

Chief Saunders defends decision not to notify police watchdog after teen beaten in Whitby

Provincial Special Investigations Unit does not investigate incidents involving off-duty officers. Toronto officer facing charges.

Toronto police Chief Mark Saunders outside police headquarters on July 26, 2017, defended a decision to not report to the SIU the assault sustained by Dafonte Miller. The attack happened in Whitby in December. (JENNIFER PAGLIARO / TORONTO STAR) | ORDER THIS PHOTO



Dafonte Miller, left, before his altercation with an off-duty Toronto police officer and Miller in hospital, right.



Toronto police Chief Mark Saunders outside police headquarters on July 26, 2017, defended a decision to not report to the SIU the assault sustained by Dafonte Miller. The attack happened in Whitby in December. (JENNIFER PAGLIARO / TORONTO STAR) | ORDER THIS PHOTO

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Chief Mark Saunders is defending a decision not to notify a police watchdog after one of his officers was charged in the assault of a Black teenager, saying the off-duty officer didn't identify himself as police at the time of the incident.

“The officers that were investigating from an SIU perspective were dealing with the information that they knew at the time, and they thought it through, and at the end of it their decision was that he did

not identify himself as a police officer to the person that he was in contact with,” Saunders, told reporters — whom he accused of “manufacturing stuff” — after an event at police headquarters.

That contradicts the version of events detailed to the Star by 19-year-old Dafonte Miller’s lawyer, who says Const. Michael Theriault made known he was a police officer both before he allegedly attacked the teen and in a 911 call.

The Special Investigations Unit (SIU), an arm’s-length body that probes cases of death, serious bodily harm and sexual assault involving police officers, charged Theriault and civilian [Christian Theriault](#) last week with aggravated assault, assault with a weapon, and public mischief after the early morning attack in Whitby last December.

Miller was punched, kicked and hit repeatedly in the face with a metal pipe, said his lawyer, Julian Falconer. Miller was beaten so badly his left eye will need to be surgically removed.

According to Falconer, Christian Theriault is Michael Theriault’s brother. John Theriault, the father of the two accused, is a longtime detective working in Toronto police’s professional standards unit, which investigates police misconduct internally.

Neither the Durham Region police, who responded to the scene, nor the Toronto police, notified the SIU. It was Falconer who told the watchdog of his client’s injuries in April.

According to Falconer, Theriault identified himself as a police officer at least twice during the course of the Dec. 28 incident.

The Theriaults were in the garage of a Whitby home when they saw Miller and two of his friends walk past, Falconer earlier told the Star. The group of friends, the lawyer said, were heading to another friend’s house near the home Miller shares with his family.

The Theriaults approached the young men, and Michael Theriault told them he was a police officer, asking them where they lived and what they were doing in that neighbourhood, Falconer said.

When Miller and his friends continued walking, Falconer said, the Theriaults chased them and when they caught up to Miller, started beating him.

Miller managed to dial 911, Falconer said, but Theriault grabbed the phone out of his hand and told the operator he was a police officer who had made an arrest.

When Durham police officers arrived, they arrested Miller and charged him with weapons and drugs offences. All of the charges against Miller have since been dropped.

Meaghan Gray, a Toronto police spokesperson, earlier confirmed to the Star that Toronto police were notified of the Dec. 28 incident on the day it occurred.

Saunders said Wednesday that Toronto police “would have been called, obviously, by Durham” about the incident.

“Obviously at some point in time it was revealed it was a police officer, but the question is, when the occurrence took place, who knew what?” Saunders said.

Saunders said although it may seem confusing, the threshold of when to report is clear.

On its website, the SIU says it normally does not investigate incidents involving off-duty officers acting in the course of their private lives.

“If, however, an officer is off duty and police equipment or property is involved, or the officer identifies himself/herself as a police officer in the course of the occurrence, the SIU will investigate the incident if it involves serious injury, death or an allegation of sexual assault,” the site says.

Saunders promised a “fair” and “transparent” internal investigation following on the SIU’s investigation. He committed Wednesday to releasing an internal report to be prepared for the police board, which is required by law to address issues such as officer discipline arising from an SIU investigation.

After reporting by the Star and public pressure to improve transparency, the Toronto police board, which oversees the service, has previously promised to make such reports public.

“To say that this is a coverup is misleading,” Saunders said. “It was not a coverup. My officers acted in good faith.”

Although Toronto police did not report the incident to the SIU, it’s unknown what, if any, action was taken internally once Toronto police became aware one of their officers was involved. Following the criminal charges, Theriault has been suspended with pay.

Mayor John Tory said he remains concerned after [reading information](#) he is privy to as a member of the police board. One such report is scheduled to be discussed in secret at a board meeting on Thursday.

“I think there are some unanswered questions and it’s not so much what the chief said, but the entire history of this event,” Tory told reporters outside police headquarters. “I continue to have a concern about this both in terms of the process and obviously the fact that someone was assaulted by a police officer either on or off duty.”

Premier Kathleen Wynne said the way in which Miller’s case was reported to the SIU needs to be examined.

“At that juncture where the police officer should have reported to the SIU, that’s where the question is, you know, because the SIU can’t take action if the SIU doesn’t have information,” she told Newstalk1010.