

Durham chief vows to tell SIU of incidents in future

Police chief says he's prepared to court unpopularity by doing "the right thing." Dafonte Miller was allegedly assaulted by off-duty Toronto police officers Michael Theriault and his brother, Christian.



Durham Regional Police Chief Paul Martin said his officers followed the established procedure in the Miller case: namely, that, because Theriault was a Toronto officer, it was the duty of the Toronto police service to determine whether the SIU should be notified. (JESSE MCLEAN / TORONTO STAR FILE PHOTO)

By [**WENDY GILLIS**](#) News reporter

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Durham Regional Police chief Paul Martin has vowed he will alert Ontario's civilian police watchdog of serious injuries caused by police that happen in Durham region — regardless of whether the officer was from his force, or off duty at the time.

“There may be criticism about what we are doing. That's OK,” Durham chief Paul Martin said in a statement Monday, which he read out at the civilian police board meeting in Whitby.

“We're not doing it to be popular. We are doing it because it is the right thing to do for our community.”

The announcement comes in the wake of the high-profile case of Whitby teen Dafonte Miller.

Miller suffered serious injuries after he was allegedly assaulted by off duty Toronto police officer Michael Theriault and his brother, Christian Theriault.

Both brothers, whose father John Theriault is a longtime Toronto police officer currently assigned to the professional standards unit, are now charged with aggravated assault, assault with a weapon and public mischief in connection to Miller's injuries during the December incident. During the alleged assault, the teen incurred eye damage so severe it will have to be surgically removed.

But the criminal charges were only laid in July, eight months after the alleged assault.

The delay was caused by a failure by both Toronto police and Durham Regional police, which was called in to investigate on the night of the incident, to notify Ontario's Special Investigations Unit (SIU) of Miller's injuries.

The police watchdog was only notified of the incident in April and it was informed by Miller's lawyer, Julian Falconer.

The SIU then launched the investigation that resulted in the charges against the Theriaults.

In a lengthy statement Monday, Martin said his officers followed the established procedure in the Miller case: namely, that, because Theriault was a Toronto officer, it was the duty of the Toronto police service to determine whether the SIU should be notified.

Toronto police chief Mark Saunders has said Toronto police did not contact the SIU because they did not believe there were grounds to do so.

He has strongly denied allegations police were trying to cover up the incident.

“What is now equally clear to me is (current) procedures are inadequate and need to be changed,” Martin said in the statement. “Specifically, the standard protocols we followed failed to ensure the public trust and transparency they were designed to enhance, and which every member of this community has a right to expect.”

The chief said that, effective immediately, the Durham police chief is implementing a new procedure that is “more transparent and accountable.”

“Let me be absolutely clear: From here on in, if a conflict between one of our citizens and a police officer takes place in our community, and the incident meets the criteria for calling in the (SIU), then I will do so,” Martin said.

Miller, 19, was seriously injured on Dec. 28, 2016, after an early morning encounter with the Theriaults on a residential Whitby street. Miller suffered a broken orbital bone, a broken nose, a fractured wrist and damage to one of his eyes, the latter an injury so severe the eye will have to be removed surgically.

According to Falconer’s summary of the incident, which has not been tested in court, Miller and his friends were confronted by the Theriaults, who had been sitting in the garage of their home nearby. Michael Theriault, who was off-duty, identified himself as a police officer and asked what the young men were doing, the summary states.

Miller and his friends did not reply and kept walking. The brothers then chased after them and caught up to Miller. They proceeded to punch him, kick him, beat him with a metal pipe and strike him in the face, according to Falconer.

When Durham regional police arrived at the scene soon afterward, they charged Miller with theft under \$5,000, assault with a weapon and possession of a small amount of marijuana.

The charges were later withdrawn by the Crown.

Ontario's Police Services Act stipulates that a police service must notify the SIU immediately of any incident that falls under its mandate, including cases of serious injuries involving police officers. The SIU typically does not investigate incidents involving off-duty officers, but will take on a case if the off-duty officer identifies himself as a police officer during the course of an incident, if the event results in serious injury or death.

Saunders has told reporters that Toronto police determined they would not contact the SIU because they understood that Michael Theriault had not identified himself as a police officer.

Falconer alleged Michael Theriault identified himself as a police officer when he asked what Miller and his friends were doing, right before the brothers' alleged beating of Miller.

Martin said there would be no exceptions to his new policy.

"If the officer is from our police service, the procedure will apply. If they are from another service, the procedure will apply. On duty or off. Whatever happens in Durham will be the responsibility of the Durham Regional Police Service. As the chief, I guarantee it," Martin said.

Martin said he has informed other police chiefs in the Greater Toronto Area, as well as other departments in the province and the Ontario Provincial Police, and acknowledged there "may be criticism," but said it was the right thing to do.

