[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: [redacted] Date of Complaint: 10/22/2024

Type of Investigation:

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

Service Investigations Referred to:

De-identified Summary of Complaint

On Monday, October 21, 2024, just before 0200 hours, the complainant, was in their residence, with their partner and adult child. The complainant was getting ready to go to bed and looked out his windows and saw two (2) dark figures walking around the side and back of his house carrying flashlights.

The complainant looked out their back door and saw the two figures were [redacted] Service officers, in full uniform. The complainant stood in his back doorway and asked the officers how he could be of assistance. The officers told the complainant they believed a person may be within his residence and may be in distress.

The complainant told the [redacted] officers that the person was not in the home and that person would not be allowed to enter his residence. One of the [redacted] officers informed the complainant that they believed the person in distress was present in the home because of a "ping" of the 911 caller's cell phone which revealed this address, with an accuracy of twenty (20) metre radius.

One of the [redacted] officers asked the complainant if the police could enter the residence to check if the person in distress was present. The complainant refused the officer's request to enter his home. The officer told the complainant that police had the right to enter his house to check for the person. The complainant admitted to being rude to the officers because he did not believe they had the authority to enter the home without a warrant.

The officer told the complainant that if they did not cooperate with this police investigation and allow police to enter his house, they could be arrested for Obstruct Police. The complainant laughed at the officers and locked the back door.

The complainant woke up and informed their spouse (witness) that the police were outside. The witness attended the back door of the residence and spoke to the police. The officer demanded that the witness allow the [redacted] to search the house, because of a cell phone ping. The witness told the officer that the person in distress was not in the house.

The witness became fearful of the [redacted] officers, because of the threat of being arrested, and eventually allowed police to enter the home.

The [redacted] officers searched the home and did not find the person in distress within. The witness questioned the officers why they did not search the laneways and neighbouring properties for the person in distress. The witness believed the [redacted] officers lied about the cell phone ping, to gain access into her home, which is illegal in her opinion.

Unsubstantiated Code of Conduct Allegations

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."

Community Safety and Policing Act (2019) O. Reg 407/23 - Code of Conduct

Decision and Reasons

DECISION: Based upon a review and analysis of all the information gathered, the Professional Standards' Investigation has determined that the actions of Respondent Officers were correct, conducted in good faith and did not bring the reputation of this police service into disrepute. With respect to the allegation of Conduct Undermines Public Trust, the Investigator concludes that this allegation of misconduct is unsubstantiated.

REASONS: On the incident date, the complainant and witness were alarmed that the police were on their property, at such a late hour. The complainant was able to speak with the officers and ask them how he could be of assistance. Respondent Officer #1 advised the complainant that the [redacted] were there to check the welfare of a person in distress - because of an abandoned 911 call.

The complainant strongly believed that the person in distress was not in or around the residence and when Respondent Officer #1 asked and then demanded to check the inside of the house, complainant denied police entry.

Respondent Officer #1 and Respondent Officer #2 explained to the complainant and witness the limited information [redacted] had received, prior to their arrival. Respondent Officer #1 advised the complainant that police were worried for the welfare of the person in distress and now had "exigent circumstances" to enter the complainant's home

In this case, where the Respondent Officers faced limited information, the concern of the person in distress committing self-harm, possible threats to harm others, and a history of intimate partner violence, Officers clearly possess exigent circumstances. When faced with the possibility that the person in distress was hurting themself, it was not reasonable to expect the Respondent Officers to apply for a Search Warrant and await a Judge's approval to enter the complainant's residence.

Also, when police receive abandoned 911 calls, such as this one, they also possess exigent circumstances to enter and check a residence for the occupants' wellbeing. The residents' right to privacy versus the police's duty to enter without a warrant has been debated to the Supreme Court of Canada The Supreme Court of Canada agreed with a lower court's determination that "satisfied that the entry (by police) into the house was justifiable in the circumstances."

The fact that it was later revealed that the complainant's adult child was the 911 caller (who was inside the residence) who did not come forward to police, added to this fluid and dynamic situation.