N.N.. They confronted him and issued commands, none of which he complied with. The officers grounded the male and he was arrested.

Shortly thereafter, the males nose began to bleed and he complained of soreness. An ambulance attended, paramedics conducted an assessment, and transported him to Mississauga General Hospital. X-rays were completed and it was confirmed that he had sustained a broken nose.

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

On that day, the Complainant was charged with the following offence:

- (vii) Break, Enter and Commit an Indictable Offence contrary to Section 348(1)(a) of the Criminal Code of Canada,

He was released on a Promise to Appear, and this charge is still before the Courts.

Findings of the Special Investigations Unit:

On September 15, 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 Complainant was with a group of individuals who had broken into a home and then fled the scene upon the arrival of officers. In the circumstances, I am satisfied that the SO and WO #2 had grounds to seek his arrest when they located him in the park.

WO #2 provides an account describing the use of reasonable force by the police. According to WO #2, the Complainant, while prone on the ground, struggled against the officers’ efforts to wrestle his arms behind his back. He ignored repeated direction that he show his hands. Concerned that the Complainant had a weapon in the front pocket of his hooded sweater, WO #2 struck him three or four times with an open hand in the head. Moments later, the officers were able to handcuff the Complainant’s arms behind the back. The concern about a weapon, in my view, was not without foundation as the officer genuinely believed that the Complainant was implicated in a break and enter, and he had refused to show his hands when he had the chance to do so before going to ground. In the circumstances, WO #2 was within his rights, on his rendition of events, to want to quickly subdue a struggling Complainant with decisive force in order that he not have an opportunity to access a weapon. With respect to his partner, WO #2 says

he was focused on his own situation and did not see the SO deliver any strikes to the Complainant.

On the aforementioned-record, I am unable to reasonably conclude that either of the officers acted without legal justification.”

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 pursuant to Section 32, Ontario Regulation 268/10, Ontario Police Services Act. 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

Authored By: *Detective Sergeant Andy Babensee #1585*