

New complaint alleges police coverup in Dafonte Miller case

Complaint alleges father of Toronto officer charged with beating teen tried to cover up alleged crimes

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Dafonte Miller before and after a December beating that he alleges was carried out by an off-duty police officer. (Leisa Lewis)



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The father of the Toronto police officer charged with severely beating a teenager in Whitby, Ont., last year repeatedly contacted Durham Regional Police as they investigated the assault and provided them with false information in an attempt to cover up the crime his son is accused of committing, a new complaint alleges.

Lawyers for Dafonte Miller, who was 19 at the time he was beaten, have filed a complaint with the Ontario Independent Police Review Director (OIPRD), a civilian oversight agency, alleging that police in Toronto and Durham Region "conspired to deliberately conceal" the crimes. Toronto police Const. Michael Theriault and his brother, Christian Theriault, a civilian, are charged with committing.

The father of the two men, John Theriault, is a veteran Toronto police detective, according to the complaint.

None of the allegations in the complaint have been proven in court.

The brothers were charged by Ontario's Special Investigations Unit (SIU) with aggravated assault, assault with a weapon and public mischief in the December beating of Miller, who permanently lost sight in one eye. They are currently out on bail awaiting trial.

What followed was an "orchestrated cover-up motivated by corrupt purposes and enabled by weak police oversight legislation," according to Miller's lawyer, Julian Falconer.



Michael and Christian Theriault arrive for a court appearance on Wednesday, Aug. 2. The brothers have been charged with assault and are out on bail awaiting trial. (Lisa Xing/CBC) Falconer announced the OIPRD complaint at a news conference at Queen's Park on Wednesday where a coalition, including the Ontario Human Rights Commission, called on the government to improve police oversight and make legislative changes to clarify when police are to notify the SIU.

Referring to the Miller case, Falconer said it is a "poster child for all that is wrong with civilian oversight of police."

Alleged interference from father

Toronto police Chief Mark Saunders confirmed in a **July 27 statement** that his force's professional standards unit was informed of the allegations involving Theriault and decided not to notify the SIU.

According to the complaint, John Theriault is assigned to the professional standards unit.

The complaint alleges that he "repeatedly contacted DRPS investigators to gain information relating to the status of the investigation and to provide additional false information about injuries suffered by his son Christian to aid in the concealment of the crimes committed by his sons."

Saunders has asked Waterloo Regional Police to investigate the handling of the Miller investigation and a Toronto police spokesperson declined to comment on the OIPRD complaint while that investigation is ongoing.

'Failure to properly investigate'

The complaint blasts the investigation Durham Regional Police conducted after Miller's beating — an investigation that initially led to Miller facing charges of theft under \$5,000, two counts of assault with a weapon, possession of a weapon (a pole) and possession of marijuana.

It's alleged Durham police failed to interview two eyewitnesses who presented themselves to officers and said they were able to view most of what took place from their windows.



Toronto lawyer Julian Falconer is representing Miller, who lost an eye as a result of the beating. (Martin Trainor/CBC)

The complaint alleges Durham police "blindly" accepted the account of Michael and Christian Theriault that they were assaulted by Miller with a metal pipe, despite not having sustained any injuries or, the complaint says, "a single scratch."

It's also alleged that Durham police never asked Miller how he sustained his severe injuries.

It was the teen's lawyer, not police, who contacted the SIU about Miller's injuries in April. Charges against him were dropped in May, and the Theriault brothers were charged in July.

The SIU conducts criminal investigations into circumstances involving police and civilians that have resulted in serious injury or death.

Failed to investigate

The Theriaults allegedly told investigators that Miller had broken into a vehicle, but officers failed to investigate whether there had actually been a break-in.

A spokesperson for Durham Regional Police Services said they could not comment on the allegations in the complaint, citing the ongoing investigation by Waterloo Regional Police and the ongoing criminal prosecution of the Theriault brothers.

New details about incident

Miller's complaint contains the most detailed account yet of what allegedly occurred on Dec. 28, 2016.

The account has not been tested in court.

According to the document, Miller was walking with friends near Michael Theriault's home in Whitby around 2:30 a.m.

The Theriault brothers were drinking beer and smoking cigarettes in the garage, the complaint says, when they asked Miller and his friends if they lived in the area. Miller replied that they lived down the road and asked Theriault why he wanted to know.

Theriault responded that he was an off-duty police officer and could ask whatever he pleased, the complaint says.

After Miller and his friends began to walk away, it's alleged the Theriault brothers exited the garage with one of them carrying a metal pipe.



Miller was concerned for his safety and ran, the complaint says, but the brothers caught up to him and said they had witnessed youths in their vehicle about two hours earlier. Miller said it wasn't him.

In the complaint, it is alleged that Miller was thrown to the ground and beaten by both brothers and struck multiple times in the face with a pipe by Michael Theriault.

At one point, Miller managed to get away from the men and banged on the door of a home to ask for help, the complaint says.

Eventually, it's alleged Christian Theriault called 911 to report that his brother, an off-duty police officer, had a suspect in custody who he said was breaking into their vehicle.

As a result of the alleged beating, Miller's left eye was dislodged from its socket and split in four pieces. The complaint also says he suffered reduced vision in his right eye, a broken orbital bone, a broken nose, and bruised ribs.

Miller remained in handcuffs during the trip to Lakeridge Hospital in Oshawa, the complaint says.

Schedule A to the Complaint of Dafonte Miller

OIPRD TPS Complaint E-file # E-201708151603116254

OIPRD DRPS Complaint E-file # E-201708151600096215

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A. Overview

1. This complaint raises conduct and systemic issues arising from the deliberate acts of members of two police services to cover-up the violent crime of a Toronto Police Service (“TPS”) Officer, Michael Theriault and his brother Christian Theriault.
2. In the early morning hours of December 28, 2016, in Whitby, Ontario, Dafonte Miller was viciously attacked by TPS Constable Michael Theriault and his brother Christian Theriault. PC Theriault and Christian Theriault savagely beat Dafonte with a metal pipe. The violence perpetrated by PC Theriault and Christian Theriault left Dafonte Miller with permanent

vision loss to his left eye, reduced vision in his right eye, a broken orbital bone, a broken nose, a fractured wrist, bruised ribs, and severe psychological and emotional distress. The attack was gratuitous and prompted by racism.

3. During the vicious attack, 911 calls were placed by Dafonte Miller, Christian Theriault, and two eyewitnesses to the attack, [REDACTED], [REDACTED], [REDACTED], [REDACTED]. Durham Regional Police Service ("DRPS") responded to the 911 call.
4. Both 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.
5. The deliberate acts of concealment by the DRPS to cover up the crimes of PC Theriault and Christian Theriault include, but are not limited to, the following:
 - Failure to interview eyewitnesses, [REDACTED] who were able to view most of the attack from the windows in their home and who presented themselves to the Durham officers at the scene that night;
 - Blindly accepting the accounts of PC Theriault and Christian Theriault, where they stated that they had been repeatedly struck by Dafonte with a metal pipe despite not sustaining any injuries or even a single scratch;
 - Failure to investigate how Dafonte sustained the severe injuries he suffered;

- Failure to properly investigate whether or not there had actually been any break-in, as reported by PC Theriault and Christian Theriault, of their vehicles parked at ■■■■■■■■■■
 - Conducting a wrongful and illegal arrest of Dafonte Miller, and charging him with criminal offences despite the clear evidence that he was a victim; and
 - Failure to notify the SIU of the crimes committed by PC Theriault against Dafonte.
6. The deliberate acts of concealment by the TPS to cover up the crimes of PC Theriault and his brother Christian Theriault include, but are not limited to, the following:
- Permitting the father of the attackers, Detective John Theriault, to communicate with and have access to the DRPS investigators about the case and thereby furthering the concealment of his sons' brutal crime. In addition to being the father of PC Michael Theriault and Christian Theriault, John Theriault is a long-time Detective with the TPS Professional Standards Unit which, according to Chief Saunders, is the Toronto Unit responsible for investigating the Miller incident and determining not to contact the SIU and initiate a timely independent investigation; and
 - Failing to notify the SIU and consequently short-circuiting any independent investigation of the incident, ultimately furthering the concealment of the assaults committed by PC Theriault and his brother, Christian Theriault. Chief Saunders has formally accepted that, "members of the Professional Standards Unit applied the policy regarding SIU involvement with the facts they had at that time and made the decision not to contact the SIU based on that information." The utter failure to