[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: 01/08/2025

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 (CO) alleged that due to a negligent investigation, she was wrongly charged with Domestic Mischief after calling the [redacted] for assistance in relation to her husband, W1. She claims she was not informed of her right to counsel, was not cautioned, and was not offered victim services. The charges were later withdrawn by the Crown. Additionally, she alleged that RO1 and RO2 failed to properly investigate her spouse for assault, did not take a proper statement when she was able to provide one.

PSU investigated this and unsubstantiated misconduct. The file number associated to this investigation was [redacted]. PSU report was completed on March 28, 2025.

Ontario

Unsubstantiated Code of Conduct Allegations

Charter of Rights-Breach - Sec 6 CSPA Reg. 407/23
Public-Undermine Public Trust - Sec 10 CSPA Reg. 407/23
Duty-Neglect or Omit - Sec 19 CSPA Reg. 407/23

Decision and Reasons

Pursuant to Section 82(1) of the CSPA, RO1 and RO2 were in the lawful execution of their duties on October 5, 2024, when they responded to an Intimate Partner Violent (IPV) incident reported by the CO. They had a duty to preserve peace and prevent crimes. While it was undisputed by the CO that she had damaged property, what remained disputed was whether RO1 and RO2 conducted a proper investigation. The CO alleged that the officers failed to inform her of her rights, caution her, or offer her victim services. She further alleged the officers failed to properly investigate her husband for assault, and did not take her statement when she was able to give one. The RO's initially received information about an assault and were focusing their efforts on gathering evidence related to that allegation. However, while investigating, they learned new information that highlighted a separate matter, specifically a mischief. This prompted the RO's to broaden their focus and pursue a new line of inquiry.

The CO alleged Victim Services were not offered to her. [redacted] Police Orders section 3.1 - Victim Services, states that Victim Services are to be offered to the identified victim, not the accused. In this investigation, RO1 and RO2 initially identified the CO as the victim. Following the arrest of CWI, a statement was taken from the CO, at which time safety planning and victim services were offered to her by RO1. As the investigation unfolded, evidence of mischief was revealed and CWI was subsequently identified as the victim and offered victim services following his release from custody. While the investigation evolved and changed its course of direction, RO1 and RO2 remained complaint with policy in initially offering Victim Services to the CO and then ultimately offering Victim Services to CWI. It was further noted that WO1 had a lengthy conversation with the CO following the incident at which time she expressed displeasure with the investigation. In his duty report, he indicated that during their conversation he explained the process and offered her resources when she indicated she was struggling with AHDH and PTSD.

The CO further alleged she had not been given her RTC or caution by RO1 or RO2. While this was proven to be accurate, it was noted that she was not arrested by either officer, and as such there was no requirement on their part to provide RTC and a caution. When the CO was advised by RO1 of the evidence of mischief she was offered an opportunity to be arrested that night. She was very distraught and declined, asking for time to think things over. A review of the Niche RMS confirmed that upon her arrest two days after the incident, the CO had been provided her with both her RTC and caution by the arresting officer, WO2. While it was possible the CO believed she should have been given her RTC and caution when she was notified of the mischief allegation, she declined to participate in the PSU investigation so that could not be clarified. Regardless, she was not arrested by either RO so there was no requirement for them to offer her RTC or caution.

The CO further alleged the officers failed to properly investigate her husband for assault, did not take her statement when she was ready to give one and did not follow up on the case. [redacted] Police Orders section 2.14: IPV Occurrences, clearly states that officers must identify the dominant aggressor and charge accordingly. The officers carefully evaluated the evidence, spoke with both involved parties and conducted a thorough investigation. As new information was learned during statements, they had to adjust and follow the evidence. Based on the statements from the CO and CWI, RO1 and RO2 determined there was clear compelling evidence that the CO had committed mischief contrary to section 430 (1) of the CCC when she damaged his DVD player and a bottle of cologne. They consulted their supervisor for guidance, ensuring their approach was in line with [redacted] Police Orders. WO1 agreed with their decision and directed the officers to charge the CO. After the CO was advised she was being arrested she indicated she wanted CWI investigated for a sexual assault. At that time, she was offered an opportunity to provide an audio/video statement which she declined. RO1 provided the CO contact information to report any further information regarding the sexual assault and assured her that police would be ready to assist whenever she was ready. While the officers were not noted to have contacted the CO again regarding her sexual assault allegation, she did ask them for time to think it over which they respected. At anytime the CO could have contacted the NBD to follow-up with the allegation. When the CO spoke with PSU, information on how to report the sexual assault was reiterated and she was advised she could request an investigation at any time.

Lastly, the CO did not believe that RO1 and RO2 completed a thorough investigation which resulted in her charge being withdrawn. It was confirmed through a conversation with the assigned Crown that the reason for the withdrawal had nothing to do with an improper investigation. The reason for the withdrawal was part of their direct accountability and diversion programs.

After reviewing the CO's complaint, the officer's duty reports, and the appended reports, it was evident that the officers did not engage in any actions or omissions that would infringe upon the rights or freedoms of an individual under the Canadian Charter of Rights and Freedoms, nor did they conduct themselves in a manner that undermined public trust in policing. Furthermore, there is no evidence to suggest that the officers failed to perform their duties appropriately, as they acted within the scope of their responsibilities and in accordance with the law. Therefore, all allegations made have been thoroughly investigated and found to be unsubstantiated.