



REPORT TO THE POLICE SERVICE BOARD

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Date of Report: 4/15/2025

Type of Report: Public

Title: Report on SIU Case 24-OFP-415

Recommendation

That the Board receives this report as it relates to SIU Case 24-OCI-415

Background

In the afternoon of September 29, 2024, a team of Durham Regional Police Service (DRPS) Tactical Support Unit (TSU) officers gathered outside a home in the area of Whites Road and Highway 401 in Pickering. The day before, Witness #1 – a resident – had contacted police to report that the Affected Person – a tenant in a basement apartment of the home – had threatened to kill her with a gun. The threat occurred when Witness #1 confronted the Affected Person about his volatile behaviour. Uniformed officers were dispatched but were unable to arrest the Affected Person as he had retreated to his apartment. The TSU officers intended to enter the apartment and take the Affected Person into lawful custody.

From the stairway to the basement and from the hallway outside the apartment, members of the TSU, including the Subject Official (SO), called out to the Affected Person. They explained who they were, indicated they planned to arrest the Affected Person for having uttered threats, and ordered him to come out. These requests were met by silence from within the apartment.

Shortly before 2:00 p.m., following the issuance of a *Feeney* warrant, the TSU broke open the apartment door and made entry. The SO was the first to enter the apartment. He located the Affected Person lying on a mattress under bed covers and immediately moved towards him, pinning him with a shield. Witness Official (WO) #1, WO #2 and WO #3 also engaged the Affected Person on the mattress. The Affected Person struggled against the officers' efforts to secure him in handcuffs. The SO, used physical strikes to gain compliance and secure control of the affected person, which were ineffective. The SO transitioned to a conducted energy weapon (CEW) which was deployed. Shortly after, the officers were able to take control of the Affected Person's arms and secured them in handcuffs.

The Affected Person was taken to the hospital after his arrest and diagnosed with a broken nose. On September 29, 2024, at 4:43 p.m., the DRPS contacted the SIU.

Investigation

SIU Director Martino's decision, dated January 28, 2025, summarized the investigation and results below. Director Martino reported the following:

"The Complainant was seriously injured in the course of his arrest by DRPS officers on September 29, 2024. The SIU was notified of the incident and 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 Complainant's arrest and injury.

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.

The TSU had a Feeney warrant authorizing the Complainant's arrest and were proceeding lawfully to take him into custody.

As for the force used by the SO, namely, three strikes to the head and the use of a CEW, I am satisfied it was legally justified. The evidence indicates that the Complainant, confronted by the officers on his mattress, physically resisted arrest by grabbing the officers and their equipment, and refusing to release his arms to be handcuffed. When the officers were unable to quickly wrestle control of the Complainant, they were entitled to escalate their use of force. Time was of the essence and it was imperative that he be subdued as quickly as possible given the Complainant's previous conviction in connection with explosives and the possibility he had a gun. On this record, I am unable to reasonably conclude that the SO acted precipitously by striking the Complainant in the head and, when that failed, resorting to his CEW, which proved effective."

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	AO-09-010	DRPS Code of Professional Conduct	X			X
Directive	AO-05-001	Special Investigations Unit	X			X
Directive	LE-12-001	Arrest and Warrant Applied For	X			X
Directive	LE-02-019	Body-Worn Camera	X			X

The results of the Professional Standards Unit investigation are as follows:

Conduct: No conduct issues were identified.

Policies: All policies were adhered to.

Service: No service issues were identified.

Conclusion

On January 28, 2025, SIU Director Martino concluded, *“I accept that the Complainant’s nose was broken in the course of the struggle with police, most likely the result of the punches struck by the SO, there are no reasonable grounds to believe the injury is attributable to unlawful conduct on the part of the subject official. As such, there is no basis for proceeding with criminal charges in this case. The file is closed.”*

No further action is required.

Report Approval Details

Document Title:	Report on SIU Investigation File 24-OFP-415.docx
Attachments:	- DR-24-415-Durham-CI.pdf
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