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Four Toronto police officers charged with obstructing justice, perjury

Arrests, following judge's ruling that cops planted heroin in a suspect's car, cap a "very bad week" for Toronto police.

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Toronto police chief Mark Saunders announces the arrests of four officers Thursday.



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By: **Wendy Gillis** News reporter, Published on Thu Jan 28 2016

Last fall, the conduct of a group of Toronto police officers was described by an Ontario judge as "egregiously wrongful."

On Thursday, their alleged behaviour was put in criminal terms: perjury and obstruction of justice.

Four officers — two of them experienced major-crimes investigators — are facing a total of 17 charges stemming from a 2014 drug bust, after which a judge ruled police had "fabricated" a story that involved "planting" heroin in a car to justify a search.

Soberly announcing the charges against his officers Thursday, Toronto Police Chief Mark Saunders said there would be a review of the four officers' prior cases conducted by the force's professional standards unit and the Crown Attorney's office, "to see if there is any other cause of concern."

It is not known how many other cases will need to be reviewed. Together, the four officers have more than 50 years on the force.

Thursday's revelation was only the latest blow this week to the Toronto police, now facing sinking public trust after an unprecedented verdict Monday in which Const. James Forcillo was found guilty of attempted murder in the 2013 shooting death of Sammy Yatim.



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Toronto police chief Mark Saunders announces the arrests of four officers Thursday.

Police also announced Wednesday that disciplinary charges have been laid against a Toronto police officer under the Police Services Act, in connection with another high-profile incident last fall, in which an officer shot at least 14 bullets into the hood of a stopped car in the Distillery District.

The compounding events are putting pressure on the rookie police chief to take action to bolster the city's depleting confidence, while also boosting low morale within the force.

"It certainly has been an anomaly week when it comes to our service," Saunders said at a news conference. "We will do our best to get the public trust back that we have lost in certain ways."

"Anything that questions the integrity of the Toronto Police Service concerns me," he said.

The charges against the four officers, combined with the Forcillo verdict, could signal a move toward a higher standard of accountability for police officers — something critics say has been lacking.

"It's important to recognize that the incidents that have popped up in the last couple of years (are) symptomatic of a police culture that hasn't been held accountable for its misconduct for decades, if ever," said Roger Love, a lawyer with the African Canadian Legal Clinic.

Const. Jeffrey Tout, Det.-Const. Fraser Douglas, Det.-Const. Benjamin Elliott and Const. Michael Taylor are scheduled to appear in court on March 11. All are from downtown Toronto police divisions, and range in experience from nine to 17 years with Toronto police.

The officers were arrested at 7 a.m. Thursday and have since been released. All are suspended with pay.

The charges come after Superior Court Justice Edward Morgan's ruling last September that the officers planted heroin in a man's car to justify a search and then "colluded" in their testimony in court.

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Tout, Douglas, Elliott and Taylor all presented varying versions of the events during a traffic stop in January 2014, when Nguyen Son Tran was pulled over for allegedly running a red light near Gerrard St. and Broadview Ave.

The officers said Tran had a pile of loose heroin powder on the dashboard of his Toyota Camry, which led to a search of the car and the discovery of 11 grams of heroin. But none of them could explain why Tran had loose heroin in the car, or why he didn't wipe it away when he was pulled over.



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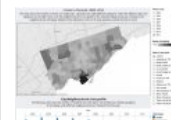
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Morgan ruled that the heroin on the console was put there by police, and not actually left there by Tran. The ensuing search that uncovered the 11 grams of heroin tucked away behind Tran's steering column was therefore not authorized. Morgan threw out the drugs as evidence and stayed the drug charges against Tran.

"Here, the false creation of a pretext to search the (Tran's) vehicle, combined with the collusive fabrication of a story by the two lead officers as to why they came to assist in the traffic stop ... certainly amounts to egregiously wrongful conduct."

Those comments by the judge prompted a review of the officers' conduct by Toronto police Professional Standards, which led to the charges.

Tran's lawyer, Kim Schofield, is relieved the officers have been criminally charged, saying it has "reinvigorated" her faith in the justice system. She has worked almost exclusively on drug cases for decades, and says that during that time she has often seen officers lie.

Saunders responded to that sentiment Thursday, saying every lawyer is entitled to their opinion "even if they're not accurate."

Tran, now 56, is a "vulnerable person" who has been an "easy target" for officers in the past, Schofield said. Originally from Vietnam, Tran uses a wheelchair or specialized crutches due to partial paralysis.

According to court documents obtained by the Star, Tran was arrested by Elliott and another officer in January 2013 — one year before the incident involving the heroin on the dashboard. The two cops stopped Tran in an underground parking lot while he was driving the same Toyota Camry, and found heroin.

In that case, Schofield attempted to challenge the credibility of Elliott and the other officer, and urged the judge in that case, Justice Leslie Chapin, to find that the officers were lying in part of their evidence.

The grounds for Tran's arrest in that case were mostly derived from a confidential informant, and Schofield had attempted to obtain more disclosure from the Crown about the informant, to get evidence that could show inconsistencies in the officer testimony.

Chapin ruled against Schofield receiving more information about the informant. Tran pleaded guilty to possession of heroin in that case.

Tout, 41, a 17-year veteran of the force, is charged with two counts of obstructing justice and two counts of perjury.

Elliott, 32, has nine years' service with the force. He is charged with three counts of obstructing justice and three counts of perjury.

Douglas, 37, has been with the force for 14 years. He is charged with two counts of obstructing justice and two counts of perjury.

Taylor, 34, an 11-year veteran, is charged with two counts of obstructing justice and one count of perjury.

Taylor is described as a constable in the news release, but as a sergeant in Morgan's written ruling. Police spokesperson Meaghan Gray explained Thursday that Taylor was a probationary sergeant for a period of time.

"He was not confirmed into that role, so he retains the status of constable," she said, adding that she can't say anything further.

Peter Rosenthal, a Toronto lawyer who had advocated on behalf of families of people killed in interactions with police, said a number of issues have "eroded public trust" in recent years, including police behaviour during the G20 summit and numerous fatal shootings of people in crisis.

"Those are all things that raise a lot of people's concerns about Toronto police. I hope there's a tipping point in the sense that it makes the Toronto police react more positively to criticism ... and more active in disciplining officers."

Alok Mukherjee, former chair of the police board, said he did not think there was a "crisis," but acknowledged "a steady decline in trust."

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There is a growing public perception that police leadership has not been transparent, that the organizational culture is resistant to change and “that police officers act as if they are above the law, and very rarely are they truly held to account for their actions.”

The fix, he said, could be demonstrating that it is “no longer business as usual,” in part by ensuring that people “who fail to act in the way expected of them are truly held to account.”

Neil Boyd, director of the criminology program at Simon Fraser University, said that Saunders is already moving in the right direction on how police handle people in emotional crisis.

“The chief’s response — that training of police in de-escalation needs to be considered more carefully — is a positive first step in building confidence,” he said.

Toronto Police Association president Mike McCormack said he was “very troubled and deeply concerned” by the allegations against the four officers, but stressed that they are unproven and the officers are entitled to the presumption of innocence.

“This goes to the heart of policing,” he said. “All of our officers take their jobs very seriously. They’re very professional. It does have an impact on the morale and our officers.”

McCormack said the officers’ arrest and subsequent release a short time later was “standard practice.”

“It’s very transparent and we do not get any special treatment,” he said. “We do that all the time.”

“This has been a very bad week for the members of the Toronto Police Service,” McCormack added.

Mayor John Tory told reporters at City Hall on Thursday that he has confidence in Saunders to handle the matter. “In a big organization like this,” there will be incidents, sometimes bundled together, that are “troubling and concerning,” he said. “The real measure is how you handle these (issues).”

With files from Alex Ballingall, Jacques Gallant, Sarah-Joyce Battersby and Betsy Powell

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