

AFFIDAVIT OF INSPECTOR MITCH MARTIN OF THE DURHAM REGIONAL POLICE SERVICE

I, Mitch Martin, of the Town of Whitby, in the Province of Ontario MAKE OATH AND SAY:

1. I am a member of the Durham Regional Police Service ("DRPS") and serve as the Inspector of *Project Phoenix*, the project team established in response to the fire that occurred on July 17, 2022, at 19 Courtice Court in Clarington, Ontario. My duties specifically include working with the Chief Administrative Officer, Stan MacLellan, and the Director of Business Services, Teresa Fetter, to provide a strategic response to the operational effects of the fire. I therefore have knowledge of the matters to which I therefore depose.

COURTICE COURT BACKGROUND

2. Since 1994 the DRPS maintained a leased property at 19 Courtice Court, Clarington, which was referred to within the Service as "Courtice Court". Courtice Court was a secure warehouse facility with an additional fenced lot.

3. The primary units located at the facility were the *Property Unit*, the *Quarter Master Stores Unit* and the *Fleet Maintenance Unit*. Other units that worked from Courtice Court included the K9 Unit and the Firearms Clerk.

- a. The *Property Unit* is responsible for storing all property seized by police, including exhibits in criminal investigations. The Property Unit stored thousands of exhibits at Courtice Court, including all seized money and controlled substances. Before a physical exhibit is stored at the *Property Unit*, the following steps generally occur:
 - i. The item is photographed by a Scenes of Crime Officer or Forensic Identification Officer.
 - ii. The item is assigned a unique property tag number, reflected in an Exhibit Log and/or a Property Report.
 - iii. The seizing officer records a description of the item and/or details regarding its location and seizure in handwritten notes and a supplementary report;
 - iv. When required, forensic examination and/or testing occurs, for example by the DRPS Forensic Identification Service, the Centre of Forensic Sciences, Health Canada, or a section 117.13 Firearms Analyst.

- b. The *Quarter Master Stores Unit* is responsible for the acquisition and storage of items required for daily operations, including uniform and protective equipment, office equipment and other supplies.
 - c. The *Fleet Maintenance Unit* is responsible for the overall maintenance of DRPS vehicles, as well as the purchasing and decommissioning of these vehicles. DRPS stored several larger fleet vehicles in the secure fenced lot, to the south of the warehouse, including the Tactical Light Armoured vehicle (LAV), the Tactical Explosive Disposal vehicle, Incident / Mobile Command vehicle, RIDE vehicles, Public Order Unit vehicle and several smaller vehicles including K9 Patrol vehicles, property transport van and a forklift.
4. Courtice Court also served as a secure storage area for other DRPS units. These items included 20 seized vehicles (cars, boats and ATVs), 11 Sea Containers and assorted Tactical and K9 equipment.
5. Civilian vehicles that were subject to ongoing investigation (for example, following collisions resulting in fatalities) were routinely stored inside the warehouse facility, ensuring that examinations could occur in a secure, climate-controlled environment. On July 17th, 2022, following a serious motor vehicle collision, investigators towed two civilian vehicles to Courtice Court. The vehicles were parked inside the Fleet section of the warehouse, in anticipation of DRPS members conducting mechanical inspections as part of their investigation. (Incident number for MVC PI is 22-155818).
6. The warehouse facility at Courtice Court was divided into three separate areas, each protected by cement block firewalls. The *Fleet Unit* occupied the southern portion of the warehouse and was separated from the other Units by a floor-to-ceiling firewall. Only one interior door permitted passage between the *Fleet Unit* to the *Property Unit*. The door was equipped with a fusible link, designed to activate and close the door in the event of a fire. On July 17th, 2022, the fusible link worked as designed, and the door closed during the fire.
7. The *Property Unit* occupied the northeast area of the warehouse and the *Quarter Master Stores Unit* occupied offices situated in the northwest area of the warehouse. A floor-to-ceiling firewall separated the *Property Unit* from *Quarter Master Stores*. One interior door permitted access between the units. It too was equipped with a fusible link. Again, on July 17th, 2022, the fusible link worked as designed and the door closed during the fire.
8. The DRPS retained *Greater Toronto Fire Protection* ("GTFP") to conduct its annual fire inspections at Courtice Court. GTFP is a private company that provides comprehensive inspections conducted by certified technicians, ensuring compliance with local fire and building codes. On June 21st, 2022, Courtice Court underwent its annual fire test / inspection. The GTFP inspection confirmed that all systems passed, and that Courtice Court complied with the Fire Code.

THE FIRE AND ITS IMMEDIATE AFTERMATH

9. Less than a month after passing its annual inspection, a fire broke out at Courtice Court. On Sunday July 17th, 2022, at 18:07hrs, fire alarms at Courtice Court alerted Durham Regional Police Service and the Clarington Fire Department about a fire at the facility. (Incident number for the fire is 22-156207.)

10. At 18:15 hours –eight minutes after the alarm activated—the Clarington Fire Department arrived on scene and began their fire suppression efforts. Despite the best efforts of the Clarington Fire Department, the fire would continue to burn for three days before being fully extinguished. Thankfully, no one was injured in the fire.

11. Immediately after the fire was extinguished, the DRPS ensured that the Courtice Court facility remained secure by posting uniformed officers at the scene, 24 hours per day, 7 days per week.

12. On July 18th, 2022, the DRPS formed an *Executive Steering Committee*, tasked with managing the various aspects of the aftermath of the fire. The Committee members were CAO Stan McLellan, Director Teresa Fetter and myself, Inspector Mitch Martin. In part, the role of the Committee was to accurately assess the extent of damage at Courtice Court and to plan the short-term and medium-term relocation of Units formerly working at Courtice Court. Committee members also oversaw the recovery of exhibits and implementation of a disclosure process for criminal defendants.

13. Once the fire was suppressed and investigators from the Ontario Fire Marshal's Office were able to gain safe entry to the site, they reported that the fire was not suspicious and that it appeared to have started in the Fleet area at Courtice Court. As of the drafting of this Affidavit, the Ontario Fire Marshal has not submitted their final report. I understand that the estimated release date for the final report is some time in November 2022.

14. The Clarington Fire Department recovered the video servers from Courtice Court. Members of the DRPS IT Unit successfully downloaded video from security cameras deployed at Courtice Court. Detectives from East Division reviewed the video footage, confirming that no suspicious activity occurred around the Courtice Court building before the fire started.

15. Several vehicles were destroyed in the fire, including: 38-825 – GMC Property van, 35-100 forklift, 31-515 Tactical Support Explosive Disposal vehicle, 31-719 Tactical Support LAV, 31-951 Incident / Mobile Command vehicle, 33-952 RIDE vehicle, 31-932 GMC Tahoe K9 vehicle, 31-531 GMC Tahoe K9 vehicle.

16. Also destroyed in the fire were the two civilian vehicles that had been towed to Courtice Court on July 25, 2022, as part of the investigation of a serious motor vehicle collision.

PROPERTY DESTRUCTION AND RECOVERY EFFORTS

17. On July 21st, 2022, I met with structural engineers from Element Forensic Engineers and Priestly Demolition, as well as insurers for DRPS and the Courtice Court property owner. During the initial assessment, the following was determined:

- a. The Fleet section of Courtice Court was determined to be a total loss. All contents in the Fleet section were entirely consumed by the fire.
- b. The Property Unit suffered extensive fire, smoke and water damage.
- c. The forensic engineer advised that the building structure was severely compromised. The Fleet Section needed to be demolished and Property Unit and Quartermaster Sections needed to be stabilized before Police personnel would be permitted to enter the building.

18. The *Property Unit* suffered structural damage as follows:

- a. the entire east wall from the top of the first floor to the roof was consumed by the fire.
- b. A large portion of the roof was consumed by the fire.
- c. The large opening in the wall and roof exposed items inside the Property Unit to the elements, resulting in ongoing deterioration of the items therein.

19. At Courtice Court, controlled substances and seized currency were stored in separate concrete vaults, adjacent to the firewall that separated the *Fleet Unit* from the *Property Unit*. The firewall was structurally compromised during the fire. Should the firewall collapse, the vaults would be compromised, exposing the currency and controlled substances to greater risk of loss or destruction.

20. On July 25th, 2022, the forensic engineer and members of the Clarington Fire Department escorted police officers into the *Property Unit* to retrieve the controlled substances and currency stored in the vaults. Members of the DRPS Drug Unit – Clandestine Lab Unit – successfully removed the controlled substances and currency, securing them at another location.

21. After July 25th, 2022, all recovery efforts were conducted by DRPS members with training and experience with the DRPS *Forensic Identification Services*. The recovery team was instructed to apply the following process when recovering property:

- a. Examine all property and determine whether items were either:
 - i. Recoverable, or

- ii. Lost – meaning either the property was: i) Fully destroyed by fire; ii) Unidentifiable; and/or iii) Unsafe (e.g. due to contamination by mold, smoke or other damage)

b. Catalogue their findings

22. Jeremy Bishop, B.A. Sc, P. Eng, is a Professional Engineer employed by *Element Forensic Engineering*. He was tasked with examining Courtice Court and determining what repairs were required to enable DRPS members to enter the building. He also advised on the level of personal protective equipment required for DRPS members to work safely inside the building. I relied on his expertise when directing DRPS recovery efforts.

23. On August 9th, 2022, Jeremy Bishop confirmed that DRPS members could safely begin recovery efforts on the second-floor mezzanine of the *Property Unit*. Prior to the fire, homicide evidence was stored in the second-floor mezzanine. The mezzanine sat on top of the drug vault and was built along the unstable fire wall that separated the *Fleet Unit* from the *Property Unit*. Mr. Bishop also reported that DRPS members could safely enter the northwest area of the building, occupied by the *Quarter Master Stores Unit*. The rest of the building remained closed to the police, as walls were leaning and the roof was liable to collapse.

24. On August 11th, 2022, DRPS members entered the Quarter Master Store's area at the northwest portion of the building. Numerous uniform items and equipment were removed. Most of the items were heavily damaged by smoke.

25. On August 16th, 2022, DRPS members entered the 2nd floor mezzanine, located in the southeast corner of the *Property Unit*. The recovery team examined items that had been stored on the mezzanine, determining that none of the items were recoverable.

26. By August 30th, 2022, Priestly Demolition Inc., supervised by structural engineers, successfully removed the top half of the firewall that separated the *Fleet Unit* from the *Property Unit*.

27. On September 6th, 2022, the structural engineers reported that the *Property Unit* was now stable enough for DRPS members to enter the building and begin their recovery efforts. Engineers cautioned that the building remained unstable and should not be entered when wind speeds exceeded 25 km/h. Jeremy Bishop continued to monitor for any evidence that the building was shifting and needed to be evacuated immediately.

28. Following the fire, mold levels inside the building steadily increased, reaching dangerous levels. By the time the building was made safe enough to enter, the mold levels were so high that respirators were mandatory for anyone entering the structure.

29. On September 6th, 2022, members of the DRPS recovery team were granted full access to the *Property Unit*. The recovery effort continued from September 6th until September 16th, 2022. Only a small amount of property could be recovered. All other property was significantly damaged by fire, smoke, water or mold – or a combination of all four.

30. Prior to the fire, the *Property Unit* held 90,723 items of property that were tagged and identified by unique property tag numbers. By September 16th, 2022, DRPS recovered 10,584 items of tagged property. Most of the items were recovered on July 25th, 2022, when the police recovered currency and controlled substances from the vaults. Only 110 items were recovered from the warehouse portion of the *Property Unit*.

31. While all the currency stored in the currency vault was recovered, several of the property bags holding money were saturated with water, causing the money to rot. Older currency –paper bills—were more vulnerable to deterioration and decay than new polymer bills.

32. A total of \$101,585 in paper currency suffered water damage, could not be remediated and continues to decay. DRPS is presently attempting to exchange those bills with the Bank of Canada, replacing them with equal value in electronic funds.

33. All property seized by the DRPS after July 17th, 2022, is not affected by the Courtice Court fire and has been safely stored at other secure locations. Evidence seized after July 17, 2022, remains available for production. The items which were successfully recovered from Courtice Court remain available for production.

NOTICE

34. DRPS issued two media releases regarding the fire at Courtice Court. The first was issued on July 18th, 2022. Attached as “Exhibit A” to this, my affidavit, is a true copy of the media release. The second media release was issued on July 29th, 2022. Attached as “Exhibit B” to this my affidavit, is a true copy of the media release.

35. I am advised by Deputy Crown Attorney Michael Newell, and do believe, that the Ministry of the Attorney General and the Public Prosecution Service of Canada prepared a joint “Notice to the Profession” regarding the Courtice Court fire. I am advised by Mr. Newell that on August 2nd, 2022, defence counsel, Mr. Mark Jacula, assisted him by distributing the Notice to members of the *Durham Region Law Association*. On August 2nd, 2022, defence counsel, Mr. David Barrison, assisted Mr. Newell by publishing the Notice on the *Criminal Lawyers Association List Serve*. Attached as “Exhibit C” to this my affidavit is a true copy of the Notice to Profession.

36. Since July 17th, 2022, I am aware of that the fire at Courtice Court has garnered extensive media coverage, including from the following news services: Global News, Durham Radio News, The Toronto Star, Twitter, Durham Region, CP24, Toronto Sun, City News, Durham Post, Insauga, Niagara Falls Review, YouTube, Narcity, the Spec,

CHCH, CTV news, OAFB, Tiktok and Northumberland County Breaking News. A good example of the coverage can be viewed in a CityNews article and video published on September 26, 2022, wherein a member of the criminal defence bar comments on the fire and the loss of physical exhibits in criminal cases (see: <https://toronto.citynews.ca/2022/09/26/criminal-evidence-destroyed-in-fire-at-durham-police-storage-site/>)

37. I swear this affidavit in support of DRPS efforts to provide relevant disclosure regarding the July 17th, 2022 Courtice Court fire, and for no other or improper purpose.

Sworn before me at the Town of Whitby of the Regional Municipality of Durham, on this 2nd day of November, 2022

Michael Dzwil
.....
Commissioner for Taking Affidavits
(or as may be)
*Deputy Crown Attorney
Durham Region Crown Attorney's Office*

[Signature] #819
.....
Inspector Mitch Martin

DURHAM REGIONAL POLICE SERVICE
"Leaders in Community Safety"
605 Rossland Road East, Whitby, Ontario, L1N 0B8
Telephone 1-888-579-1520; www.drps.ca
Facebook: OfficialDRPS / Twitter: @DRPS



MEDIA RELEASE

Date: July 18, 2022
Time: 2:00 p.m.
Author: Sgt. Joanne Bortoluss.: 4346
Incident: 22-156207

"Exhibit A" to the Affidavit of Inspector Martin

SUBJECT: Police Investigating after Large Fire at Police Property Building

Police are investigating a fire that occurred at a police building in Clarington on Sunday evening.

On Sunday, July 17, 2022, at approximately 6:07 p.m., members of East Division responded to an alarm call at 19 Courtice Court. Officers arrived on scene and observed thick black smoke coming from the building. The vehicle bay section of the building was fully engulfed by the fire. Numerous police vehicles were inside the bay at the time and have been completely destroyed by the fire.

Clarington Fire attended the scene and was able to conduct primary and secondary searches to ensure the building was vacant. No one was located and there were no injuries.

Police have yet to enter the building as Clarington Fire is still on scene working on putting out hot spots of the fire.

The Ontario Fire Marshall has been contacted and the investigation is ongoing.

Anyone with information in relation to this investigation is asked to contact Det. Naccarato of the East Division Criminal Investigations Bureau at 905-579-1520 x1612.

Anonymous information can be sent to Durham Regional Crime Stoppers at 1-800-222-TIPS (8477) or online at www.durhamregionalcimestoppers.ca and tipsters may be eligible for a \$2,000 cash reward.

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THIS IS EXHIBIT A TO THE
AFFIDAVIT OF Mitch Martin
SWORN BEFORE ME
ON THE 2nd DAY OF November, 2022

Michael Rawell
A Commissioner etc.

DURHAM REGIONAL POLICE SERVICE

"Leaders in Community Safety"

605 Rossland Road East, Whitby, Ontario, L1N 0B8

Telephone 1-888-579-1520; www.drps.ca

Facebook: OfficialDRPS / Twitter: @DRPS



MEDIA RELEASE

Date: July 29, 2022
Time: 2:45 p.m.
Author: Director Chris Bovie.: 4346
Incident: 22-156207

"Exhibit B" To the Affidavit of Inspector Martin

SUBJECT: UPDATE: Police Investigating after Large Fire at Police Property Building

The Ontario Fire Marshal's office has not concluded its investigation, but the Courtice Court site has been turned back over to DRPS. At this stage the fire is not deemed to be suspicious.

Work is continuing to ensure the structure is stable enough to physically enter the building and allow for a full assessment. While the damage is extensive, the full extent of damage to all items and property within the building will not be known until we are able to access the building. We anticipate that it will be another three-to-four weeks before we will be able to enter the structure for full assessment and recovery.

DRPS has and continues to work with our Crown prosecutors in relation to any physical evidence for upcoming court cases.

We want to assure the public that while this has been a challenge to the Service, it has not impacted our ability to provide policing services to our community.

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ORIGINAL MEDIA RELEASE SENT ON JULY 18, 2022

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SWORN BEFORE ME
ON THE 2nd DAY OF November, 2022
Michael Rowell
A Commissioner etc.

"Exhibit C" to the Affidavit of Inspector Martin

NOTICE TO THE PROFESSION

On Sunday, July 17, 2022, the Durham Regional Police Service's Property Bureau was damaged in a significant fire. The Ontario Fire Marshal's office has not concluded its investigation. Work continues to ensure the structure is stable enough to enter the building and allow a full assessment.

DRPS estimates that it will take approximately 4 weeks before the building is stabilized and can be safely entered for assessment and recovery. While the damage is extensive, the full extent of damage to property and exhibits within the building will not be known until the police are able to access the building.

Once the police can enter the building, recovery efforts are estimated to continue over the next 3 to 6 months. DRPS intends to create an inventory of recovered property and exhibits pertaining to identified investigations and occurrence numbers. The inventory will be updated regularly and shared with Crown prosecutors (PPSC and MAG) for disclosure purposes. Until the Durham Crown Attorney's Office and the PPSC receive the inventory, we are unable to provide any update on the status of individual property or exhibits. It is anticipated that much property and many exhibits will not be recoverable, although it appears the drug vault is largely unaffected.

For at least the next 3 months, DRPS will not be able to produce any physical exhibits for court proceedings.

All evidence stored at the Property Bureau is processed before being placed there. That includes identifying each item with a unique property tag number and completing any required forensic examination, photography or testing. Sampling of items for submission to forensic scientists and drug analysts at Health Canada and the Centre of Forensic Sciences is also generally completed before exhibits are stored at the Property Bureau.

Should counsel have any questions regarding this notice, please contact the assigned trial Crown or, for Criminal Code matters contact the Case Management Crown by email at virtualcrownoshawa@ontario.ca, and for federal matters, contact PPSCAgentServiceSPPC@ppsc-sppc.gc.ca.

THIS IS EXHIBIT ^C TO THE
AFFIDAVIT OF Mitch Martin
SWORN BEFORE ME
ON THE 2nd DAY OF November, 2022
Michael Rzewel
A Commissioner etc.

AVIS À LA PROFESSION

Le dimanche 17 juillet 2022, le bureau des biens du service de police régional de Durham a été endommagé par un incendie important. Le bureau du commissaire des incendies de l'Ontario n'a pas terminé son enquête. Les travaux se poursuivent pour s'assurer que la structure est suffisamment stable pour y pénétrer et permettre une évaluation complète.

Le SPRD estime qu'il faudra environ 4 semaines avant que le bâtiment soit stabilisé et qu'on puisse y entrer en toute sécurité pour l'évaluer et le restaurer. Bien que les dégâts soient importants, l'étendue des dommages aux biens et aux objets exposés dans le bâtiment ne sera pas connue avant que la police ne puisse y accéder.

Une fois que la police pourra accéder au bâtiment, les efforts de récupération devraient se poursuivre au cours des 3 à 6 mois qui suivent. Le SPRD a l'intention de dresser un inventaire des biens et des pièces à conviction récupérés en rapport avec les enquêtes et les numéros d'incidents identifiés. L'inventaire sera mis à jour régulièrement et partagé avec les procureurs de la Couronne (SPPC et MPG) à des fins de divulgation. Tant que le bureau du procureur de la Couronne de Durham et le SPPC n'auront pas reçu l'inventaire, nous ne pourrons pas faire le point sur l'état des biens ou des pièces à conviction. On s'attend à ce qu'une grande partie des biens et des pièces à conviction ne soient pas récupérables, bien qu'il semble que la chambre forte des drogues n'ait pas été touchée.

Pour au moins les 3 prochains mois, le SPRD ne sera pas en mesure de produire des pièces à conviction physiques pour les procédures judiciaires.

Toutes les preuves stockées au Bureau des biens sont traitées avant d'y être placées. Cela comprend l'identification de chaque article avec un numéro d'étiquette unique et la réalisation de tout examen, photographie ou test médico-légal requis. L'échantillonnage des articles à soumettre aux médecins légistes et aux analystes de drogues de Santé Canada et du Centre des sciences judiciaires est aussi généralement effectué avant que les pièces à conviction ne soient entreposées au Bureau des biens.

Si les avocats ont des questions concernant le présent avis, ils sont priés de communiquer avec le procureur de la Couronne assigné au procès ou, pour les affaires relevant du Code criminel, avec le procureur de la Couronne chargé de la gestion des causes, par courriel à virtualcrownoshawa@ontario.ca, et pour les causes fédérales, avec PPSCAgentServiceSPPC@ppsc-sppc.gc.ca.