[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: 01/22/2025

Type of Investigation:

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

Service Investigations Referred to:

## De-identified Summary of Complaint

On June 04, 2023, personal property belonging to the complainant, which was contained within a black backpack was turned over to a police constable by a third party who knew the complainant, but did not want to be in possession of the backpack or its contents. Rather than create a conflict between the complainant and the third party should the third party dispose of the complainant's property, the police constable took possession of the backpack and treated it as found property.

Prior to securing the backpack and contents within the secure storage locker of the Property and Firearms unit of the police service, the police constable searched the backpack and removed a quantity of suspected purple fentanyl which was submitted for destruction to Health Canada. He then submitted the backpack and the remainder of the property it contained for storage.

A family member of the complainant attempted to claim the complainant's property in July of 2023 but was unsuccessful in doing so as another police constable working in the Property and Firearms unit of the police service was not satisfied the family member was authorized by the complainant to retrieve the property. At the time the family member was assured that the property would not be disposed of and would be handled according to service procedure.

On August 21, 2024, the backpack and some of the property belonging to the complainant was mistakenly disposed of by another police constable attached to the Property and Firearms unit of the the police service. Other property, jewelery and a portable hard drive that had been contained in the backpack, were returned to the complainant's family member.

## Unsubstantiated Code of Conduct Allegations

Three respondent officers were identified during the investigation. The misconduct of Public Trust contrary to section 10(1) under Ontario Regulation 407/23, Code of Conduct For Police Officers made under the Community Safety and Policing Act, 2019 which states, A police officer shall not conduct themselves in a manner that undermines, or is likely to undermine, public trust in policing, was examined in relation to each of the officers' conduct.

## Decision and Reasons

Sources of Information:
a) Body-Worn Camera record
b) Complainant interview
c) Civilian Witness
d) Service Procedure specific to dealing with Found Property
e) Witness officer duty statements/notes
f) Respondent officer duty statements/notes

The respondent officer that took possession of the property did not abide by the police service's procedure perfectly, but where he was deficient in his following of the procedure, two witness officers took steps to mitigate the first respondent officer's short fall.

The investigation determined that the conduct of the second respondent officer who refused to release the property to the complainant's family member, was not misconduct and in fact the officer took all reasonable steps to prevent the disposal of the complainant's property.

The third respondent officer admitted to disposing a portion of the complainant's property, but did so by mistake while performing his duties as a member of the Property and Firearms unit in good faith.

The conduct of the respondent officers was evaluated with consideration given to the following precedent cases establishing legal standards for dealing with mistakes made by police.

- Korchinski v Office of the Independent Police Review Director 2022 ONSC 6074
- Toy v. Edmonton Police Service, 2014 ABCA 353 (CanLII)
- Hawkes v McNeilly 2016 ONSC 6402