



Toronto Police Services Board Report

August 4, 2020

To: Chair and Members
Toronto Police Services Board

From: James Ramer, M.O.M.
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury to Complainant 2019.27

Recommendation(s):

It is recommended that the Toronto Police Services Board (Board) receive the following report.

Financial Implications:

There are no financial implications relating to the recommendation contained within this report.

Background / Purpose:

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving serious injury or death, provincial legislation requires the Chief of Police, of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Discussion:

On Monday, August 12, 2019, a plainclothes officer from the 52 Division Major Crime Unit observed a male, later identified as Custody Injury Complainant 2019.27, riding a bicycle on the sidewalk in the area of Yonge Street and Wellesley Street.

The officer's attention was drawn to 2019.27 because he was operating his bicycle on the sidewalk and was in possession of a female's purse and a backpack.

The officer requested the assistance of two nearby 52 Division Community Response Unit officers.

Two officers responded and stopped 2019.27 in the area of Jarvis Street and Carlton Street and made a demand for him to produce identification.

2019.27 stopped, threw his bike to the ground, and fled on foot.

The plainclothes officer, still in the area, ran after 2019.27 and caught up to him.

The officer body checked 2019.27 who fell into a stopped vehicle and then onto the roadway.

2019.27 was arrested for failing to identify himself under the *Highway Traffic Act* (H.T.A.) and was handcuffed without incident. 2019.27 was searched and found to be in possession of property that was stolen earlier in the day.

2019.27 suffered an injury to his mouth and was transported to St. Michael's Hospital by Toronto Paramedic Services (Paramedics).

2019.27 was examined by a physician and diagnosed with a fractured jaw.

The S.I.U. was notified and invoked its mandate.

The S.I.U. designated one officer, as a subject officer and three other officers were designated as witness officers.

In a letter to the Toronto Police Service (T.P.S.) dated May 5, 2020, Interim Director Joseph Martino of the S.I.U. advised that their investigation had been closed and no further action was to be contemplated.

The S.I.U. public Report of Investigation can be found at the following link:
https://www.siu.on.ca/en/directors_report_details.php?drid=674

On May 6, 2020, the S.I.U. issued a news release to advise the investigation had been closed. The news release can be found at the following link:
https://www.siu.on.ca/en/news_template.php?nrid=5640

Summary of the Toronto Police Service's Investigation:

Professional Standards Support (P.S.S.) conducted an investigation pursuant to Ontario Regulation 267/10, Section 11.

P.S.S. examined the injury in relation to the applicable legislation, service provided, procedures, and the conduct of the involved officers.

The P.S.S. investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest)
- Procedure 01-02 (Search of Persons)
- Procedure 01-03 (Persons in Custody)
- Procedure 13-16 (Special Investigations Unit)
- Procedure 13-17 (Notes and Reports)
- Procedure 15-01 (Use of Force)
- Procedure 15-02 (Injury/Illness Reporting)

The P.S.S. investigation also reviewed the following legislation:

- *Police Services Act* Section 113 (Special Investigations Unit)
- Ontario Regulation 267/10 (Conduct and Duties of Police Officers Respecting Investigations by the Special Investigations Unit)
- Ontario Regulation 926 Section 14.3 (Use of Force Qualifications)

The P.S.S. investigation determined that the T.P.S.'s policies and procedures associated with the custody injury were lawful, in keeping with current legislation, and written in a manner which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The conduct of the officers was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable T.P.S. procedures.

Deputy Chief Shawna Coxon, Human Resources Command, will be in attendance to answer any questions that the Board may have regarding this report.

Respectfully submitted,

James Ramer, M.O.M.
Chief of Police

*original copy with signature on file in Board office

SIU Director's Report - Case # 19-TCI-189

News Releases for this Case:

- [No Basis to Charge Officer in Relation to Arrest of Bike Rider in Toronto](#)

The Investigation

Notification of the SIU

The SIU was notified about the incident by the Toronto Police Service (TPS) on Monday, August 12, 2019, at 9:50 p.m. The TPS reported that on August 12, 2019 at 6:32 p.m., police officers arrested the Complainant for a *Highway Traffic Act* (HTA) offence in the area of Jarvis and Carlton Streets. The Complainant had been riding a bicycle. Police officers pursued the Complainant and he was arrested after a struggle. The Complainant was taken to Saint Michael's Hospital by ambulance, where he was diagnosed with a fractured jawbone.

The Team Number of SIU Investigators assigned: **3**

Complainant:

35-year-old male not interviewed, [1] medical records obtained and reviewed

[Note : A complainant is an individual who was involved in some form of interaction with police, during the course of which the complainant sustained serious injury, died, or is alleged to have been sexually assaulted.]

Witness Officers

WO #1	Interviewed
WO #2	Interviewed
WO #3	Interviewed

[Note : A witness officer is a police officer who, in the opinion of the SIU Director, is involved in the incident under investigation but is not a subject officer.

Upon request by the SIU, witness officers have a duty under Ontario Regulation 267/10 of the *Police Services Act* to submit to interviews with SIU investigators and answer all of the SIU's questions. The SIU is also entitled to a copy of their notes from the police service.]

Subject Officers

SO Interviewed. Notes received and reviewed

[Note : A subject officer is a police officer whose conduct appears, in the Director's opinion, to have caused the death or serious injury under investigation.

Subject officers are invited, but cannot be legally compelled, to present themselves for an interview with the SIU and they do not have to submit their notes to the SIU, pursuant to Ontario Regulation 267/10 of the *Police Services Act*.]

Evidence

The Scene

The scene was located at the northwest corner of Jarvis Street and Carlton Street, Toronto.

Video/Audio/Photographic Evidence

Anonymous Video Clip from Social Media Recording

The video was a ten second recording that was posted on social media by a pseudonymous person who could not be identified. It appears to have been recorded by a rear seat passenger within a vehicle that was stationary facing south on Jarvis Street at its intersection with Carleton Street. The Complainant was seen to run north on the roadway in Jarvis Street's curb lane along the vehicle's passenger side. He was chased by a plainclothed police officer [now known to be the SO]. The SO pushed the Complainant from behind and the Complainant fell into the vehicle's passenger side and there was a loud thump. The SO bent down at the vehicle's back and kept yelling "get down." He was assisted by WO #1, a uniformed bicycle police officer.

Communications Recordings

On August 12, 2019, at 6:36:07 p.m., a CRU (Community Response Unit) police officer, WO #2, broadcast, "Pursuit." WO #2's partner, WO #1, then broadcast the location as being at Jarvis and Carlton Streets. The SO was heard to broadcast, "Get down, get down, get down." Another police officer then broadcast "one in custody". The dispatcher asked if there was any injury and the police officer replied "small injury". The dispatcher asked if it was the suspect or the police officer who was injured and the police officer responded that the suspect had a cut to his mouth. The dispatcher advised that she would have an ambulance dispatched.

Materials obtained from Police Service

Upon request, the SIU obtained and reviewed the following materials and documents from the TPS:

- Communications recordings;
- General Occurrence;
- Google map.pdf;
- Intergraph Computer-Assisted Dispatch;
- Injury Report;
- Notes from the Subject Officer;

- Notes from all Witness Officers;
- The TPS's Arrest Procedure;
- The TPS's Use of Force Procedure; and
- The video of the arrest.

Materials obtained from Other Sources

The SIU obtained and reviewed the following materials and documents from external sources:

- Ambulance Call Report; and
- Medical Record.

Incident Narrative

The material facts in question are clear on the weight of the evidence gathered by the SIU. Although the Complainant was initially unable to speak with SIU investigators as a result of his jaw being wired shut due to his injury, and later could not be located, the evidence provided by the police officers on scene and a ten second video of the incident establish a sufficient record to understand what happened for the purposes of these reasons.

On August 12, 2019, the SO was working in a plainclothes capacity, driving an unmarked police vehicle, when he observed the Complainant slowly riding his bicycle on Breadalbane Street in Toronto. The Complainant came to the SO's attention because, as the Complainant slowly passed a line of parked cars, he would look inside each motor vehicle. The SO suspected that the Complainant might attempt to break into one of these vehicles. As the SO continued to watch the Complainant, he also noted that the Complainant, despite being dressed and unkempt in a way suggesting homelessness, was riding a Bike Share Toronto bicycle, whose use requires one to use a legitimate credit card. The SO thought it unlikely that the Complainant possessed a legitimate credit card. The Complainant was also carrying a woman's clutch purse.

Despite his suspicions, the SO did not believe that he had sufficient grounds at this point to stop the Complainant. Instead, he contacted a colleague, WO #2, who was on bicycle patrol in the area with his partner, WO #1, provided him with the Complainant's description, and inquired if WO #2 had any information about the Complainant.

WO #2, in turn, observed the Complainant proceed through a red light on his bicycle and cut off a motor vehicle before riding up onto the sidewalk. WO #2 approached the Complainant and informed him that he was investigating him under the HTA as a result of his going through the red light and cutting off a motor vehicle. WO #2 made a demand of the Complainant to provide some identification pursuant to the HTA, resulting in the Complainant's dropping the bicycle and fleeing. WO #2 dismounted his bicycle and followed the Complainant on foot; the SO, who had observed the Complainant riding his bicycle on the sidewalk, [\[2\]](#) also gave chase. When the Complainant removed and discarded his backpack, WO #2 stopped to retrieve it, and the SO ran past him.

The ten second video clip, which appears to have been taken by a backseat passenger in a vehicle stopped facing south on Jarvis Street at its intersection with Carleton Street, shows the Complainant's running along

the vehicle's passenger side with the SO right on his tail, slightly behind and west of the Complainant. As the two approach the vehicle's rear, the SO can be seen using his right arm and shoulder area to check the Complainant into the vehicle. The parties both fall to the ground and end up behind the vehicle. The Complainant is no longer visible in the video at this time. The SO can be seen lowering himself to a kneeling position, holding his police radio in the left hand and yelling, "Get down, get down." WO #1 arrives at the rear of the vehicle and also yells, "Get down."

Shortly after the takedown, the Complainant was handcuffed and then seated on a nearby curb. An ambulance was called and transported the Complainant to hospital, where he was diagnosed with a fractured jaw.

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.

Section 218, Highway Traffic Act – Cyclist to identify self

218 (1) A police officer who finds any person contravening this Act or any municipal by-law regulating traffic while in charge of a bicycle may require that person to stop and to provide identification of himself or herself.

(2) Every person who is required to stop, by a police officer acting under subsection (1), shall stop and identify himself or herself to the police officer.

(3) For the purposes of this section, giving one's correct name and address is sufficient identification.

(4) A police officer may arrest without warrant any person who does not comply with subsection (2).

Analysis and Director's Decision

The Complainant sustained a fractured jaw in the course of his arrest by the SO on August 12, 2019. 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 if such force was no more than was reasonably necessary in the execution of an act that they were required or authorized to do by law. When the SO body-checked the Complainant into the vehicle and took him into custody, the Complainant had been seen committing HTA and by-law infractions, including riding his bicycle against a red light and on a sidewalk. Thereafter, he refused to identify himself when confronted by WO #2, choosing to flee instead, and was subject to being arrested pursuant to section 218 of the HTA.

The Complainant made it clear he would not be arrested peacefully when he took off from the officers and attempted to avoid apprehension. The SO ran up behind the Complainant and checked him into a stationary vehicle, ending the foot pursuit. Given the Complainant's conduct, it is difficult to see how anything short of some sort of a takedown would have effectively stopped the Complainant so that he could be arrested. In the circumstances, I am unable to reasonably conclude that the force used by the SO fell outside the range of what was reasonably necessary in the circumstances to take the Complainant into custody.

In the final analysis, while I accept that the Complainant's broken jaw was the unfortunate result of being body-checked into the vehicle by the SO, I am satisfied that the officer acted

lawfully throughout his dealings with the Complainant. Accordingly, there is no basis for proceeding with charges in this case and the file is closed.

Date: March 30, 2020
Electronically approved by

Joseph Martino
Director
Special Investigations Unit

Endnotes

- 1) Investigators met with the Complainant, but he was unable to speak because his jaw was wired shut. Attempts to locate the Complainant at a later date were unsuccessful. [[Back to text](#)]
- 2) Contrary to the City of Toronto's by-laws that stipulate that "no person age 14 or older may ride a bicycle on a sidewalk." [[Back to text](#)]

MY EXPERIENCE RIDING A BIKE

REGINA

VS

GREEBAUM, BRYANT
C.E.#: 440849-1

Charges: Disobey Stop Sign Fail to Stop H.T.A. 136(1) (a)
Fail to Stop For Police H.T.A. 216(1)

On Monday the 1st of Novembr 1999, at approx. 0815hrs., the defendant before the courts was operating a bicycle, E/B on Willcocks St. from S/B Huron St., which is in the City of Toronto.

The Accused was initially observed travelling S/B on Huron St. north of the intersection of Willcocks. The defendant was travelling approx. 15km/h as he approached the intersection. The defendant continued threw the posted stop sign making a left turn to E/B Willcocks, neither stopping or slowing for the sign. The writer was standing on the south shoulder approx. 35m E/O the intersection when he made observations of the accused. The writer raised his right arm and with an open hand directed the defendant to stop. The defendant was looking at the writer but continued to approach him failing to slow. The writer then stepped out onto the roadway and pointed at the rider and again verbally told the accused to stop. The defendant continued to look at the writer and muttered something to him as he passed. The writer screamed at the defendant to stop but the defendant didn't look back. The writer pursued the defendant with emergency equipment activated and had to box the defendant in S/B on St. George St. as he wasn't going to stop.

The defendant was taken into custody and charged accordingly. The defendant was released on a form 104's for:

JON RIDING A BIKE



WAS THE CITY NOW SAFER BECAUSE I WAS LOCKED UP FOR THE HEINOUS CRIME OF NIGHT CYCLING?



WHO WERE THE CAMPUS COPS PROTECTING WHEN THEY TRIED TO PULL ME OVER FOR CYCLING THROUGH THE UNIVERSITY CAMPUS AT NIGHT?



AND HOW ABOUT THE TIME THAT A POLICE OFFICER PULSED ME ON MY WAY TO WORK EARLY ON A MONDAY MORNING SO HE COULD GIVE ME A \$100 TICKET FOR SKATEBOARDING ON A NEARLY EMPTY SIDEWALK?



WHO WERE THE CITY COPS PROTECTING WHEN THEY MANUALLY PULLED ME FROM THE TIM HEINOUS PARKING LOT CAUSING ME TO COLLIDE WITH THEIR CAR AT HIGH SPEED?



OR THE MULTIPLE OTHER TIMES THAT SAME COP SEEMED TO SINGLE ME OUT IN PUBLIC FOR MINOR INFRACTIONS?



WHO WERE THEY PROTECTING WHEN A WHOLE GROUP OF OFFICERS JUMPED ON TOP OF ME, DIGGING THEIR KNEES INTO MY BACK, GRINDING MY FACE AGAINST THE ASPHALT AND MAKING THIRTY LITLED RACIST COMMENTS ABOUT MY DRESDRAGERS?



WHO EXACTLY ARE THE POLICE PROTECTING? AND WHO WILL PROTECT US FROM THE POLICE?