



IC09-02-24

REPORT

Police Services Board

For Information

File Class: _____

Cross-Reference File Class: _____

PSB REC: FEB. 07, 2024
FILE CLASS: M13
LOG #10-24

DATE: January 31, 2024

SUBJECT: **CLOSED SPECIAL INVESTIGATIONS UNIT FILE 23-OCI-299, 23-OCI-346, 23-OCI-366 and 23-OCI-391.**

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-299, 23-OCI-346, 23-OCI-366 and 23-OCI-399.

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-299 (Mr. N.A.)

Executive Summary:

On July 29, 2023 at 7:39 p.m., members of the Strategic Tactical Enforcement Policing (S.T.E.P.) were on patrol in the Fleetwood Crescent townhouse complex, Brampton. At this time, they observed a lone male seated in a white 2018 Mercedes SUV, Ontario licence #CZHN 682 parked in the fire route directly in front of 207 Fleetwood Crescent.

Officers approached the vehicle and investigated the male. He was found to have an odour of an alcoholic beverage emanating from his breath as well as a marijuana cigarette propped over his ear, that he had just rolled.

Investigation revealed that the male, Mr. N.A. was currently on charge for:

- (i) Assault – choking, contrary to section 267 (c) of the Criminal Code of Canada,
- (ii) Assault, contrary to section 266,
- (iii) Utter threat to cause death, contrary to section 264.1(1)(a),
- (iv) Possession of a weapon for a dangerous purpose, contrary to section 88(1), and
- (v) Mischief under \$5000, contrary to section 430(4).

He was released on his own recognizance for these domestic related charges which are still before the courts¹. There were numerous conditions related to this release, two worthy of note:

- (a) Do not contact or communicate in any way either directly or indirectly, by any physical, electronic or other means, with the following: Ms. T.T., and
- (b) Do not be within 200 metres of any place you know Ms. T.T. to live, work, go to school, frequent or any place you know her to be.

Further investigation revealed:

- (1) Mr. N.A. was an unlicensed driver,
- (2) Ms. T.T. was the registered owner of the aforementioned Mercedes,
- (3) Ms. T.T. resides at 207 Fleetwood Crescent. When the officers canvassed this unit, she was found to be at home, and
- (4) CPIC revealed an outstanding Warrant in the First Instance with Toronto Police for the offence of Fail to Comply with Release Order².

Mr. N.A was arrested on the strength of the above warrant as well as the breach. Uniformed officers from 21 Division attended the scene shortly thereafter and continued the arrest.

Mr. N.A. was transported to 21 Division cells. During the lodging process and the questionnaire by the on-duty Staff Sergeant, he had concerns Mr. N.A was exhibiting suicidal tendencies. He directed the same transporting officers to convey Mr. N.A. to a nearby hospital for examination. After he was returned to the rear prisoner compartment of the cruiser, he began slamming his head into the plexiglass partition. He was immediately removed, but continued thrashing about and kicking at the officers. He was restrained by the officers until ambulance attended and sedated him.

He was then transported to Brampton Civic Hospital via ambulance. This same behaviour continued while in the emergency department, with him kicking at the gurney. Security staff utilized a 4-point restraint for his own safety. As these activities continued and became even more violent, he was eventually secured using a 6-point restraint system.

The Complainant began complaining of pain in his left ankle. He was examined by Dr. Garay who determined it was fractured.

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

¹ Refer to Toronto Police occurrence #TPS22-0698742.D23 for details.

² Refer to Toronto Police occurrence #TPS22-0931734.D23 for details.

Findings of the Special Investigations Unit:

On November 27, 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 evidence collected by the SIU, including interviews with the Complainant and the SO, and video footage that captured the incident in parts, gives rise to the following scenario.

WO #4 and the SO were not the arresting officers; they had simply been called to take custody of the Complainant to transport him to the station. On this record, I am unable to reasonably conclude that WO #4 and the SO were not lawfully placed throughout the series of events culminating in the Complainant’s injury.

With respect to the force used by the SO, I am satisfied that it was legally justified. As one of the Complainant’s custodians, the officer was within his rights in controlling the Complainant’s movements to ensure he was safely processed according to law. In that vein, the SO was right in helping WO #4 remove the Complainant from the cruiser when it appeared the Complainant might hurt himself by striking his head off the vehicle’s interior. He also acted sensibly in helping control the Complainant on the ground by taking hold of his legs to stop them flailing. There is a suggestion in the evidence that the SO may have caused the Complainant’s injury by twisting his left leg and ankle. The SO denies doing so. And the video that captured this sequence of events is somewhat equivocal; while it does not explicitly capture any such twisting, it does not unequivocally rule it out. In the circumstances, it would be unwise and unsafe to rest charges on the strength of the incriminating evidence as it does not appear any more likely to be closer to the truth than the account proffered by the SO.

It remains unclear when and how precisely the Complainant incurred his injury. It may have been in the police station garage as he struggled on the ground, or perhaps at the hospital where security found it necessary to restrain him on a bed because of his state of agitation. Be that as it may, as I am satisfied there is insufficient evidence to believe the SO comported himself other than lawfully in his engagement with the Complainant, 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 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 Section 32, Ontario Regulation 268/10, Ontario Police Services Act. There were no identified issues as a result of this review.

23-OCI-346 (Ms. M.D.)

Executive Summary:

On Thursday August 24, 2023, the Subject Official and Witness Official were assigned to a 22 Division, Community Intervention Response Team patrol (CIRT), focused on high crime areas within Brampton.

At approximately 9:25 p.m., they observed a white Ford Escape operating erratically on Salisbury Circle near Beech Street, Brampton. The emergency equipment on the marked police cruiser was activated and the driver of the Ford began slowing for a traffic stop, near 151 Salisbury Circle.

Just as the vehicle stopped, the Complainant, who had occupied the passenger front seat vaulted from the vehicle and ran up the adjacent driveway. He was observed throwing something under one of the parked vehicles in the driveway.

After the SO stopped the cruiser, he made his way up the driveway, located a baggie under the same parked vehicle, quickly examined it and approached the Complainant. He believed that the baggie contained a small quantity of methamphetamines and advised the Complainant that he was under arrest for Possession of a Controlled Substance. The Complainant was escorted back to the marked cruiser and the SO began searching him. The baggie along with the contents of his pockets were placed on the trunk of the cruiser. Just as the SO was about to secure him in handcuffs, the Complainant with his free hand reached for and grabbed the baggie, and placed it in his mouth. The SO made immediate efforts to remove the baggie, however, was unsuccessful and the Complainant swallowed it. After the handcuffing was completed, and realizing the peril the Complainant put himself in, the officers requested an ambulance.

EMS attended the scene, and transported the Complainant to Brampton Civic Hospital and he was admitted for observation. As a result of this *admission*, the SIU were contacted and invoked their mandate.

The Complainant was released from custody on an Undertaking for one count of Obstruct Peace Officer, contrary to Section 129(a) of the Criminal Code of Canada.

Shortly thereafter, the Complainant was cleared by medical staff and he left the hospital.

In the days that followed, the Complainant was **not** interviewed by the SIU nor did he provide a consent for them to access his medical records. Despite this, and having **no** confirmation of a "serious injury", they continued to investigate.

Ms. Allison Armstrong was assigned as the lead investigator from the SIU. 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 incident was captured on BWC.

The above charge is still before the courts.

Findings of the Special Investigations Unit:

On December 22, 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 against the subject official.”

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

“The Complainant was admitted to hospital for a possible drug overdose on August 24, 2023. As the drug consumption occurred while the Complainant was in the custody of PRP officers, 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 Complainant’s hospital admission.

The SO was lawfully placed and engaged in the execution of his duty when he decided to arrest the Complainant. He had observed the Complainant throwing something underneath a vehicle shortly after being stopped by police, and discovered a baggie of suspected methamphetamine under the vehicle in question. In the circumstances, the Complainant was subject to arrest for illicit drug possession.

I am also satisfied that the SO comported himself with due care and regard for the Complainant’s health and well-being while in custody. I accept that the officer erred in placing the baggie of suspected methamphetamine within arm’s reach of the Complainant on the trunk of the cruiser. It would not have been unforeseeable that a person concerned about concealing their drugs might ingest them to destroy the evidence. That said, the Complainant had proven largely cooperative with the SO to that point, leaving the officer little reason to believe he would act out in the way he did. Moreover, the SO quickly appreciated what the Complainant had done and acted expeditiously to render care. He encouraged the Complainant to spit out the baggie, attempted to forcibly remove it from his mouth, and promptly called for paramedics. On this record, I am satisfied that the SO’s indiscretion 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 suspected overdose of the complainant while in custody.

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-366 (Mr. O.S.)

Executive Summary:

On Saturday September 2, 2023, at approximately 11:00 p.m., three members of the Strategic and Tactical Enforcement Policing (S.T.E.P.) unit were on patrol in the City of Brampton.

They observed a group of approximately 10 males gathered around a 2015 Black Cadillac at the dead end of Trueman Street just south of Eastern Avenue. The males were observed drinking alcohol in public, contrary to the Liquor Licence Act.

The officers exited their patrol vehicle and approached the group. One of the STEP Officers engaged the Complainant and advised he was being investigated in relation to his alcohol consumption. During this conversation, he was noted to be wearing a fanny pack and appeared to be exhibiting the characteristics of an armed person. As soon as the Complainant was notified he would be searched under the authority of the LLA, he immediately fled, running eastbound, towards Kennedy Road.

The STEP officers immediately notified the 22 Dispatcher of this development. Several 22 Division officers responded, including the Subject Officer (a CIB investigator, conducting follow ups in the area). As the foot chase travelled through the rear parking lot of the apartment building at 33 Kennedy Road South, the SO was able to anticipate the Complainants arrival and intercepted him near the garbage dumpsters. The SO issued a number of commands, none of which the Complainant complied with. The Complainant was grounded by the SO, however, the male resisted arrest. The pursuing STEP officer arrived and assisted with handcuffing.

The Complainant immediately complained that he was dizzy and his head hurt. An ambulance was called for, however, prior to its arrival, the Complainant refused medical assistance and the ambulance was cancelled.

A K9 search of the path of the foot pursuit, revealed the discarded fanny pack. The contents of the pack revealed a quantity of suspected drugs, i.e., cocaine and fentanyl. There was no weapon found.

In an effort to locate a weapon, officers viewed video surveillance from Kennedy Road South. The complainant was viewed running through the rear parking lot, and although nothing specific was seen regarding a weapon, he was viewed tripping and falling twice, prior to his apprehension.

Shortly thereafter, the Complainant was released from custody on an Undertaking, charged with the following offences:

- (i) Possession for the Purpose of Trafficking - Cocaine, contrary to section 5(2) of the Controlled Drugs and Substances Act.
- (ii) Possession for the Purpose of Trafficking - Fentanyl, contrary to section 5(2), and
- (iii) Possession of Property Obtained by Crime - Proceeds, contrary to Section 354(1)(a) of the Criminal Code of Canada,

On September 3, 2023, he attended a nearby hospital, however, left prior to being seen.

On September 5, 2023, he returned to the hospital. After a series of x-rays and CT scans, it was confirmed that he had a fractured right orbital bone.

On September 6, 2023, the Complainant contacted the SIU directly, advised them of the above events, and they launched an investigation. Mr. Carm Piro 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 above charges are still before the Courts.

Findings of the Special Investigations Unit:

On January 4, 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 Complainant was reportedly injured in the course of his arrest on September 2, 2023. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant's arrest and injury."

I accept that the SO was engaged in the lawful execution of his duties as he sought to detain the Complainant at the tail end of the foot pursuit. By that time, the officer had heard that the Complainant was armed and seen him jettison a satchel he was wearing. In the circumstances, I am satisfied the SO was justified in detaining the Complainant for investigation based on a reasonable suspicion that he was implicated in criminal conduct."

With respect to the force used by the SO in aid of the Complainant's detention, I am unable to reasonably conclude it was anything other than legally justified. The officer says that he forced the Complainant to the ground after he refused to show his hands. That would appear a reasonable tactic as it would have been imperative in the moment to immediately place a recalcitrant suspect thought to be in possession of a weapon in a disadvantageous position. The punch to the upper body or head that the SO says he struck when the Complainant struggled against his efforts to control his arms behind his back would also seem reasonable for the same reasons."

For the foregoing reasons, there is no basis for proceeding with criminal charges against the SO 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 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-391 (Mr. J.S.)

Executive Summary:

On Thursday September 21, 2023, at approximately 3:10 p.m., the Affected Person attended the Scotiabank located at 1985 Cottrelle Boulevard, Brampton. While in the bank, he presented a Canadian Permanent Resident card, claimed to be the named card holder, and requested information about *his* account. When the bank employees attempted to verify his identity, he was unable to answer any relevant security questions. Furthermore, he did not match the photograph of the card holder that they had on file; police were subsequently contacted.

Upon police arrival, the Affected Person was located in the lobby and escorted outside. Acting on the above information, the Subject Official advised the male that he was under arrest for the offence of fraud and attempted to apply the handcuffs. As he did so, the Affected Person pulled away, struggled and resisted. In response, he was grounded by the Subject Official and successfully handcuffed.

The Affected Person began to complain of pain in his left knee and an ambulance was requested. The Affected Person was taken to Brampton Civic Hospital and after x-rays were completed, confirmed he had sustained a fracture to his tibial plateau.

The S.I.U. was contacted and 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 arrest was captured on BWC.

The Affected Person was released from custody on an Appearance Notice, charged with the following offence:

- (iv) Fraud Under \$5000 contrary to Section 380(1)(b) of the Criminal Code of Canada.

On November 23, 2023, he failed to appear for his first appearance and a bench warrant was

issued for him. The warrant is still outstanding.

Findings of the Special Investigations Unit:

On January 17, 2024 the 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,

“The Complainant was seriously injured in the course of his arrest by a PRP officer on September 21, 2023. In the ensuing SIU investigation of the incident, the SO was identified as the subject official. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant’s arrest and injury.

In light of what the officer had learned of the 911 call reporting the Complainant’s fraudulent efforts to obtain a bank card, the SO was within his rights in seeking to arrest him for identity theft contrary to section 402.2(1) of the Criminal Code.

I am also of the view that the force used by the SO was not unlawful. The Complainant resisted arrest by making it difficult for the officer to secure his right hand. In the circumstances, the officer was entitled to resort to a measure of force to press his objective as safely as possible. Taking the Complainant to the ground made sense in this context as it would better position the officer to better manage any further challenges to the handcuffing process. While it is unfortunate that the Complainant’s leg was fractured in the takedown, I am satisfied that the injury fell within the risks inherent in the tactic and was not the result of any heavy-handed force by the officer.

For the foregoing reasons, there is no basis for proceeding with criminal charges in this case against the SO.”

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

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