

DISCLAIMER: In accordance with the *Community Safety and Policing Act* and the *Freedom of Information and Protection of Privacy Act*, the summary below has been de-identified to remove the personal information of individuals, including public complainants and persons who were the subject of the investigation.

DE-IDENTIFIED SUMMARY UNDER SECTION 167(2) OF THE CSPA

Original Police Service:



Date of Complaint: 04/24/2024

Type of Investigation:

Referred to Same Service:

Referred to Other Service:

Retained by LECA:

Service Investigations Referred to:

De-identified Summary of Complaint

On April 20th, 2024, the complainant entered an establishment, went to the bar and ordered beers. The complainant alleged he was "aggressively approached" by one female and two or three males who harassed him and tried to force him to leave the premises.

The complainant refused to leave, at which time he was assaulted by one of the males who took his beer and was then assaulted by the female who grabbed his arm. The complainant pulled his arm from the female's grasp and told her not to do that. The complainant then called the owner of the bar, who came over. The complainant assumed all was okay and prepared to play a game of pool when he was again approached aggressively by the female who had assaulted him earlier, who was now accompanied by two police officers (Respondent Officer 1 and Respondent Officer 2).

The complainant alleged the officers immediately ordered him to leave the bar, and when he asked the police why, he was told he was trespassing. The complainant stated he immediately corrected the officers letting them know he was not trespassing and that he was allowed to be there.

The complainant alleged, without any investigation the officers unlawfully and forcefully arrested him, placed him in handcuffs and removed him from the premises. The complainant alleged he was subsequently searched and placed in the rear of a police vehicle, where he immediately asked for a police supervisor to attend.

A police supervisor (Respondent Officer 3) subsequently attended and the complainant explained the situation to him, asked Respondent Officer 3 to view the video camera footage and speak to the owner because the officers were wrong and so he could return to the premises.

The complainant alleged Respondent Officer 3 immediately told him he could not return to the premises. Respondent Officer 3 went into the premises and a short time later returned to the police vehicle, with the owner of the establishment and a cook who was acting as a translator. The complainant stated he sensed something was "not correct" and that Respondent Officer 3 "was not being lawful in the execution of his duties."

The complainant was subsequently released unconditionally, but was told that he could not return to the establishment for that night only. The complainant stated he was later told by the cook and a bartender that Respondent Officer 3, during his investigation, "discriminated and was prejudice against" the complainant by coercing and threatening them to tell the complainant he was not allowed to re-enter the establishment.

The complainant insisted he had done nothing wrong and stated he strongly believed his race played a significant role in how the officers treated him as he is a black male, and the persons who attacked him were white.

The complainant alleged, even after Respondent Officer 3 viewed the surveillance footage of the assaults on him and his continuous request that his attackers be charged with assault they were never arrested, charged or told to leave the establishment for the night. The complainant also provided a statement to Respondent Officer 2 regarding the alleged assault.

The complainant also alleged he was first told he was arrested for trespassing and was then told an investigation of assault and threatening was going to take place.

The complainant alleged the officers ignored or simply overlooked the fact he was assaulted, and since the date of the incident he has not heard back from the officers regarding his allegations of being assaulted.

The complainant alleged the officers were guilty of unlawful detention, false arrest and negligence. The complainant alleged the supervisor was guilty of discrimination, prejudice, bias and negligence.

Unsubstantiated Code of Conduct Allegations

Allegation 1 – Unlawful Detention - Section 8(1)

Unlawful Detention in that, by act or omission, at the time of the detention, he or she made a physical or psychological detention of a person that they knew or reasonably ought to have known was unlawful

Allegation 2 – Neglects to Do Duty - Section 19

Neglects to Do Duty in that, by act or omission, he or she failed to perform their duties appropriately without lawful excuse, that they knew, or reasonably ought to have known would amount to failure to perform their duties appropriately

Allegation 3 – Discrimination - Section 5(1)

Discrimination in that, in the course of their duties, he or she treated any person in a manner that, at the time, they knew or reasonably ought to have known, would contravene the Human Rights Code.

Decision and Reasons

Allegation 1

This investigation has determined, officers responded to a 911 call from Civilian Witness 1, a female security person, hired for a paid event at an establishment, where the complainant entered and refused to pay. Civilian Witness 1 had asked the complainant to pay or leave and he became argumentative and refused to do so.

This investigation has determined Civilian Witness 1 had been hired as security for the private event and been instructed to ensure patrons paid which subsequently provided her authorities under the Trespass to Property Act.

When officers arrived on scene, Civilian Witness 1 reiterated the details she had provided in her 911 call and requested assistance in having the male escorted from the premises. The officers attended inside the premises with Civilian Witness 1 and attempted to have a conversation with the complainant. When the complainant became argumentative and refused to speak to the officers he was instructed to leave. The complainant refused to leave the premises and was subsequently arrested. Respondent Officer 1 and Respondent Officer 2 had lawful authority to arrest the complainant under the Trespass to Property Act. The subsequent search and detention of he complainant pending investigation was lawful.

After further investigation, including conversation with the owner and his interpreter, who provided clarification regarding regular patrons, the complainant was subsequently released without charge.

This investigation has also determined, at no time prior to the complainant's arrest, were the officers advised that the complainant was a regular patron and was not required to pay the entry fee.

Allegation 2

This investigation has determined, officers attended an Unwanted Person call at a licenced establishment which subsequently resulted in the complainant's arrest, under the Trespass to Property Act. At the request of the establishment owner, the complainant was subsequently released unconditionally.

The complainant requested officers to investigate an alleged assault upon him by the female security person (Civilian Witness 1) and two male band members (Civilian Witness 2 and Civilian Witness 3).

An investigation, which included reviewing the video footage from the establishment and interviews, was conducted.

Officers determined the force used by Civilian Witness 1, who was acting under authority of the Trespass to Property Act was justified under the Criminal Code. Additionally, officers determined charges were not warranted as a result of Civilian Witness 3 removing a bottle of beer from the complainant's hand. This decision was consistent with the officer's legal and procedural authorities.

The officers submitted a report regarding the alleged assault and advised the complainant he would be contacted if further investigation were to be conducted by the Criminal Investigation Bureau. The incident was reviewed by a member of the Criminal Investigation Bureau who also determined charges were not warranted.

Allegation 3

This investigation has determined, police attended an Unwanted Person call at a licenced establishment which subsequently resulted in the complainant's arrest, under the Trespass to Property Act. At the request of the establishment owner, the complainant was subsequently released unconditionally.

The complainant alleged he was arrested because he was black. A review of all available evidence revealed there was no connection between the complainant's arrest and his race.

The complainant further alleged Respondent Officer 3 had forced the owner to tell him not to return to the establishment for the night. Investigation revealed officers initially intended to release the complainant on a Provincial Offences Ticket for Trespassing and advised the complainant that security did not want him back in the establishment.

The In Car Camera System review revealed, at no time, did Respondent Officer 3, make any remarks which could be considered as racist, as alleged by the complainant. There is no evidence to suggest the complainant's race played any role in his arrest and the only person to mention the complainant's race was the complainant.