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Lawyer for Dafonte Miller takes complaints to the OIPRD, holds nothing back

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By Joel Wittnebel/The Oshawa Express

The Durham Regional Police and Toronto Police Service coordinated their efforts in concealing the brutal nature behind the beating of Black teen Dafonte Miller, alleges the latest complaint from Miller and his lawyer who are now calling for a review from an independent police watchdog.

In a complaint to the Office of the Independent Police Review Director (OIPRD) on behalf of Miller, Julian Falconer alleges that the police forces made “deliberate acts” to cover-up the attack.

The details of the December 2016 attack as they appear in the complaint have yet to be tested in court, but allege that Miller was beaten by Michael Theriault and his brother Christian with a metal pipe. The attack has left Miller with permanent vision loss in his left eye along while also suffering a broken orbital bone, broken nose and a fractured wrist.

During the attack, the complaint alleges that several 911 calls were placed, one by Miller himself, and when the DRPS responded, Miller was arrested.

“Both the TPS and DRPS conspired to deliberately conceal the crime committed by PC Theriault and his brother Christian Theriault to assist in protecting them from prosecution for the brutal and heinous attack they perpetrated against Dafonte,” the complaint states.

The incident was not reported to the Special Investigations Unit (SIU) until April, when Falconer and Miller brought it to their attention. Neither the DRPS or TPS reported the incident.

According to the complaint, the DRPS failed to interview eye witnesses of the attacks, including nearby residents who viewed the attack from their windows, as well as those who presented themselves to DRPS that night. Instead, DRPS “blindly” accepted the accounts of the Theriault brothers who stated they had been “repeatedly struck by Dafonte with a metal pipe despite not sustaining any injuries or even a single scratch.”

Failures in the investigation also came when the DRPS didn’t look into whether a break-in had actually happened, something the Theriaults allege initiated the confrontation with Miller, as well as failing to notify the SIU and wrongfully arresting Miller “despite the clear evidence that he was a victim.”

The complaint further alleges that Theriault's father, a detective with the Toronto Police Service, communicated with DRPS investigators about the case and "thereby furthering the concealment of his sons' brutal crime."

The OIPRD receives and manages all public complaints about the police in Ontario.

In the complaint, Falconer is also calling for a review of the system that allowed such alleged actions to have taken place, noting that the investigations of the SIU are continuously thwarted by police officer involvement.

"The lack of enforcement mechanism for compliance with SIU investigations has created a blatant disregard by police services for ensuring that police officers comply with their statutory obligations. Instead, a culture has been created where officers participate in SIU investigations at their own will and can obstruct and obfuscate lawful SIU investigations without any concern of criminal consequences," the complaint reads.

For that reason, they are requesting that the OIPRD carry out a review of their own, noting these failures "go to the heart of our criminal justice system."

The DRPS stated they can not comment further on the case.

"As our Chief of Police said several weeks ago, we have welcomed and will cooperate fully with a detail review of this case, but are limited in what we can say about specific allegations, at this point in time, due to the active case before the court," said spokesperson Dave Selby.

The case returns to court in Oshawa on Sept. 7.