



# IC10-05-24

**REPORT**  
Police Services Board

For Information

**PSB REC. MAY 06, 2024**  
**FILE CLASS: M13**  
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Cross-Reference File Class: \_\_\_\_\_

DATE: April 30, 2024

SUBJECT: **CLOSED SPECIAL INVESTIGATIONS UNIT FILE 23-OCI-396, 21-OCI-143, 23-OCI-450 AND 23-OCI-463.**

FROM: Nishan Duraiappah, Chief of Police

## **RECOMMENDATION**

It is recommended that this document be received as information concerning Special Investigations Unit (S.I.U.) file 23-OCI-396, 21-OCI-143, 23-OCI-450, and 23-OCI-463.

## **REPORT HIGHLIGHTS**

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

## **DISCUSSION**

### **23-OCI-396 (Mr. S.H.)**

#### **Executive Summary:**

On Wednesday September 27, 2023, at approximately 2:17 a.m., the affected person (AP) and an acquaintance were both at the Mi-Way Renforth Station, located at 5001 Commerce Boulevard, Mississauga.

At that time, the pair were involved in a dispute. The AP brandished a knife and stabbed the acquaintance in the chest.

The acquaintance, alerted transit staff and Peel Regional Police officers were dispatched.

Attending officers quickly located the AP in the station. Verbal commands were issued, none of which he complied with. He was grounded, arrested, and the knife was located and removed from him.

Almost immediately, the AP's nose began to bleed. He was subsequently transported to Mississauga General Hospital and examined. X-rays confirmed that he had sustained a fractured nose.

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

*The Affected Person, was charged with Uttering Threats to Cause Death or Bodily Harm and Assault with a Weapon. Both charges are still before the court.*

#### Findings of the Special Investigations Unit:

On January 19, 2024, 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 subject official.*

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

*"I am also satisfied that the Complainant was subjected to nothing more than justified force during his arrest. This force consisted in the SO forcing the Complainant to the ground, then into a prone position, and was entirely reasonable given the exigencies of the situation. Apprised of his recent violence with a knife, the SO would have had cause to be concerned that the Complainant was still armed with a knife and a continuing threat to public safety. In the circumstances, it was imperative that the officers acted quickly to negate the Complainant's access to a weapon. The takedown and positioning on the ground did just that, allowing the officers to safely arrest the Complainant and confiscate a knife from his jacket pocket. It should be noted that the Complainant was never struck by any of the officers and the takedown was executed in a controlled fashion.*

*In the result, while I accept that the Complainant's nose was broken in the course of the force brought to bear by the SO, his injury was not the result of any unlawful conduct on the part of the officer. As such, there is no basis for proceeding with criminal charges. The file is closed."*

**Conclusion:**

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

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**21-OCI-143 (Mr. R.S.)****Executive Summary:**

On May 5, 2021, officers were dispatched to Duval Drive, Mississauga for a possible impaired driver asleep behind the wheel of a vehicle in front of a residence. At the time of the call, the attached licence plate was provided to the call-taker. A CPIC query revealed that the vehicle was on file as stolen with this Service.

The attending officers formulated a plan to deploy stop sticks under the vehicle and to pin it from front and back before attempting to investigate the driver. Once the plan was executed, attempts to get the sole occupant to exit with his hands visible was met with limited success. It appeared that the driver, the Affected Person (A.P.), was impaired by either alcohol or drug.

Once the male exited the vehicle he was ordered to the ground which he refused to do. Instead, the male moved toward one of the officers near the rear of his vehicle. At this time, the Police Service Dog (PSD), handled by the S.O. latched on to the males calf and he was forced to the ground where he was taken into custody without further incident.

As a result of the use of the PSD the A.P. sustained several tears to his calf which required approximately 16 sutures to close.

The Special Investigations Unit (S.I.U.) was contacted and invoked their mandate. Mr. James Troy was assigned as the lead investigator. The Investigative Support Bureau was assigned to liaise with the S.I.U. and conduct an Administrative Review.

**Findings of the Special Investigations Unit:**

On July 21, 2021, The S.I.U. charged the S.O. with one count of Assault Causing Bodily Harm and one count of Assault with a weapon (PRP Canine: Nitro).

**Conclusion:**

On July 21, 2021, The S.I.U. charged the S.O. with one count of Assault Causing Bodily Harm and one count of Assault with a Weapon (PRP Canine: Nitro). On January 22, 2024, Justice

Brian G. Puddington acquitted the S.O. on all charges. He determined that the S.O. had acted reasonably throughout the ordeal.

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.

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### **23-OCI-450 (Mr. A.S.)**

#### **Executive Summary:**

The Affected Person (AP) resides at a rooming house with several other males on Murray Street, Brampton.

On Tuesday 31 October 2023, at approximately 6:00 p.m., the AP was involved in a dispute with the other boarders regarding back-rent. At that time, he produced a large kitchen knife, threatened to harm one of them, as well as stating that he would burn the house down.

These males immediately vacated the home and contacted police. Several officers from 22 Division attended.

They approached the home, and from the front door, conducted a “call-out” of the AP. From inside the house, the AP yelled several times that he wanted to die and wanted the officers to shoot him. He was eventually convinced to come downstairs, and to lie in a prone position on the kitchen floor.

As officers moved in to effect the arrest, the Subject Official (S.O.) controlled his upper body and a Witness Official (W.O.) controlled his legs. The AP immediately became resistant and was able to buck the S.O. off his back and onto the floor. The AP then began reaching for the officer’s holster(s), both his pistol and Taser. Eventually, he was subdued and arrested.

Almost immediately, the complainant’s nose began to bleed. He was subsequently transported to Brampton Civic Hospital and examined. X-rays confirmed that he had sustained a fractured nose. In addition, he was admitted to hospital under the authority of the Mental Health Act for assessment.

The S.I.U. was contacted and Mr. John Ikhimiukor was assigned as the lead investigator. Investigative Support Bureau were assigned to liaise with the S.I.U. and conduct an Administrative Review.

As a result of the above events, the AP was charged with the following offences:

- (a) Assault with a Weapon, contrary to Section 267 of the Criminal Code of Canada,
- (b) Uttering Threats to Cause Death, contrary to Section 264.1(1)(a),
- (c) Disarming a Peace Officer, contrary to Section 270.1(1), and

(d) Assault with Intent to Resist Arrest.<sup>1</sup>

Further investigation revealed a stolen auto parked in the driveway of the above address, a 2018 Lexus four door black IS300, Ontario Licence #CZFR 559. Neighbours had seen the AP drive the vehicle into the driveway shortly before the police interaction. He was also charged with:

- (a) Theft over \$5000, contrary to Section 334(a), and
- (b) Possession of Property Obtained by Crime, contrary to Section 354(1)(a).<sup>2</sup>

The AP was held for an ARC<sup>3</sup> Bail Hearing.

#### Findings of the Special Investigations Unit:

On February 27, 2024 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 against the subject official.”*

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

*“Given what the SO knew of the 911 call and from speaking with the caller upon arrival on scene, he and WO #2 were with their rights in seeking to take the Complainant into custody on one or more weapons-related offences.*

*With respect to the force used by the SO in aid of the Complainant’s arrest, I am satisfied that it was justified. The Complainant had just thrown the SO from his back when the officer reacted with four rapid punches to the head and face area. At the time, the officer could not be sure that the Complainant was not in possession of the knife that had been described by the 911 caller. There was a need in the moment to immediately deter the Complainant lest he should access a weapon. There was an even greater need to immediately deter the Complainant when he reached for the SO’s duty belt, threatening to dispossess the officer of his firearm, prompting an additional two to three punches. On this record, I am unable to reasonably conclude that the totality of the force brought to bear by the SO was excessive in light of the exigencies of the situation.*

*In the result, while I accept that one or more of the SO’s punches likely broke the Complainant’s nose, I am not reasonably satisfied that the injury is attributable to any unlawful conduct on the part of the officer. As such, there is no basis for proceeding with criminal charges in this case.”*

#### Conclusion:

<sup>1</sup> Refer to PRP Occurrence #23-0352656 for details.

<sup>2</sup> Refer to PRP Occurrences #23-0352323 & #23-0354452 for details.

<sup>3</sup> Alternative Resolution Court – Mental Health Diversion Program.

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 AP sustained.

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

*“I note what appears to have been a late notification of the incident by the service to the S.I.U. in contravention of section 16 of the Special Investigations Unit Act, 2019. At 0350 hrs, on November 1, 2023, A/Sgt T.P. was advised by an officer at the hospital that Mr. S. had sustained a broken nose. However, it was not until 0800 hours that day that the service contacted the S.I.U.. Late notifications of this nature jeopardize the integrity of S.I.U. investigations, detract from the S.I.U.’s independence and credibility, and undermine the public’s confidence in policing and policing oversight. I ask that your service inquire into this matter and take such steps as may be necessary to mitigate the risk of late notifications moving forward.”*

This suggestion by the Director, that the PRP were not in compliance with *section 16 of the Special Investigations Unit Act, 2019* was explored further. After a complete review of the flow of information from the Special Constable at the hospital to the Patrol Sergeant, the on-duty Staff Sergeant, then to the Duty Inspectors office, on to the Inspector of Professional Standards, through ISB, and finally to the S.I.U. was reasonable, and without any egregious delays.

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

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## **23-OCI-463 (Mr. A.O.)**

### **Executive Summary:**

On Tuesday 7 November 2023, at approximately 4:45 p.m., Constable R.M. made an MHA apprehension in the 21 Division area (refer to PR23-0360376 for details). The officer then conveyed the male to the Brampton Civic Hospital.

While waiting for medical care, there was a commotion in the Emergency Department. A *Formed* female patient was attempting to escape and security was trying to detain her. A second patient, Mr. A.O. (the AP), then began interfering with security, pulling them off her while shouting “let her go”.

Seeing this, the officer came to the aid of security. While attempting to restrain the AP, he leaned in and bit the officer on the upper area of his right arm. The officer immediately responded with a knee strike, causing him to release his grip on the arm. After a brief struggle, the male was arrested and handcuffed.

Almost immediately, the complainant's nose began to bleed. The complainant was examined and X-rays confirmed that he had sustained a fractured nose.

The S.I.U. was contacted and they invoked their mandate. Mr. Alex Kravchenko 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 AP was later released on an Undertaking with conditions, for the offence of Assault a Peace Officer, contrary to Section 270(1)(a) of the Criminal Code of Canada.

On December 21, 2023, the AP failed to appear for his first appearance and a bench warrant was issued.

On January 12, 2024, Toronto Police located the AP and executed the bench warrant. As the warrant was endorsed, the AP was again released.

On February 14, 2024, the AP again failed to appear for court and a second bench warrant was issued.

#### Findings of the Special Investigations Unit:

On March 6, 2024 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,

*"At the time the SO intervened to assist the security guards, he had observed the Complainant acting in an unruly and violent way. In the circumstances, whether pursuant to section 31 (arrest for breach of the peace) or section 175 (causing disturbance) of the Criminal Code, the officer was within his right in seeking to arrest the Complainant."*

*With respect to the force used by the SO, namely, two sets of knee strikes, I am satisfied that it was legally justified. The first set of strikes occurred right after he had been bitten by the Complainant. The officer was entitled to deter that assault and he did so, reasonably, in my view, by directing force to the source of the bite, namely, the face and head area of the Complainant. The number of strikes delivered by the SO is subject to legitimate scrutiny. However, upon my review of the video footage that captured the incident in parts, I am unable to reasonably conclude the officer exceeded the remit of authorized force when he delivered four blows. These occurred in quick succession moments after the SO had been bitten and some latitude must be allowed for the heat of the moment and the need to quickly and decisively thwart any further bites. Moreover, it is important to note that the Complainant continued to struggle vigorously even after the knee strikes. The second set of knee strikes also appears a proportionate use of force. Having attempted to wrestle control of the Complainant's arms behind the back for close*

*to two minutes in concert with the security guards, the SO was entitled to escalate his force to bring the situation to an end. Two knee strikes to the torso that did not cause injury but were successful in helping to free the Complainant's arms would not appear excessive in the circumstances.*

*In the result, while I accept that one or more of the initial set of knee strikes delivered by the SO caused the Complainant's nose to break, I do not accept that the injury was attributable to any unlawful conduct 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 Section 32, Ontario Regulation 268/10, Ontario 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 [1677@peelpolice.ca](mailto:1677@peelpolice.ca)*

Authored By: *Detective Sergeant Andy Babensee #1585*