

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:

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 the Responding Officer (RO) unlawfully detained them by conducting a traffic stop without lawful justification. The Complainant further alleged that the RO used unnecessary force during the arrest and acted in an uncivil manner.

Unsubstantiated Code of Conduct Allegations

Public-Unlawful Detention - Sec 8 CPSA Reg. 407/24
Public-Unnecessary Force - Sec 11 CPSA Reg. 407/27
Public-Uncivil - Sec 12 CPSA Reg. 407/28

Decision and Reasons

Complaint #1 – Unlawful Detention

The Complainant has alleged that the RO unlawfully detained him/her by conducting a traffic stop without lawful justification. Pursuant to Section 82 of the Community Safety Policing Act, the RO was in the lawful execution of his/her duties when patrolling on [REDACTED] in [REDACTED] and later when the RO investigated the Complainant who was observed operating a motor vehicle on a roadway.

Pursuant to section 216(1) of the Ontario Highway Traffic Act states "A police officer, in the lawful execution of his or her duties and responsibilities may require the driver of a vehicle, other than a bicycle that is not power-assisted bicycle, to stop and the driver of a vehicle, when signaled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop". As well, the Supreme Court of Canada has ruled in both R. v. Ladouceur (1990) and R. v. Hufsky (1988) that random stops for legitimate highway safety reasons such as checking for DL's, ownerships, insurance and the sobriety of a driver are a justified infringement of the Charter as they serve a greater public purpose, road safety. The RO was justified when he/she stopped and requested the Complainant produce her/his DL, ownership and insurance. The RO was also justified when he/she made the demand for the Complainant to provide a breath sample to prove her/his sobriety. Additionally, because of the RO's traffic stop it was learned that the Complainant had operated a motor vehicle on the roadway with an expired DL. The law is settled that police officers are entitled to stop vehicles being operated on a roadway and demand the DL, ownership, proof of insurance and to check the sobriety of a driver. Additionally, police officers have among their sworn duties, to the suppress crime and ensure community safety.

Complaint #2 – Unnecessary Force

The Complainant alleged the RO used unnecessary force while arresting her/him by bending her/his arm up behind her/his back like a "chicken wing" and slamming her/his body against the car. In this situation, the RO was in the lawful execution of his/her duties when he/she conducted a traffic stop and subsequently checked the Complainant's documents on the CPIC and MTO data banks.

As a result of those checks the RO learned that the Complainant's DL was expired and she/he had a warrant for her/his arrest. Section 495(1) of the Criminal Code states that "a peace officer may arrest without warrant a person of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII in relation thereto, is in force within the territorial jurisdiction in which the person is found", this provided the RO with the authority to arrest the Complainant on the outstanding warrant. Section 25(1) of the Criminal Code states "Everyone who is required or authorized by law to do anything in the administration or enforcement of the law, as a peace officer or public officer is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose." This provided the RO the authority to use as much force as required to effect that arrest. The RO confirmed the warrant for the complainant's arrest was outstanding, attended the driver side of the vehicle and asked the Complainant to step out of the vehicle, which she/he did. Once outside the vehicle the RO took physical control of the Complainant, advised her/him she/he was under arrest and the reason for the arrest. The RO then handcuffed the Complainant's hands behind her/his back, secured her/him in the rear of the police cruiser and advised her/him of her/his RTC and cautioned her/him. The RO denied bending her/his arm up behind her/his back like a "chicken wing" or slamming her/his body against the vehicle.

It is also the evidence of the RO (corroborated by her/his duty notes) that the Complainant did request to have the handcuffs loosened, which was done. The evidence also supports that the RO followed [REDACTED] Orders 2.41.1 Arrest/Detention which states "to ensure the arrest is complete, a uniform member conducting an arrest shall identify themselves as a peace officer, take custody by touching the person being arrested, advise the person they are under arrest, provide the reason for the arrest and forthwith inform that person of their lawful rights and privileges, including right to counsel.

Further, it states that when an employee is notified that an offender has been arrested for an outstanding warrant, all efforts shall be made to execute the warrant and return the offender to the detachment or police service that holds the warrant." The RO was compliant when she/he handcuffed the Complainant as per [REDACTED] Orders 2.42, Use of Force which states "a uniform member may use handcuffs to restrain a person when it is reasonable to do so and when there is reasonable belief that failure to do so may jeopardize the safety of the person, a member of the public, or a police employee."

Complaint #3 – Uncivil

The Complainant alleged the RO was uncivil to her/him by using profane language and by referring to her/him as a "crackhead" and a "piece of shit".

As per Section 6.4.10 of [REDACTED] Police Orders, Professionalism in the [REDACTED] "in carrying out duties, an employee is accountable for promoting a positive professional image, treating the public in an impartial manner and refraining from discrimination and harassment, including an offensive remark or any other action." In this case, the RO indicated in his duty report that she/he remained calm and professional throughout her/his dealing with the Complainant. That the RO did not use profane language when communicating with or while in the presence of the Complainant. Additionally, the RO denied referring to the Complainant as a "piece of shit" while communicating with witness officer(WO) #1 or telling the Complainant they could "fucking walk" in the presence of WO #2. WO#1 confirmed that she did not hear him refer to the Complainant as a "piece of shit" or use any profane language, and WO#2 stated she did not witness the RO use profane language. WO#2 advised the RO remained calm and professional throughout the interaction with her/him and the Complainant.

In reviewing the Community Safety and Policing Act, Code of Conduct and comparing it to the evidence of the Complainant, Respondent Officer, Witness Officer's and the referenced materials, there is no evidence to support a breach of the code of conduct by the RO when compared to the allegations. Therefore, the allegations of Unlawful Detention, Unnecessary Force and Uncivil is unsubstantiated.