

Lawyer alleges that father of cop charged in Miller case interfered with investigation

Dafonte Miller's lawyer files complaint with OIRPD



Julian Falconer, the lawyer representing Dafonte Miller, has filed a complaint with The Office of the Independent Police Review Director.



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

After Miller refused to answer questions from one of the men, Falconer said that the duo chased him down and beat him “within an inch of his life.”

Miller was initially charged with five offences, including assault with a weapon, but the Crown withdrew those charges on May 5.

The complaint says that Det. John Theriault, who is a detective with Toronto police’s Professional Standards Unit, improperly contacted Durham police investigators to “gain information relating to the status of the investigation and to provide additional false information about injuries suffered by his son, Christian,” who is the brother of Const. Michael Theriault.

The complaint alleges that Det. John Theriault’s actions violate multiple sections of the code of conduct and amount to misconduct.

Furthermore, the complaint alleges that actions taken by members of both the TPS and the DRPS reveal a “systemic pattern of concealment of a crime to avoid SIU involvement.”

Notably, the complaint says that Const. Michael Theriault initially told the Durham officer investigating the assault that Miller repeatedly hit him with a metal pipe, causing him to fear for his life and the life of his brother.

The complaint, however, alleges that the officer “failed to scrutinize the account,” especially considering the fact that Constable Theriault “suffered no injuries as a result of the incident” and Christian Theriault only “suffered a scratch at the base of his thumb” and a concussion.

Miller, meanwhile, suffered serious injuries. According to the complaint, his left eye was dislodged from its socket and was split in four, causing him to permanently lose vision in that eye. Miller also suffered a broken nose, broken orbital bone, bruised ribs, reduced vision in his right eye, and fractured right wrist.

The complaint says that Miller decided to run out of concern for his safety and further alleges that Theriault never instructed Miller “to stop or advise him that he was under arrest for any criminal offense” during the pursuit.

After Miller told the men that they had the “wrong guy,” the complaint alleges that he was thrown to the ground and viciously beaten.

“PC Theriault and Christian Theriault threw Dafonte to the ground and began kicking him in his head and his back. Dafonte tried to stand up, but he was placed in a headlock by Christian Theriault. While being held in the headlock, Dafonte was struck in his head and face by PC Theriault. PC Theriault struck Dafonte with his fists and with a metal pipe that he had with him when he left his garage,” the complaint reads.

The complaint also takes issue with the investigation as a whole, noting that Durham police failed to interview a member of the public “who had placed a call to 911 and advised that he had witnessed portions of the altercation.”

The complaint says that the officers “failed to carry out even the most rudimentary investigation of the incident” and proceeded to file charges against Miller without “reasonable and probable grounds.”

“These systemic failures go the heart of our criminal justice system and instead of creating transparency and public confidence in the oversight mechanisms for police, they breed contempt and distrust of police officers from members of the public,” the complaint reads.

Complaint asks for OIRPD review

Last month the Waterloo Regional Police Service was brought in to conduct a third-party investigation of the Dafonte Miller case and the Toronto Police Service's handling of it, following a public outcry.

The complaint filed on Wednesday asks the Office of the Independent Police Review Directorate to investigate the matter on its own without referring it to any other police service.

The complaint says that the OIRPD investigation should be ordered due to a number of "systematic issues" as well as the fact that "the misconduct stems across two police services."

Discussing the complaint with reporters on Wednesday, Falconer said that he hopes it leads to legislative changes, including permitting the Special Investigations Unit to refer conduct matters to the OIRPD for further investigation.

"We have to create consequences for the police when they undermine an investigation the way in my opinion this investigation was deliberately undermined," he said.

Toronto Police Chief Mark Saunders has previously said that the SIU was not initially contacted because Theriault "did not identify himself as a police officer to the person that he was in contact with."

Saunders has also rejected allegations that there was a police cover up in the case.

"This wasn't taken lightly. There was no overlooking. There was nothing nefarious," he told CP24 in July.

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

The agency then charged Const. Michael Theriault and his brother Christian with aggravated assault, assault with a weapon and public mischief.