



REPORT TO THE POLICE SERVICE BOARD

Author: Inspector Doris Carriere #3033

Date of Report: 4/15/2025

Type of Report: Public

Title: Report on SIU Case 24-OFP-406

Recommendation

That the Board receives this report as it relates to SIU Case 24-OFP-406.

Background

On September 22, 2024, at 4:53 p.m., the Durham Regional Police Service (DRPS) were requested to attend an address in Oshawa for a family disturbance. A woman had called to report the affected person had threatened her with a pole from his bedframe and barricaded himself in his bedroom. DRPS officers responded, including a mental health officer, who attempted to engage the affected person in conversation. Negotiations with the affected person continued for approximately an hour and a half. When efforts to have the affected person surrender to police were unsuccessful, the Tactical Support Unit (TSU) were requested to attend. TSU attempted negotiations, but the affected person failed to respond to them. Due to safety concerns for the affected person, TSU were authorized to breach the door into the bedroom. Upon entry, TSU officers were confronted by the affected person, who was armed with a metal pole. While armed, the affected person advanced on the officers. At 6:39 p.m., the subject officer deployed an Anti-Riot Weapon Enfield (ARWEN) at the affected person. The ARWEN did not make contact with the affected person. A witness officer deployed a conducted energy weapon (CEW) at the affected person. The CEW was ineffective due to an unsuccessful deployment. Officers took physical control of the affected person, and he complied with the officers who apprehended him under the Mental Health Act. A Tactical Paramedic examined the affected person and no injuries were noted. The affected person did not make a complaint of any injuries. The affected person was transported to Lakeridge Health Oshawa Hospital and psychologically assessed. No injuries were sustained during the interaction.

On September 22, 2024, at 7:46 p.m., the DRPS contacted the SIU who invoked their mandate.

Investigation

SIU Director Martino's report, dated January 20, 2025, summarized the investigation and result:

“In the afternoon of September 22, 2024, DRPS were dispatched to a home in Oshawa following a call to police from a resident about an ongoing domestic disturbance. The Complainant had reportedly threatened the CW with a metal pole and barricaded himself inside his bedroom. Uniformed officers began arriving at the scene at about 5:00 p.m. From outside the bedroom door, they attempted to speak with the Complainant. The Complainant was not receptive. He occasionally banged on the bedroom door with a metal pole – a piece of the bedframe in the room. A mental health unit consisting of an officer and nurse arrived to assist. The Complainant remained incommunicado. As time wore on with no responses from the Complainant, officers became concerned for his wellbeing. A decision was made to deploy the TSU. A team of TSU officers, including the SO, arrived on scene at about 6:10 p.m. They too tried to engage the Complainant in conversation from outside the door. When that failed, the TSU decided to enter the bedroom. The door was forced open and the officers were met by the Complainant with a metal pole in his right hand, which he threw in their direction. Standing behind an officer holding a shield, the SO and WO #1 deployed their weapons – an ARWEN and CEW, respectively – at the Complainant. The ARWEN projectile missed and the CEW was ineffective. The officers approached the Complainant and forced him onto a mattress. Following some initial difficulty during which WO #2 punched the Complainant in the back of the head as the officers struggled to control his arms, the Complainant was handcuffed and led out of the bedroom. He had not suffered any serious injuries.

RELEVANT LEGISLATION

Section 25(1), Criminal Code - Protection of Persons Acting Under Authority

25 (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

(a) as a private person,

(b) as a peace officer or public officer,

(c) in aid of a peace officer or public officer, or

(d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.”

Professional Standards Unit – Section 81 Investigation

The Professional Standards Unit conducted an investigation pursuant to Section 81(1) of the CSPA. The investigation reviewed the following applicable DRPS Directives and Policies;

Authority	Number or Section	Description	Compliance		Requires Amendment	
			Yes	No	Yes	No
Directive	LE-02-003	Major Crime Scene Management		X		X
Directive	AO-05-001	Special Investigations Unit		X		X
Directive	LE-17-010	Persons in Crisis and Attempted Suicide	X			X
Directive	LE-02-019	Body-Worn Camera	X			X

Directive	AO-09-010	DRPS Code of Professional Conduct	X			X
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The results of the Professional Standards Unit investigation are as follows:

Conduct: No conduct issues were identified.

Policies: Special Investigations Unit & Major Crime Scene Management directives were not adhered to.

The investigation has found that the subject official and several witness officials moved the ARWEN baton, casing, taser cartridge and metal bedframe from the bedroom where the incident unfolded to the kitchen table. The movement of these articles is in contravention of DRPS directives:

Special Investigations Unit

14. INVESTIGATIVE PROCEDURE

14.1. First responding officer(s) to an incident shall:

14.1.8. Ensure the incident scene is preserved in the same manner as a major crime scene (reference Directive LE-02-003 "Major Crime Scene Management").

Major Crime Scene Management

6. AUTHORITIES AND RESPONSIBILITIES

This policy establishes the following responsibilities:

6.1. The First Responding Officer is responsible for:

6.1.1. Ensuring that nothing within the crime scene is touched, used or disturbed.

Service: No service issues were identified.

Conclusion

SIU Director Martino has concluded, *On September 22, 2024, the DRPS contacted the SIU to report that one of their officers had earlier that day fired an ARWEN at a young person – the Complainant. The SIU initiated an investigation naming the SO 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 use of his ARWEN against the Complainant.*

Pursuant to section 25(1) of the Criminal Code, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law. I am satisfied that the TSU, including the SO, were within their rights in moving to arrest the Complainant when they forcibly entered the bedroom. They had information that the Complainant had threatened the CW with a metal pole and were justifiably concerned about his wellbeing inside the bedroom.

I am also satisfied that the officers used no more force than was reasonably necessary in taking the Complainant into custody. The Complainant had equipped himself with a metal pole, threatened the CW with it, and refused to engage with the officers as they tried to negotiate a peaceful resolution to the standoff. On this record, the TSU could reasonably expect they would be met by a combative Complainant as they forced open the bedroom door. The Complainant gave credence to these concerns when he threw the pole in the officers' direction as they entered the bedroom. Consequently, it became imperative that steps be taken to immediately subdue the Complainant. The use of the ARWEN and CEW seemed a reasonable tactic in the circumstances. If they worked as intended, they would temporarily immobilize the Complainant, creating an opportunity during which the Complainant might safely be arrested without the infliction of serious injury. With respect to the single strike delivered by WO #2 to the back of the Complainant's head, I am unable to reasonably conclude that it amounted to excessive force in light of evidence that the Complainant initially struggled against the officers' efforts to secure his arms.

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

Before closing the file, I note what appears to have been possible violations of sections 18 (SIU as lead) and 20 (securing the scene) of the Special Investigations Unit Act, 2019. I will be raising this matter in my reporting letter to the chief of police. I will also be notifying the Complaints Director of the Law Enforcement Complaints Agency, pursuant to my legal obligation under section 35.1 of the Special Investigations Unit Act, 2019."

The internal investigation has found that the subject official and several witness officials were not in compliance with DRPS Directive AO-05-001 Special Investigations Unit and LE-02-003 Major Crime Scene Management. The Office of Professional Standards has recommended the matter be addressed through performance management, including for the subject official and his Tactical Support Unit team to meet with their Inspector to review the identified directives.

Report Approval Details

Document Title:	Report on SIU Investigation File 24-OFP-406.docx
Attachments:	
Final Approval Date:	Apr 7, 2025

This report and all of its attachments were approved and signed as outlined below:

Chris Kirkpatrick

A handwritten signature in black ink, appearing to read "Peter Moreira", with a stylized flourish at the end.

Peter MOREIRA