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**In Camera REPORT**  
**Peel Police Service Board**  
**For Information**

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Date: **August 23, 2024**

Subject: **CLOSED SPECIAL INVESTIGATIONS UNIT FILE 24-OVI-014, 24-OCI-016, 24-OVI-019, 24-OFP-045, 24-OCI-046, AND 24-OCI-118.**

From: **Nishan Duraiappah, Chief of Police**

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## **Recommendation**

It is recommended that this document be received as information concerning Special Investigations Unit (S.I.U.) file 24-OVI-014, 24-OCI-016, 24-OVI-019, 24-OFP-045, 24-OCI-046 and 24-OCI-118.

### **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**

### **24-OVI-014 (Ms P.P. & Mr. S.A.)**

#### **Executive Summary:**

On January 12, 2024, at approximately 6:15 p.m., the S.O. was on routine patrol in 21 Division. The officer had just cleared the Division for the commencement of his shift. He was northbound on Central Park Drive approaching Hilldale Crescent, Brampton.

Central Park Drive is a two-lane road with curbside bike lanes. Nearing this T-intersection the road curves to the right (when travelling northbound). Hilldale Crescent runs west from Central Park Drive. It is not governed by a traffic light nor is there a pedestrian crossing for Central Park Drive. Dusk was at 5:05 p.m. that day; it was already dark, however, there was some artificial lighting in the area.

The two Affected Persons, Ms. P.P. and an acquaintance, Mr. S.A. were pedestrians situated on the west side of this intersection. Despite there being no pedestrian crossing in that area, they were intent on crossing from the west side of Central Park Drive to the east side.

While walking/running eastward, they safely crossed the southbound lane, however, as they crossed the northbound lane, they were directly in the path of the oncoming S.O. vehicle. The S.O. was unable to avoid a collision, and struck the pair. Ms. P.P. received the majority of the impact, striking her head and landing on the ground, while Mr. S.A., sustained an ankle injury. The S.O. immediately notified dispatch and requested further EMS. A passing motorist (an off-duty Emergency nurse) stopped and assisted with medical aid.

An ambulance attended and transported the pair to the Brampton Civic Hospital. After being diagnosed with a serious brain bleed, Ms. P.P. was transported to St. Michael's Trauma Centre in Toronto.

After formal examinations, the Affected Persons injuries were as follows:

- (i) Ms. P.P.: serious brain bleed coupled with fractured vertebrae, and
- (ii) Mr. S.A.: fracture to his right foot.

The S.I.U. was contacted and Ms. Caroline Ibbott 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 May 10, 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,

*"On January 12, 2024, Complainant #1 and Complainant #2 were seriously injured in a collision with a motor vehicle in Brampton. As the vehicle was a PRP cruiser, the SIU was notified of the incident and initiated an investigation. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the collision."*

*The offence that arises for consideration is dangerous driving causing bodily harm contrary to section 320.13(2) of the Criminal Code. In the instant case, the issue is whether there was a want of care in the manner in which the SO operated his vehicle, sufficiently egregious to attract criminal sanction, that caused or contributed to the collision. In my view, there was not."*

*It is unclear why it was that the SO's cruiser struck Complainant #1. There is some evidence that Complainant #1 had crossed the street before she ran back into the roadway and was struck by the cruiser; however, this fact is disputed by another eyewitness. Even assuming this did not occur, I am unable to reasonably conclude that the SO transgressed the limits of care prescribed by the criminal law. At most, the evidence is suggestive of a momentary lapse of attention, something which the case law makes clear will generally not amount to a marked departure from a reasonable standard of care. In this regard, it should be noted that the SO's speed, which was only modestly above the 50 km/h speed limit at the time, does not appear to have contributed to the collision. Nor is there any indication in the evidence of any prior inattentive or dangerous driving behaviour en route to the collision."*

*For the foregoing reasons, there is no basis for proceeding with criminal charges in this case. The file is closed."*

## Conclusion:

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

In closing, 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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## **24-OCI-016 (Mr. D.G.)**

### Executive Summary:

On January 13, 2024, a witness contacted police to report a suspicious vehicle, with three occupants being operated in the parking lot at 5 Resolution Drive, in Brampton. A query of the licence plate revealed that the vehicle was on file as stolen with Toronto Police (TPS2024-0079089).

An arrest plan, was formulated and carried out in the parking lot. The vehicle was pinned, the driver (AP) tried to ram his way out unsuccessfully. The involved persons refused to exit the locked vehicle. Attending officers broke the windows with their batons to facilitate the arrest. During the attempted arrest, the AP resisted and he was taken to the ground. The AP complained of soreness to his left eye and was subsequently transported to BCH where he was determined to have suffered a fracture to his orbital bone.

During the action of breaking the windows of the stolen van, a piece of glass entered Constable S.S.'s eye. The officer attended the hospital where he was treated for a scratch to his cornea, given antibiotics and released.

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

### Findings of the Special Investigations Unit:

On May 13, 2024 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 three subject officials.”*

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

*“With respect to the force brought to bear by the police in aid of the Complainant's arrest, the evidence falls short of any reasonable suggestion it was excessive. The Complainant's prompt apprehension was a matter of some urgency. He was using the van to ram the cruisers around him, imperiling the lives of the officers in the vicinity. The initial use of the CEW by WO #1 made sense in the circumstances, even though it did not work to incapacitate the Complainant. The Complainant's forced extrication and takedown once the driver's door was opened was reasonable for the same reasons. Once on the*

*ground, the Complainant struggled against the officers' efforts to secure his arms. His resistance was met by several punches and kicks to the body, and further CEW use by WO #1. Still, the officers were unable to take control of the Complainant's arms. It was only after WO #2 asked the officers to separate themselves from the Complainant and presented his dog that officers re-engaged the Complainant and took him into custody. On this record, I am unable to reasonably conclude that the quantum of force used by the officers was more than was necessary.*

*For the foregoing reasons, 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 on reasonable grounds that no offence was committed by any particular officer whose presence at the scene was confirmed by the SIU, 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.

As noted in the Analysis by Sergeant Herd, several breaches of Peel Regional Police policies; namely; I-B-102 (F) "Incident Response" and I-B- 607 (F) "Suspect Apprehension Pursuit and Stopping and Approaching a Suspect Vehicle" were observed. Furthermore, the incident was managed without employing best practices relating to high risk vehicle stops as set out in PRP training courses.

The report has been forwarded to the Incident Response Review Committee for further review and follow-up with the officers.

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#### **24-OVI-019 (Mr. N.F.)**

#### **Executive Summary:**

The victim in this occurrence resides on Freshwater Drive, Mississauga. She is the owner of a 2022 Toyota Highlander, four door white SUV.

On Monday, January 15, 2024, at approximately 4:22 a.m., Mr. N.F. (the Affected Person - AP) attended the victims address, accessed the Toyota Highlander and stole it. The victim immediately called PRP via the 911 system. The vehicle is equipped with a GPS tracking device and she was monitoring its direction of travel through her cellular telephone. Regular updates were provided to the call-taker.

The Subject Official (SO) located the vehicle on Winston Churchill Blvd as it entered Highway #403. The SO continued to follow the vehicle, eastbound from a distance (without emergency equipment activated) until he had enough support to formalize a plan for a tandem stop.

The AP exited the highway at Cawthra Road. At some point in the minutes that followed, the AP became aware that he was being followed by police vehicles and increased his speed while southbound on Dixie Road (to approximately 170km/h)<sup>1</sup>. At this stage, the SO made the decision to discontinue following and was in the process of turning into the Tim Hortons plaza just south of Rathburn Road East. As he was pulling off the

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<sup>1</sup> As per the GPS on the Toyota Highlander.

roadway, he maintained his gaze on the Highlander, which continued southbound.

The AP now approached the intersection with Burnhamthorpe Road (approximately 500 metres south of the SO) on a red signal. Simultaneously, there was an eastbound vehicle, approaching on a green signal, a MiWay transit bus #908 which entered the intersection, in the process of making a left turn. The AP disregarded his red signal, entered the intersection at approximately 130km/h<sup>2</sup> and struck the rear corner of the bus. All of these events were confirmed by the Video/Audio Surveillance System installed on the bus.

The S.O., now observing a plume of smoke at the intersection, continued southbound and quickly realized that the stolen vehicle had collided with the bus.

The MiWay bus was driven by a lone transit operator and no passengers were on board. The stolen vehicle was on fire. Attending officers extinguished the fire, removed the driver and immediately applied a tourniquet for a large laceration to his left thigh.

The AP was transported to St. Mikes hospital and was examined by Dr. Gupta. X-rays confirmed he had fractured his left femur.

The Special Investigations Unit (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.

The Affected Person was charged with the following offences:

- Theft of Motor Vehicle, contrary to section 333.1 of the Criminal Code of Canada,
- Possession of Property Obtained by Crime, contrary to section 354(1)(a),
- Dangerous Operation of a Motor Vehicle, contrary to section 320.13(1), and
- Failure to Comply with Sentence or Disposition, contrary to section 137 of the Youth Criminal Justice Act.

The AP was released on his own recognizance, with conditions, and is still before the courts.

#### Findings of the Special Investigations Unit:

On May 14, 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,

*“The SO and WO #1 were engaged in the execution of their duties when they located the stolen vehicle and followed it, presumably with a view to apprehending its driver at some opportune moment or furthering their theft investigation.*

*With respect to the SO’s manner of driving, I am satisfied he comported himself with due care and regard for public safety. There were times when the officer exceeded the speed limit as he accelerated to catch up to and keep up with the Highlander. On Highway 403, for example, the SO would have been travelling as high as about 130 km/h. On Willowbank Trail, governed by a speed limit of 40 km/h, the officer was upwards of 110 km/h. Lastly, on Dixie Road, it is likely the SO exceeded 120 km/h. Those speeds, while high, were never protracted. Nor was the risk*

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<sup>2</sup> Ibid.

*associated with those velocities exacerbated by the environmental conditions. Albeit occurring at night, the roads were dry and third-party traffic was light given the time of day. Importantly, there is no indication that the officer unduly pushed the Complainant, particularly as he headed south on Dixie Road en route to the collision site. Both the SO and WO #1 were well back of the Highlander at the time. On this record, it is apparent that the SO did not transgress the limits of care prescribed by the criminal law.”*

#### 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.

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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#### **24-OFP-045 (Mr. M.C.)**

#### Executive Summary:

On January 30, 2024, officers were dispatched to 30 Port Street East, Mississauga to respond to a distraught male, who appeared to be suffering from a mental health crisis. The affected person (AP) was situated on the 4th floor. He was yelling for help, claiming that he was being attacked by canines. He also had armed himself with a metal object and was smashing glass objects.

When it became apparent that police had arrived, the AP grabbed a shard of glass and began cutting himself at the neck.

TAC officers with support from ASU (Drone), entered the unit from the hallway, as a separate rappel team covered the balcony. The AP was still in the act of self-harm and armed with a shard of glass prompting the use of an ARWEN (3 rounds) to facilitate his apprehension. Three CEW's were also deployed during handcuffing as the AP would not comply with commands to surrender his hands, which were tucked underneath his body.

The AP was, transported to MGH where he was formed under the MHA.

As a result of the discharge of the ARWEN, the Special Investigations Unit (S.I.U.) was notified and Ms. Pasha Predergast was assigned as the lead investigator. Detective Sergeant Babensee and Detective Bassier of the Investigative Support Bureau were assigned to liaise with the S.I.U. and conduct an administrative review.

#### Findings of the Special Investigations Unit:

*“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.”*

On May 29, 2024, Special Investigations Unit Director, Mr. Joseph Martino, issued a concluding letter to Chief Nishan Duraiappah (Appendix I). In his letter Mr. Martino states, “

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

*“The SO and his TRU teammates were within their rights when they entered the Complainant’s apartment and sought to apprehend him under section 17 of the Mental Health Act. The Complainant was mentally disordered and a clear and imminent threat to himself given his conduct on the balcony and his episode of self-harm with the glass.*

*I am also satisfied that the SO used no more force than was reasonably necessary in aid of the Complainant’s arrest. The Complainant was on the balcony and within arm’s reach of the railing. He needed to be temporarily incapacitated as soon as possible lest he have an opportunity to go over the railing. The use of the ARWEN, which struck the Complainant, was intended to do just that. Indeed, together with the other force brought to bear, the SO and his colleagues were able to safely take the Complainant into custody without the infliction of serious injury.*

*For the foregoing reasons, 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.

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.

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#### **24-OCI-046 (Mr. K.H.)**

#### Executive Summary:

On January 30, 2024, at approximately 7:34 p.m., security at the apartment building at 4655 Metcalfe Avenue, Mississauga, observed a number of males with firearms in one of their communal rooms / common areas. He immediately contacted 911 and provided descriptions and direction of travel for the group as they left. Numerous 11 Division officers were dispatched to the area along with notifying TAC and K9.

One of the 11 Division uniformed officers located Mr. K.H. (the AP) in the parking lot of the Erin Mills Town Centre and approached him. The male immediately fled on foot, northbound.

Monitoring the direction of travel, K9 was patrolling the area just north of the EMTC. He observed the male travelling directly toward him and intercepted him on Erin Mills Boulevard. There was contact between K9 cruiser #94 and Mr. K.H., ending the foot chase. Two nearby TAC officers assisted with the arrest of the male.

The AP was found to be in possession of an imitation Glock pistol as well as a long bladed machete. He immediately complained of leg pain and an ambulance was dispatched. Paramedics then conveyed him to Credit Valley Hospital. X-rays confirmed that he had sustained a fractured ankle.

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

The A.P. was charged with;

- Possession of a Weapon for a Dangerous Purpose (x2)
- Carrying a Concealed weapon.

These charges are still before the courts.

The AP is facing 4 similar charges from an unrelated incident, one week prior, that are still before the courts. (PR240028915 refers).

#### Findings of the Special Investigations Unit:

On May 23, 2024 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;

*“With respect to the force the officer brought to bear in aid of the Complainant’s arrest, namely, the use of his cruiser to strike the Complainant, I am satisfied that it was intended to defend himself and others from a reasonably apprehended assault. According to the SO, the Complainant was reaching into his waistband moments before the collision and he (the officer) feared he was about to retrieve and use a firearm. That is what the officer told the SIU and there is good reason to believe him. Another officer travelling on Erin Centre Boulevard ahead of the SO had the same impression and actually called out, “He’s reaching,” to alert other officers to the danger of a firearm being brought into play. What is more, the officer was aware of the call to police indicating young males in possession of firearms and, in fact, an air-powered pellet gun that resembled a firearm was recovered on the roadway next to where the Complainant had come to rest after the collision.*

*I am also satisfied that the force chosen by the officer constituted reasonable force. While the use of his cruiser brought with it the risk of grievous bodily harm or death, the SO was also confronted with an imminent peril to life and limb at the time. To reiterate, he reasonably believed that the Complainant was reaching for a firearm. In the circumstances, it was imperative that the Complainant be incapacitated as quickly as possible to prevent that contingency from materializing. The only tool available to the SO in the moment was his vehicle. That said, it appears on the video footage that captured the incident in parts that the officer did not drive headlong into the Complainant. Rather, as he himself described it, his cruiser edged into the left-turn lane towards the Complainant and accomplished precisely what he had intended to accomplish – knock the Complainant over. Indeed, while the footage did not capture the Complainant holding a firearm, it is entirely conceivable that it was the impact with the SO’s cruiser that dislodged what appeared to be a firearm from the Complainant’s possession. On this record, while it is unfortunate that the Complainant suffered serious injuries in the collision with the SO’s cruiser, I am unable to reasonably concluded that the officer acted with excess when he chose to meet a lethal threat with a resort to potentially lethal force of his own.*

*For the foregoing reasons, there is no basis for proceeding with criminal charges in this case. The file is closed.”*



## Conclusion:

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

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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## 24-OCI-118 (Mr. J.R.)

### Executive Summary:

On Monday March 11, 2024, at approximately 9:00 p.m., 22 Division uniformed officers were on patrol at 2 Kennedy Road South, Brampton.

At this time, they conducted a CPIC check on an unoccupied parked vehicle. It revealed a SIP entry for the Registered Owner being Wanted on three outstanding Warrants:

- (1) PRP #24-0034683. Offences of Criminal Harassment and Being Unlawfully in a Dwelling House (22CIB & IPV)
- (2) PRP #24-0072396. Offence of Theft Under \$5000 (22CIB & IPV)
- (3) TPS #24-347523. Offences of Sexual Assault, Uttering Threats, Criminal Harassment, Break & Enter, and Fail to Comply with Release Order.

The uniform officer immediately contacted 22 CIB and relayed the above information. A team responded to the area of the parking lot and set up observation on the vehicle.

At approximately 10:45 p.m., the AP exited the Chucks Roadhouse Bar & Grill and approached his vehicle. CIB officers intercepted him prior to getting to the vehicle, he was grounded and arrested. A search incident to arrest revealed a quantity of cocaine.

He was transported back to 22 Division and lodged in cells. At approximately 12:20 a.m., the AP complained of back pain.

An ambulance was dispatched and transported him to Trillium Hospital. Examination by Dr. Basta confirmed a fracture to the 4th lumbar vertebrae.

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

### Findings of the Special Investigations Unit:

On July 9, 2024 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;

*“There were multiple arrest warrants in effect for the Complainant at the time of the takedown. He was clearly subject to arrest.*

*With respect to the force used during the Complainant’s arrest, namely, a takedown and perhaps the placement of a knee on the Complainant’s back once he was prone on the ground, the evidence falls short of reasonably establishing it was unlawful. There is some evidence in which it is alleged that the Complainant had put his hands up and had effectively surrendered to police when he was tackled to the ground. The SO does not suggest that the Complainant physically resisted arrest or tried to get away. The officer does say that the Complainant did not lower himself to the ground as he rushed towards him telling him to do so. Given the Complainant’s record, including a history of firearm possession, the SO was concerned to get him onto the ground as quickly as possible to minimize the risk of violence on the Complainant’s part. While I have no reason to doubt the Complainant submitted to his arrest, I also accept that the SO, from his perspective, had a reasonable safety concern for which a takedown was a legitimate tactic. As for the possible knee on the back, the Complainant is unable to identify which officer might have done that, nor does the evidence in its totality reasonably establish that such force was something other than incidental to the takedown. In the result, while I accept that the Complainant’s injury was the result of the force brought to bear by the police in his arrest, most likely, the takedown, I am not reasonably satisfied that it was attributable to any unlawful conduct by the arresting officers. As such, there is no basis for proceeding with criminal charges in this case. The file is closed.”*

**Conclusion:**

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

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.

**Approved for Submission**



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Nishan Duraiappah, Chief of Police

For further information regarding this report, please contact Inspector Bill Ford at extension 6080 or via email at 1677@peelpolice.ca.

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