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: XXXXXX

Date of Complaint: 01/07/2025

Type of Investigation:

Referred to Same Service: ◉ Referred to Other Service: ○ Retained by LECA: ○

Service Investigations Referred to:

De-identified Summary of Complaint

The complainant alleged that on Monday, January 6, 2025 (later verified to be January 4, 2025, by Officers' reports and Body Worn Camera footage), at approximately 1130 hours, the Respondent Officer conducted a traffic stop and arrested the complainant for a Family Court Act warrant. The complainant was handcuffed to the rear and placed in the back seat of the Respondent Officer's cruiser. The complainant asked to be placed in a seat belt and the Respondent Officer replied that the cruiser DID NOT have a seat belt.

The Respondent Officer transported the complainant to the police headquarters, via the highway. The complainant was concerned that the speed limit for this highway was ninety kilometres an hour (90 km/hr). The complainant stated the roadway was busy with traffic and due to their hands being handcuffed to the rear, they would not be able to protect themselves if the cruiser was involved in a motor vehicle collision.

The second part of the complainant's misconduct allegation was they were subject to unreasonable search and seizure for an incident that occurred while in police cells. The complainant stated that while in cells, they had to urinate. The complainant was facing away from the cell door to urinate into the cell toilet, which is along the back wall of the cell. A Special Constable entered the cellblock at a fast pace and slammed open the cell block door. The complainant involuntarily turned towards the loud noise and exposed their genitals to the Special Constable.

Finally, the complainant stated they were arrested and held in police custody for a lengthy period, and no one notified their family of their whereabouts. The complainant requested to notify their family that they were being held in police custody, but police staff refused. The complainant stated thier partner was terribly upset and sent numerous text messages to their phone. The complainant believes that this refusal to notify their family of their location is a breach of their Section 12 – Charter of Rights; specifically citing that this behaviour was "cruel and unusual".

Unsubstantiated Code of Conduct Allegations

Neglects Health/Safety of Person in Custody – Section 9 Community and Policing Act:
"A police officer shall not neglect the health or safety of any individual who is in their custody as a result of the officer's duties."

Conduct Undermines Public Trust – Section 10 Community Safety and Policing Act:
"A police officer shall not conduct themselves in a manner that undermines, or is likely to undermine, public trust in policing."

Decision and Reasons

1) The complainant's first misconduct allegation to be addressed was the Respondent Officer had neglected the complainant's health/safety as a person in custody. The complainant was concerned for their welfare because the Respondent Officer did not don the complainant's seat belt in the back of the police cruiser, while they were being transported to the Police Headquarters.
- The Respondent Officer stated that for an officer to apply a seat belt to a person in custody, the officer must reach across the person – putting the officer in a position of disadvantage.
- During this investigation, the Professional Standards Investigator reviewed the Highway Traffic Act of Ontario and noted exceptions for the mandatory wearing of seat belts:
i. Highway Traffic Act of Ontario – O. Reg 613 – Section 2 - states that a police officer is exempt from wearing their seat belt when they lawfully performing their duties and are transporting a person in their custody.
ii. Highway Traffic Act of Ontario – O. Reg 613 – Section 3 – states that a person who is in the custody of a police officer or a peace officer is exempt from wearing their seat belt.

2) The complainant alleged that while in police custody, they were not allowed to contact a family member and notify them of their current location. The complainant stated that by failing to notify their partner, this caused a great deal of anxiety.
- The complainant was given an opportunity to speak to legal counsel in a confidential and soundproof room, to respect his right for private legal advice. This would have been the opportunity for the complainant to request their legal counsel to reach out to their family and notify them of their location and the circumstances of the arrest.
- If the person in custody is an adult, the police are not obligated to notify the family of the arrested person of any information pertaining to their arrest. In fact, police officers typically will not provide this information to members of the public because it is deemed to be confidential until the charges are read out in court.

3) The complainant alleged that while in XXXXX custody, a Special Constable opened the cell block door so vigorously that it caused a loud bang. The complainant stated they were urinating at the time of the loud bang and as a result, they became startled. The complainant in their startled state, involuntarily turned and faced the cell door, thereby exposing their genitals to the Special Constable. The complainant stated that this was humiliating and was deemed to be "Cruel and Unusual Punishment."
-The Professional Standards Investigator was able to review the cell block and booking room surveillance footage for the time that the complainant was in custody. The cell block footage showed the Professional Standard Investigator two (2) times when it appeared that the complainant was urinating in the cell toilet.
- By reviewing the cell block surveillance video, the Professional Standards Investigator confirmed that the Special Constable conducted physical patrols to ensure the welfare of all their custodies. At no time during any of the Special Constable's patrols was the complainant seen urinating or involuntarily exposing their genitals.