



REPORT
Police Services Board
For Information

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DATE: March 15, 2024

SUBJECT: **CLOSED SPECIAL INVESTIGATIONS UNIT FILE 23-OVD-343, 23-OCI-396, 23-OCD-394, 23-OFP-412, 23-OVI-403, AND 23-OCI-413.**

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-OVD-343, 23-OCI-396, 23-OCD-394, 23-OFP-412, 23-OVI-403 and 23-OCI-413.

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-OVD-343 (Ms. K.B.)

Executive Summary:

On Wednesday, August 23, 2023 at approximately 3:10 a.m. the subject official (S.O.) was on routine patrol in the area of Airport Road and Morningstar Drive, when he noticed a vehicle stopped in the northbound lanes at the intersection facing a green light. As the officer approached the front driver's door he observed a male asleep behind the steering wheel.

The driver provided verbal identification, however when asked to step out of the vehicle, he placed the car in drive and accelerated northbound on Airport Road. The involved officers pursued for approximately 600 metres before they were advised to terminate the pursuit.

Moments later, the driver sped past the officers who were stopped at the side of the road, in the opposite direction. At this time the vehicle had some front end damage. The vehicle turned onto Thamesgate Drive and proceeded northbound on Airport Road.

At approximately 4:30 a.m. a concerned citizen contacted PRP advising that there was an injured person laying on the grass across from the Tim Hortons on Airport Road south of Thamesgate Drive, on the east side of the road. Investigation determined that the injured person, who was later pronounced deceased at the scene, had been riding a bicycle when she was struck by the vehicle involved in the initial traffic stop as it sped away from the officers.

The Special Investigations Unit was notified and Mr. Troy 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.

Mr. T.D. , the accused was charged with the following offences;

- 1) *Flight from police Sec. 320.17 C.C.*
- 2) *Dangerous operation causing death Sec. 320.13(3) C.C.*
- 3) *Failure to stop after accident resulting in death Sec 320.16(3) C.C.*

** Charges still before the courts

Findings of the Special Investigations Unit:

On December 21, 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 subject official.”

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

“The SO was engaged in the lawful execution of his duties when he stopped to investigate CW #2 and then initiated a pursuit as the Mazda fled the scene. CW #2, stationary as he was in a live lane of traffic, was a danger on the roadway to himself and other motorists. Within moments of the stop, the officer would also have had cause to believe that CW #2 was impaired – he had been sleeping in the vehicle and appeared incoherent at times.

I am also satisfied that the SO comported himself with due care and regard for public safety throughout his brief engagement with the Mazda in the moments before it struck the Complainant. Indeed, it would appear that the officer had only just returned to his cruiser and started the chase when CW #2 struck the Complainant as she rode her bicycle a distance north of Slough Street –about

500 to 600 metres from Morning Star Drive. During this time, as the SO accelerated to speeds of about 100 km/h with his emergency lights on, there is no indication in the evidence of third-party traffic in the area having been imperiled by the manner in which the officer operated his cruiser. In fact, there was little traffic present given the time of day.

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 vehicle death of the Affected Person.

The S.I.U. determined that the collision with the affected person happened immediately after the vehicle fled from the officers, as they were getting into their vehicles. Officers attempted to catch up with the involved vehicle for approximately 600 metres before being advised to disengage.

Officers did not become aware of the collision with the affected person until 4:31 a.m., approximately 1 hour and 15 minutes after their first interaction with the driver (CW: Mr. T.D.).

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.

23-OCD-394 (Mr. J.B.)

Executive Summary:

The Affected Person (AP) resides in Mississauga, with his wife. He has a history of mental illness, was under doctor’s care, and taking medication. He has never had any contact with PRP.

On September 12, 2023, Mrs. D.B. contacted the CMHA¹ 24.7 crisis line. She requested support for her husband. Two CMHA crisis workers attended the family home later that day and assessed the AP. They determined that there were grounds to apprehend him for a mental health assessment, however, police were not contacted on that day, no Form was issued, and his name was added to a triage list for the following days COAST team(s).

On Wednesday September 13, 2023, at approximately 1:28 p.m., the SO along with:

- (1) Mr. A.A., a COAST Crisis worker, and
- (2) Ms. A.N., a CMHA nurse, attended the above address.

¹ Canadian Mental Health Association (Peel Dufferin).

The purpose of this visit was to participate in outreach, provide assessment of a mental health client, crisis intervention, and offer/deliver appropriate supports².

They were met at the door by the AP. He was attired only in his boxer shorts, stormed outside and appeared agitated. Given the cold weather that day, he was urged to return indoors. Only after considerable encouragement, did he return inside. During conversation, the three-person team concluded:

- (1) He was suffering from a mental health disorder,
- (2) Was acting in a disorderly manner,
- (3) He was unable to care for himself, and
- (4) May result in serious bodily harm.

The decision was made that the AP needed to be apprehended under the authority of the Mental Health Act. The SO advised him as such, and took custody of him by grasping onto his right arm. This initial contact was made in the front foyer of the home; a small landing with a set of stairs going upward into the main living area and a second set of stairs going downward, into the basement. The AP immediately began pulling backward away from the officer. The SO cautioned the AP, not to pull in that direction as they would be in danger of getting too close to the downward steps. He continued to pull away, with even more determination, until he broke the grip of the SO, and fell backward, tumbling down the steps.

The SO, and health professionals, all followed into the basement and tended to the AP. He stated that his neck and head hurt, and an ambulance was immediately dispatched. He was transported to St. Michael's Hospital, in Toronto.

The initial assessment of the AP was:

- (i) Displaced vertebrae,
- (ii) Possible spinal cord injury,
- (iii) No fractures.

He was admitted for further treatment.

The SIU were contacted, however, they did not invoke their mandate.

On 25 September 25, 2023, a member of the Coroner's office contacted PRP and advised that the AP had succumbed to his injuries. The SIU were contacted, and with this development, invoked their mandate.

The Special Investigations Unit was contacted and Mr. Richard Stewart 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 January 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,

² PRP Directive I-A-603 (F), Mental Health & Addition Policy, Section J
"Responsibilities - Crisis Outreach & Support Team (C.O.A.S.T.) Officers."

“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;

“With respect to the Complainant’s apprehension under the Mental Health Act, I am unable to reasonably conclude that it was unlawful. In his dealings with the Complainant outside the front door, the SO had come to conclude that he was of unsound mind and a danger to himself and others. The fact that the Complainant had stepped outside dressed inappropriately for the weather and intruded on the officer’s personal space while pointing his finger and screaming at his face were important factors in the SO’s assessment. He would have also been aware of the assessment made the day before by two other crisis workers, who were similarly of the view that there were grounds to apprehend the Complainant for a medical exam.

The remainder of the evidence suggests the force used initially consisted of nothing more than the SO taking hold of the Complainant’s right hand, which was entirely reasonable. Thereafter, when the Complainant reacted by pulling away from the officer, the SO was within his rights in applying countervailing force to maintain his hold of the Complainant. Very quickly, as the parties found themselves on the interior landing by the front door, the officer’s force was rightly directed at preventing the Complainant from falling down the stairs to the basement. He cautioned him verbally to desist and then struggled to maintain a grip on the Complainant as he vigorously persisted in pulling backwards towards the stairs. At no point did the SO strike the Complainant. In the circumstances, I am satisfied that the force brought to bear by the SO was at no point excessive and all times reasonably tailored to overcome the Complainant’s resistance and prevent harm coming to him.

In the result, while it is tragic that the Complainant fell down the stairs, suffering injuries that would eventually culminate in his death, his injuries were not the result of any unlawful conduct on the part of the SO.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that based on information obtained throughout their investigation, there were no grounds for proceeding with charges against the SO notwithstanding the fatal injury sustained by the AP.

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.

23-OFP-412 (Mr. S.K-B.)**Executive Summary:**

On October 6, 2023, at 8:48 p.m. Strategic Tactical Enforcement Policing (STEP) officers attempted to investigate a vehicle on Chamney Court, Brampton. Initial investigation revealed that the vehicle's plates were on file as stolen (TPS 23-2280505.D23 refers). The affected person (AP) fled on foot, eastbound onto Glidden Road, east of Kennedy Road.

Detective Constable T.C. (SO) caught up with the AP, at which time a struggle ensued. During the struggle, the affected person bit the SO several times. The AP also attempted to remove the SO's firearm from the holster. The SO turned his attention to ensure retention of the firearm. The hood of the holster was in the open position and the gun felt like it was loose in the holster. For this reason, the officer removed the firearm to hold it further away from the AP's reach. During the fight over the firearm, it accidentally discharged into the pavement. The SO sustained several bite wounds during the struggle.

The officer's partner (WO #1) discharged his CEW resulting in the control and arrest of the affected person.

The SO was transported to BCH where his wounds from the bites were treated.

The affected person was transported to BCH where he was treated for soft tissue injury to his shoulder.

The Special Investigations Unit (S.I.U.) was notified of the firearm discharge and Mr. Barry Millar 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 an administrative review.

The AP was charged with the following offences;

- 1) Disarming a Peace Officer.
- 2) Assault Police.
- 3) Possession of Stolen Property.

***These charges are still before the courts.*

Findings of the Special Investigations Unit:

On January 26, 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;

"The SO and WO #1 each told the SIU that they had observed the Complainant enter and then operate a vehicle with a stolen licence plate attached. In the circumstances, it would appear the officers were within their rights in seeking to arrest him for possession of stolen property.

With respect to the force brought to bear by the SO, I am unable to reasonably conclude that it was unlawful. The evidence establishes that the Complainant vigorously resisted his arrest by, first, engaging in a determined flight from the SO for several hundred metres and, then, fighting the officer after he had been tackled to the ground. The melee on the ground had the Complainant biting the officer on several occasions and the officer reacting by delivering two to three punches in the head. That quantum of force, in the context of a spirited altercation between the parties, falls short of being excessive.

There remains the question of the firearm discharge. There is a body of evidence that suggests the SO drew his weapon as the Complainant lay prone on the ground and fired it at him. The bullet missed the Complainant, and he reacted by swiping the gun out of the officer's hand. On the other hand, the SO says that he and the Complainant struggled for possession of the gun after he (the Complainant) had attempted to remove it from the officer's holster and the officer drew it to distance the weapon from his reach. The firearm accidentally discharged in the course of that struggle. There are good reasons for preferring the SO's rendition of events on this point. The aforementioned body of evidence also suggests the Complainant had already been 'tasered' by another officer before the SO's gun went off. That evidence, however, is contradicted by the officer who fired the CEW – WO #1 – who indicates the shooting happened before he arrived on scene. On this record, it would be unsafe and unwise to rest charges based solely on the more incriminating account of the shooting as there is no reason to believe it is any likelier to be closer to the truth than the SO's story. That story, being one of accidental and inadvertent firearm discharge, cannot give rise to liability based on an intentional use of force.

Was the SO, however, careless in the use of his firearm contrary to section 86(1) of the Criminal Code? As an offence of penal negligence, a simple want of care will not suffice to give rise to liability. Rather, the offence is predicated, in part, on conduct that amounts to a marked departure from the level of care that a reasonable person would have observed in the circumstances. In the instant case, the issue is whether there was a want of care in the manner in which the SO handled his firearm, sufficiently egregious to attract criminal sanction. In my view, there was not.

The SO says that the Complainant was attempting to take possession of his firearm from its holster and that he removed it in order to prevent that from happening. That seems a reasonable course of action in the circumstances. Thereafter, when the Complainant was nevertheless able to take hold of the barrel of the weapon and began to wrestle with the SO for it, the firearm is said to have discharged. That was not a surprising outcome, whether the result of one or the other party accidentally pulling the trigger while tussling with each other or

the weapon impacting the ground. Be that as it may, I am not reasonably satisfied that the discharge was the result of criminally careless conduct by the officer, who had cause to fight the Complainant for control of the gun.

For the foregoing reasons, there is no basis for proceeding with criminal charges against the SO. The file is closed.”

Conclusion:

As a result of the Special Investigations Unit investigation, the Director, Mr. Joseph Martino determined that based on information obtained throughout their investigation, there were no grounds for proceeding with charges against the officer notwithstanding the discharge of the SO's firearm.

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-403 (Mr. A.K.)

Executive Summary:

On Monday October 2, 2023 the Affected Person (AP) stole a Black Mercedes G-Wagon in Brampton at gunpoint, (PR230318817 refers).

22 Division officers from the Criminal Investigation Bureau located the vehicle a short distance away and began surveillance of it until Tactical units could facilitate a high risk vehicle stop. At approximately 10:15 a.m., the AP intentionally collided with one of the Tactical vehicles at which time it exited the roadway and came to rest against a fence at Havenwood Drive and Williamsport Drive, Mississauga. The Tactical team pinned the vehicle and were successful extracting the two occupants from the vehicle.

The Driver was transported to Mississauga Hospital where Dr. Gophosh diagnosed him with a fractured clavicle. The passenger (a young person) was un-injured.

The Special Investigations Unit (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 S.I.U and conduct an administrative review.

The AP was charged with the following offences;

- 1) Robbery.
- 2) Use Imitation Firearm While Committing Offence.
- 3) Dangerous Operation
- 4) Fail to Comply with Release Order.
- 5) Breach of Probation Order.

Note: These charges are still before the courts.

Findings of the Special Investigations Unit:

On January 30, 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;

“In the circumstances, the officers were engaged in the execution of their lawful duties when they sought to apprehend CW #1 and the Complainant at the intersection of Williamsport Drive and Havenwood Drive.

With respect to the force brought to bear by the officers in aid of the arrests, the evidence falls short of any reasonable suggestion it was unlawful. There is conflict in the evidence as to whether the SO intentionally rammed his vehicle into the Mercedes, or his vehicle was stationary in front of the Mercedes when it was rammed by the Complainant. Assuming the former – the potentially more incriminating of the accounts – it would not appear the tactic was so clearly out of bounds as to amount to excessive force. Knowing what he did of the apparent gunplay by the occupants of the Mercedes, it was critical in the interests of public safety that CW #1 and the Complainant were arrested as soon as possible. And here was an opportunity, an intersection with a small to moderate amount of traffic, to do so with the use of their vehicles. I accept that the use of a vehicle to intentionally contact another vehicle is inherently dangerous, but there were a number of mitigating factors at play. First, TRU officers were specially trained in the tactic. And, second, the impact occurred at relatively slow speed. All in all, I am unable to reasonably conclude on this record that driving the vehicle into the Mercedes, if that is what the SO did, amounted to a disproportionate response to the exigencies of the situation. Similarly, for essentially the same reasons, I am not reasonably satisfied that WO #1 or WO #2 acted with excess when they also struck the Mercedes.

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 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.

23-OCI-413 (Ms. J.L.)

Executive Summary:

The Affected Person (AP) resides on Lakeshore Road East, Mississauga, in a multi-unit premise with several apartments.

On Saturday October 7, 2024, at approximately 4:21 p.m., a couple that reside in another unit of the complex, were in a common area, proceeding to their unit. They were confronted by the AP, who was brandishing a kitchen knife and there was a verbal exchange. The AP then attempted to stab the male party several times. He was able to disarm the AP who then fled back into her apartment. During the interaction, he sustained a minor laceration to his hand, however, he did not require medical attention.

The couple immediately called 9-11 and several 12 Division officers were dispatched. Upon their arrival, they located the AP, now in the rear parking alley behind the residence. She was brandishing a large butcher knife. Several commands were issued to her, however, she was non-compliant. She shouted "shoot me" several times to the officers. One of the officers deployed a CEW, however, it was unsuccessful. The verbal exchange continued and eventually, she dropped the knife. A second CEW was deployed which caused her to lock out and fall backwards to the ground. Officers immediately arrested the AP.

She was conveyed back to 12 Division and lodged in cells. Several hours later, she complained of a sore left wrist. She was transported to Mississauga General Hospital for examination. X-rays confirmed she had a fractured left wrist.

The Special Investigations Unit (S.I.U.) was contacted and they invoked their mandate. Mr. Bill Harris 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 charged with the following offences and held for an ARC³ Bail Hearing:

- (i) Possession of a Weapon for Dangerous Purpose contrary to Section 88(1) of the Criminal Code of Canada,
- (ii) Assault with a Weapon contrary to Section 267(a),
- (iii) Assault a Peace Officer contrary to Section 270(1)(a), (2 counts).

She was later released on a Recognizance with numerous conditions. The above charges are still before the courts.

³ Alternative Resolution Court - Mental Health Diversion Program

On February 11, 2024, the AP was rearrested, for breaching her release conditions and again held for a bail hearing.

Findings of the Special Investigations Unit:

On February 5, 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 two subject officials.”

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

“Given what they knew of the 911 call, the information provided at the scene from the 911 caller, and the Complainant’s behaviour on scene with the knife, the officers were within their rights in seeking to take her into custody for ‘assault with a weapon’.

With respect to the force used by the officers, I am satisfied it was no more than was reasonably necessary to effect the Complainant’s arrest. The Complainant was armed with a weapon clearly capable of inflicting grievous bodily harm or death and she had already demonstrated a proclivity that day for using it when she stabbed another person in an unprovoked attack. In the circumstances, when the Complainant failed to stop her advance and drop the knife despite repeated requests that she do so, WO #2 had cause to try to temporarily incapacitate the Complainant from a distance with his CEW. If it worked, the CEW discharge would have allowed the officers a safe window of time to safely approach, disarm and arrest the Complainant. For essentially the same reasons, I am also satisfied that SO #1’s CEW deployments were legally justified. It is unclear whether the officer was aware that the Complainant had thrown her knife away. But even if he was, SO #1 could not be sure that the Complainant did not have another weapon on her person. After all, he had spoken to the man stabbed by the Complainant and come to learn that she had used a different knife against him. No further force was used against the Complainant by any of the officers; the handcuffing process, in particular, was unremarkable.

In the result, while I accept that the Complainant’s injuries were the likely result of her falling after the second set of CEW discharges, I am unable to reasonably conclude that they are associated with any unlawful conduct on the part of the involved officers. As such, there is no basis for proceeding with criminal charges in this case.”

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.

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:

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

Authored By: *Detective Sergeant Andy Babensee #1585*