

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: 08/06/2024

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 alleged the RO unlawfully detained him and breached his Charters of Rights by conducting a traffic stop without lawful justification. Further, he alleged that the RO disclosed the details of the traffic stop to his son-in-law.

Unsubstantiated Code of Conduct Allegations

1. Public – Unlawful Detention – Sec 8 CSPA Reg. 407/24
2. Charter of Rights - Breach – Sec 6 CSPA Reg. 407/23
3. Integrity – Release of Information – Sec 17 CSPA Reg. 407/29

Decision and Reasons

Section 8, O/Reg 407/23 of the Community Safety and Police Act, under the Code of Conduct states: "A police officer shall not, by act or omission, do anything that the officer, at the time, knows or reasonably ought to know would infringe or deny a person's rights or freedoms under the Canadian Charter of Rights and Freedoms."

The Canadian Charter of Rights and Freedoms section 2(b) states: "Everyone has the freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication."

The Canadian Charter of Rights and Freedoms section 9 states: "Everyone has the right not to be arbitrarily detained or imprisoned."

Section 8, O/Reg 407/23 of the Community Safety and Police Act, under the Code of Conduct states: "A police officer shall not authorize or make a physical or psychological detention if, at the time of the detention, the officer knows or reasonably ought to know that the detention is unlawful."

Section 17, O/Reg 407/23 of the Community Safety and Police Act, under the Code of Conduct states: "A police officer shall not disclose to the public information obtained or made available in the course of their duties as a police officer except as authorized in accordance with the procedures established by their chief of police, as necessary for the performance of the officer's duties or as required by law."

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. 2010, c. 5, Sched. 12, s. 9.

Complaint #1 – Unlawful Detention

The complainant has alleged the RO unlawfully detained him by conducting a traffic stop without lawful justification.

Pursuant to Section 82 of the Community Safety Police Act, the RO was in the lawful execution of his duties, while observing [REDACTED] and later when he investigated the Complainant who was observed operating a vehicle on the roadway.

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, and insurance are justified infringement of the Charter as they serve a greater public purpose, road safety. On June 14, 2024, the RO observed the Complainant operating a motor vehicle on a roadway and was justified when he stopped and requested that the Complainant produce his DL, ownership and insurance.

OPP Policy 2.37.1, Police/Motorist Relations states members shall take the necessary steps to enforce the law and that the decision to lay a provincial offence traffic charge rests with the individual member.

OPP Policy 2.37.3, Professional Traffic Stops states members who stop a motorist should project a courteous and non-confrontational attitude, advise the driver why they were stopped and shall avoid attitude tickets when a driver who would otherwise be given a warning is given a ticket. Further that when ending contact members shall return the persons' documents and advise them of the action taken.

The evidence also supports that the RO followed OPP policies 2.37.1 and 2.37.3 while interacting with the Complainant on June 14, 2024. At times throughout the interaction the Complainant became aggressive, confrontational and verbally abusive. While interacting with the Complainant, the RO remained calm and projected a courteous and non-confrontational attitude. After confirming the validity of the Complainant's DL, ownership and insurance, the RO made the decision that a verbal warning was warranted in the circumstances. The RO advised the Complainant of his decision to issue a verbal warning and returned his documents to him.

The law is settled that police officers are entitled to stop vehicles being operated on a roadway and demand the license, ownership, and proof of insurance from the driver. Additionally, police officers have among their sworn duties, the suppression of crime and ensuring community safety.

Therefore, based on the available evidence and on a standard of reasonable grounds, the allegation that the RO unlawfully detained the Complainant is unsubstantiated.

Complaint #2 – Breach of Charter Rights

The Complainant has alleged the RO breached his Charter of Rights by conducting a traffic stop solely because he had given him the middle finger.

In this situation, the RO was in the lawful execution of his duties when he investigated the Complainant who had operated a vehicle on the roadway. The evidence presented by the Complainant was that he gave the RO the middle finger while he had operated his motor vehicle and then again after he had parked his vehicle in the KFC parking lot. The video provided by the Complainant also showed that the Complainant gave the RO the middle finger a third time. There is no evidence that at any time the RO denied or attempted to deny the Complainant his right to express himself. In fact, the video clearly shows that after the Complainant gave the RO the middle finger, the RO remained calm, professional and continued to conduct his investigation into the Complainant's documents.

Therefore, based on the available evidence and on a standard of reasonable grounds, the allegation that the RO breached the Complainant's Charter Rights is unsubstantiated.

Complaint #3 – Release of Information

The Complainant has alleged that the RO disclosed the details of the traffic stop to W#1.

In this case, the Complainant has alleged that he received a call from W#1 who advised him that the RO had asked W#1 who the Complainant was and told him that he had stopped the Complainant for giving the RO the middle finger.

The RO's evidence (corroborated by his contemporaneous duty notes and the audio recorded phone call) was that while investigating an MVC that involved W#1, he observed the Complainant arrive at the MVC scene. Because of the Complainant's behaviour displayed towards the RO at the prior traffic stop, the RO became concerned as to the reason the Complainant had attended the MVC scene. The RO enquired with W#1 if he knew the Complainant and was advised that the Complainant was the stepfather of his fiancé. The RO was the investigating officer of the MVC and the person responsible for protecting the scene. He had told W#1 he could not drive his vehicle away from the MVC and knew that he had arranged transportation for his passengers. When the RO observed the Complainant arrive at the MVC it was reasonable for him to enquire with W#1 if he knew the Complainant. Once the RO was told by W#1 that he did know the Complainant, the RO made no further enquiries about the Complainant.

It is also the evidence of the RO (corroborated by his contemporaneous duty notes and the audio recorded phone call) that after he advised W#1 that the Complainant had been pulled over, he acknowledged that he was the officer that had pulled the Complainant over.

Based on the participants' contradictory evidence and on the RO's duty report, duty notes, and the audio recorded phone call, there is no evidence to substantiate the Complainant's allegation. Therefore, based on the available evidence and on a standard of reasonable grounds, the Complainant's allegation that the RO disclosed the details of the traffic stop to W#1 is unsubstantiated.