

# Saunders says 'nothing overlooked' during investigation into assault on Dafonte Miller

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The lawyer representing a man who was allegedly beaten by an off-duty Toronto police officer in Whitby last December is calling on Toronto's police chief to stop doing "damage control" and "tell the truth."

Human rights lawyer Julian Falconer has said that 19-year-old Dafonte Miller was walking to a friend's house in the area of Thickson Road and William Stephenson Drive in Whitby in the early morning hours of Dec. 28 when he passed by two men standing inside a garage in the area.

Falconer said that one of the men identified himself as a police officer and when Miller refused to answer the man's questions, the two men began to chase him.



Images of Dafonte Miller after he was brutally beaten by an off-duty Toronto police officer in Whitby in December of 2016.



A photo of Dafonte Miller's injuries following an alleged beating by an off-duty police officer in Whitby.



A photo of Dafonte Miller in hospital after he was allegedly brutally beaten by an off-duty Toronto police officer in Whitby.

Falconer said the men eventually caught up with Miller and beat him “within an inch of his life.”

None of the charges have been proven in court.

The SIU was not initially notified about the incident but began an investigation in April, after they were contacted by Falconer.

Falconer said after he was retained by Miller, it was his office that contacted the SIU about the incident not the Toronto Police Service or the Durham Regional Police Service.

The agency charged Const. Michael Theriault and his brother earlier this month with aggravated assault, assault with a weapon and public mischief.

Speaking to CP24 on Tuesday night, Police Chief Mark Saunders said that officers with the Toronto Police Service reviewed the December incident between Theriault and Miller “thoroughly” and found that it did not meet the threshold required to notify the Special Investigations Unit, which serves as the province’s police watchdog.

“I can tell you that the officers that were investigating from an SIU perspective were dealing with the information that they knew at the time and at the end of the day, their decision was that he did not identify himself as a police officer to the person that he was in contact with,” he said

“This wasn’t taken lightly. There was no overlooking. There was nothing nefarious. There was no cover-up,” Saunders said.

Asked about the incident on Wednesday, Saunders vowed the “the truth will come out as to what the officers knew and when they knew it.”

But in an interview Wednesday, Falconer highlighted a number of concerns he said he has with the way Toronto police and Durham Regional Police investigated the incident.

Falconer said Toronto police and Durham police failed to interview eye witnesses to the incident during their investigations.

He said despite the fact that neither of the men who allegedly beat Miller were injured, Miller, who was blinded in one eye and suffered multiple broken facial bones, was the one who was charged following the altercation.

He added that a 9-1-1 call made by Miller during the incident makes it clear the SIU should have been notified immediately.

“Chief Saunders needs to listen to the 9-1-1 tape where the off-duty officer who beat Dafonte Miller states, ‘You’re under arrest,’ in the background. You can clearly hear it,” the lawyer said, adding that the off-duty cop identified himself as an officer during the emergency call.

“What we need to do is not scramble to cover up the obvious. What we need to do is step away from the misconduct of obviously a rogue police officer and tell the truth about it.”

The police chief said that Theriault may have identified himself as an officer in a 9-1-1 call but he said that in order for the SIU to get involved, he would have had to either identify himself as an officer to Miller or use or display equipment that was issued to him as an officer.

"I'm not disputing the phone call but the phone call is not what the investigation is about," Saunders said.

Discussing the case with reporters on Wednesday, Mayor John Tory said that he "can't judge" whether there was a cover-up at play but he said that he does have "serious" questions about the way things played out.

"My understanding is that there is a claim by one party to this that the person was identified as a police officer and another one that they weren't identified," he said. "There are unanswered questions there and things that aren't clear and that is a concern to me given that it involved an act of violence committed on a citizen by someone who is a police officer."

Falconer suggested that the incident appears to be racially motivated.

"If these kids were white, walking the streets of Whitby late at night, would this have happened," he asked.

"Chief Saunders' African- Canadian background puts him uniquely positioned to have credibility when he talks about these issues... Instead, we are hearing a communications exercise."

Falconer noted that he would like an explanation about what investigative role, if any, was given to the off-duty officer's father, who is a senior detective with the Toronto Police Service's Professional Standards Unit.

"When are we going to hear about that reality and the optics and what was done at the time to make sure he was screened out of the process," he added. "We haven't heard a word about that."