



MAYOR TROUBLED BY INTERNAL REPORT ON POLICE ASSAULT

OFFICERS CHARGED

A composite image for a news article. On the left is a large profile of Mayor John Tory. In the center are two smaller, tilted photographs of a Black man: the top one shows him smiling, and the bottom one shows him with a bruise on his forehead. The background is a dark, modern building with a sign that says "SIU UES" and "5090".

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STAR TOUCH

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SIU INVESTIGATION

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JENNIFER PAGLIARO AND DAVID RIDERSTAR TOUCH

Mayor John Tory says a secret report to the police services board on the beating of Dafonte Miller, in which an off-duty police officer and his brother are charged, is cause for concern and called the incident “deeply troubling.”

“I am concerned at some of what I’ve read,” Tory told reporters Tuesday of a report provided to members of the police services board. “There are a number of unanswered questions which remain with respect to the process that was or was not followed here in terms of the notification of the SIU.”

The Special Investigations Unit (SIU), a police oversight agency, has charged Michael Theriault, a Toronto police officer, and his brother Christian Theriault in the assault of the 19-year-old man with a metal pipe in December.

Miller’s injuries are so severe his eye will need to be surgically removed, his family’s lawyer Julian Falconer said earlier.

Michael Theriault was off duty when the assault occurred in Whitby.

Durham Region Police, who responded to the scene in the early morning hours of Dec. 28, charged Miller with weapon and drug charges. Court officials earlier told the Star the alleged weapon was a “pole.”

It was Falconer, not Durham or Toronto police, who alerted the SIU to Miller’s injuries in April. All charges against Miller were dropped in May.

Following an SIU investigation, both Theriaults have been charged with aggravated assault, assault with a weapon and public mischief. The allegations have not yet been tested in court.

Their father, John Theriault, is a detective who has served more than 30 years with Toronto Police and currently works in the professional standards unit, which deals with officer misconduct, Falconer told the Star.

The provincial Police Services Act dictates that a police service must notify the SIU immediately of any incident that falls under their mandate, including cases of serious injuries involving officers.

Tory told reporters there is a “short” report before the police board outlining what has occurred to date. The board meets Thursday, when Tory said the report is expected to be discussed behind closed doors.

There is no mention of the case on the public agenda, and it is unclear if it will be addressed during the public session of the meeting.

Falconer told the Star he can understand why the service has to be able to debrief its board in private.

“But then one hopes that that process becomes less opaque and that they understand the importance of answering serious questions,” he said. “At its heart, the board has a responsibility to do proper oversight ... This is a policy question: Is this a police service run amok when one of their own — a son of one of their own, two sons of one of their own — does wrong or is this a situation where they’re going to be accountable?”

Much of the information concerning SIU investigations is kept secret.

But reporting by the Star’s Wendy Gillis found a dozen recent cases where the SIU director says the Toronto Police appear to have failed to co-operate with investigators, including delays in reporting serious injuries to the watchdog.

Following a Star campaign for transparency and public pressure, some internal reports, though at times heavily redacted, were released in the high-profile police shooting death of Toronto man Andrew Loku in which no one was charged.

That included a report required by law from the police chief to the police board on matters arising from an SIU investigation. The board promised to consider releasing future internal reports.

The contents and author of the report before the board Thursday are unknown.

Toronto Police spokesperson Mark Pugash said he couldn't discuss confidential board matters.

The question remains if Chief Mark Saunders will address Miller's case publicly at the board. Pugash said, if asked to do so by the board, "I dare say he will."

On his regular CP24 call-in show Tuesday night, Saunders said he couldn't speak to the case, but he defended his service on the reporting process, saying it was determined the incident involving an off-duty officer didn't meet the threshold to report to the SIU despite the SIU determining charges were warranted.

Saunders specifically noted reporting requirements concerning off-duty officers and whether they identify themselves as officers or display any police-issued equipment at the time of the incident.

But Durham Police were the responding officers, not Toronto police, who appear to have been involved after-the-fact. It's unclear why Toronto Police would have been involved at all if it was not known that one of their officers was involved.

"When you read the instruction on when it fits within the mandate, it didn't fit with this particular occurrence," Saunders said. "This wasn't taken lightly, there was no

overlooking, there was nothing nefarious, there was no cover-up.”

Acting police board chair Councillor Chin Lee told the Star that because it concerns a “personnel” issue, he couldn’t discuss the report or provide any details about it. Lee said he was “kind of surprised” the mayor mentioned it at all.

Tory said he couldn’t speak to specifics of the case as it now makes its way through the legal system.

“Toronto police officers, all of them, are expected — as most of them do all of the time — to adhere to a very high standard of conduct. Whether they’re on duty or off duty, they’re representatives of Toronto and of the Toronto Police Service.”

He said he remains concerned about anti-Black racism in the city, adding the facts of the assault on Miller are still unclear.

“I don’t really understand how any of this cannot be labelled as anti-Blackness. I don’t know if the mayor is paying attention,” said Black Lives Matter co-founder Pascale Diverlus. “This is the person that was attacked, obviously attacked, right? And they are the person that is charged.”

How the assault on Miller was reported, Diverlus said, shows promises made about greater accountability surrounding police-involved incidents have not resulted in meaningful change.

“What other incidents have been brushed aside?” she asked. “How many more people do we not know about?”