[redacted]

Law Enforcement Complaints Agency Ontario

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: 10/20/2024

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 stated she was targeted as she drove out of a LCBO parking lot, yet the Respondent Officer (RO) advised her that the traffic stop was random. Court disclosure listed the stop as a RIDE check.
The complainant had a condition of her drivers licence that required the vehicle to have an interlock device, as a result of a previous impaired driving conviction.

The complainant stated she was not aware of the condition on her licence and tried to explain however the RO continually interrupted, talked over her and was rude. The RO continually stated she didn't care. The complainants vehicle was impounded and the RO lied when she stated she did not know how long the mandatory impound (45days) would be.

The RO made a number of mistakes on the report such as
-wrong date on release (22Aug22 instead of 22Aug24)
-complainants eyes as blue instead of hazel

The complainant learned that her licence could be reinstated if she completed a medical form. The form was later completed (after the incident), forwarded to the MTO and her licence was reinstated and interlock condition removed.

The complainant stated the vehicle impound caused financial and emotional hardship and asked the RO to release her vehicle early however the RO did not, but rather directed her to the appeal process. The complainant stated the appeal process was delayed as the RO failed to enter the impound information (Notice to Registry- "NTR") on the Ministry of Transportation of Ontario (MTO) system in a timely fashion

Unsubstantiated Code of Conduct Allegations

Allegation 1 – 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. It is alleged that the RO failed to complete her duties as required in her prohibited driving investigation.

Allegation 2 – Conduct Undermines Public Trust– Section 10(1)
UNDERMINES PUBLIC TRUST, in that he or she, without lawful excuse, conducted yourself in a manner that undermined, or was likely to undermine, public trust in policing as a member of the police force of which the officer is a member. It is alleged that the RO was rude, lied, berated, continually interrupted and said she didn't care.

Decision and Reasons

Allegation 1 – Neglects To Do Duty - Section 19

Investigation was clear that the RO was conducting RIDE and had legal authority to stop the vehicle and conduct her investigation into the sobriety of complainant and to ensure the court-imposed condition on her licence was being complied with. The RO saw the condition on the licence produced by complainant and then confirmed the condition on MTOISS. The RO had grounds to arrest. She did not lie about the impound period but advised a lawyer may be able to help the complainant. The RO provided the tow slip with the 45 day impound notice on it. The RO was aware of her obligation to impound the vehicle as a result of the arrest, as stated in procedures and knew she did not have discretion.
The errors noted by the complainant, including the clerical error of the date on the release form, were minor in nature. These human errors were an oversight and do not rise to the level of misconduct.
Police procedure required the RO to complete an electronic NTR form, giving notice to the MTO of the vehicle impound, provide copies of the NTR to the complainant and tow truck operator. Although this was not completed at the time of the offence, the RO completed it promptly when advised it was incomplete. The RO advised the complainant how to appeal the impound. Although the late entry by the RO of the impound to MTOSIMS may have delayed the appeal process by several days, the end result was the impound was confirmed. The courts found that the complainant did not establish that her licence was not subject to the condition (interlock) at the time of the impoundment. The court also ruled that the impoundment would not result in an exceptional hardship as defined under the Act. There was no evidence found during the investigation to suggest or substantiate that the RO intentionally failed to submit the NTR electronically through the MTO web portal on August 22, 2024. It was determined that this was a clerical error which was promptly addressed once made aware of the issue. A thorough analysis confirms that the error occurred but there is no evidence of intent or willful neglect of duty.
Based on a review and analysis of all information, the PSB investigation determined that there was insufficient evidence to establish Neglect to Do Duty in relation to the investigation. As a result, with respect allegation 1, the conclusion was unsubstantiated.

Allegation 2 – Conduct Undermines Public Trust– Section 10(1)
UNDERMINES PUBLIC TRUST, in that he or she, without lawful excuse, conducted yourself in a manner that undermined, or was likely to undermine, public trust in policing as a member of the police force of which the officer is a member. It is alleged that the RO was rude, lied, berated, continually interrupted the complainant and said she didn't care.

The entire interaction was captured on the In-Car-Camera (ICC) footage and is the best evidence of the conduct of the RO. It was clear that the RO was not rude, she did not continually interrupt, she did not berate the complainant, did not lie and never said that she didn't care.
Based on a review and analysis of all information, the PSB investigation has determined that there was insufficient evidence to establish Conduct the Undermines Public Trust occurred in relation to the investigation. As a result, with respect allegation 2, the conclusion was unsubstantiated.