

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: 04/05/2025

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 alleged that at approximately 23:00 hours on April 4th, 2025 he was present at a convenience store when a male attempted to rob the store. He further alleged that approximately five minutes later after he had left the store and was down the road, he was approached by the Respondent Officer and asked to provide his name. With no further questioning the Respondent Officer placed handcuffs on his right wrist, threw him into the police cruiser and then to the ground where he was punched in the face several times, kneed in the back and dragged across the ground with his face in the pavement, which caused injuries to his face, hands and legs.

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.”

Unnecessary Force – Section 11 Community Safety and Policing Act:

“A police officer shall not use force unless,

- (a) The force is used for the purpose of carrying out a duty;
- (b) The officer is entitled, by statute or common law, to use force for the purpose of carrying out that duty;
- (c) The officer is acting on reasonable grounds; and
- (d) The force used is no more than is necessary given the circumstances.”

Unlawful Arrest – Section 7(1) Community Safety and Policing Act:

“A police officer shall not make an arrest if, at the time of the arrest, the officer knows or reasonably ought to know that the arrest is unlawful.

Neglects To Do Duty – Section 19 Community Safety and Policing Act:

“A police officer shall not, by act or omission, fail to perform their duties appropriately without lawful excuse if, at the time, they know or reasonably ought to know that their act or omission would amount to a failure to perform their duties appropriately.

Decision and Reasons

1) The complainant's first misconduct allegation to be addressed is his allegation that the Respondent Officer made an unlawful arrest.

While enroute to the call, the Respondent Officer received a physical description of the accused person, a last known direction of travel, and that this individual was armed with a stick and a broken bottle, which the accused had used to swing at a passer by outside of the convenience store. Upon arrival the Respondent Officer located the complainant who was in the area of the last known direction of travel of the accused person, and was wearing the clothing as described by the victim. The Respondent Officer had reasonable grounds to arrest and detain the complainant to ensure safety and to further their investigation. The complainant was detained for a total of five minutes until released unconditionally.

During the investigation the Professional Standards Investigator reviewed Section 10 of the Charter of Rights and Freedoms:

Everyone has the right on arrest or detention

- a) To be informed promptly of the reasons therefore
- b) To retain and instruct counsel without delay and to be informed of that right; and
- c) To have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful and;

Police Procedure Arrest, Release and Detention P6c2, the following sections are applicable;

3.0 Procedures – Investigative Detention

Investigative detention is a common law power that allows police to detain people for investigative purposes. When engaged, it denies liberties, and thus triggers charter rights for the person being detained. The decision to utilize detention on an individual shall be made with consideration to all the facts available to the officer at the time and should not rely on a single nexus to an offence (e.g. proximity of the individual to the offence location).

3.1

The use of investigative detention requires a reasonable suspicion that the person being detained is connected to the specific criminal act under investigation. Investigative detention cannot be used on the basis of a hunch.

3.7 Duration of Detention

Investigative detention must be brief in duration and conducted in a reasonable manner. Reasonableness shall be determined by weighing the intrusiveness on the individual's liberty against the necessity of the officer to perform their duty having regard to the seriousness of the risk to public or individual safety.

3.8

Investigative detention is meant to be a brief measure. “Brief” is not a precise time limit rather it is case specific and can be informed by a number of factors

- a) Intrusiveness of the detention (the more intrusive, the more brief the detention should be);
- b) Nature of the criminal offence (the less serious, the more brief the detention should be);
- c) Complexity of the investigation;
- d) Exigent safety concerns;
- e) The ability for police to complete the investigation without detention;
- f) Availability of investigative tools during the detention.

2) The second misconduct allegation to be addressed is the use of Unnecessary Force. The complainant alleged that while being handcuffed he was thrown into the police cruiser and then to the ground where he was punched in the face several times, kneed in the back and dragged across the ground with his face in the pavement, which caused injuries to his face, hands and legs.

A review of the body camera video of the Respondent Officer and other Witness Officers, show that while handcuffing the Complainant, the Respondent Officer advised the complainant that they were being detained. The Complainant began to pull away, resisting arrest. The Respondent Officer pushed the Complainant into the cruiser to gain better control and eventually took the Complainant to the ground to apply the handcuffs. At this time the Complainant was believed to be in possession of a broken bottle that had already been used to assault a random passer by, and was refusing to provide his hands to police holding them under his body at this waist while on the ground. The Respondent Officer did not punch the Complainant in the face, rather used an open hand to push his face away to avoid being bit. The Respondent Officer did deploy knee strikes to the Complainant's leg, not as a punitive measure, rather an effort to distract to assist in affecting the successful application of handcuffs. During the course of his arrest Police repeatedly used verbal directions, telling the Complainant to relax and provide his hands to be handcuffed. After the Complainant was placed under arrest, Officers observed scrapes to his face and hands, as such an Ambulance was called and gauze was provided to the Complainant. The Complainant later refused ambulance and it was canceled.

The Professional Standards Investigator reviewed the following legislation in relation to this allegation;

Section 25(4) Criminal Code of Canada

A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

- a) The peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;
- b) The offence for which the person is to be arrested is one for which that person may be arrested without warrant;
- c) The person to be arrested takes flight to avoid arrest;
- d) The peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and
- e) The flight cannot be prevented by reasonable means in a less violent manner.

Police Procedure Care and Handling of Prisoners, P6o48. The following sections are applicable to this incident:

4.0 Procedures

When taking a person in custody, members shall, in accordance with s.25 of the Criminal Code of Canada and P6c3 Use of Force, use no more force than is reasonably necessary to affect that purpose. Members shall always keep foremost in their minds the person's rights under Canadian Charter of Rights and Freedoms, the Canadian Bill of Rights and the Ontario Human Rights Code.

6.2 Hospital

Consideration shall be given to whether the prisoner requires immediate medical attention at a medical facility prior to being lodged in a holding facility.

3) The third and fourth misconduct allegations of Conduct Undermines Public Trust and Neglect to do Duty are tied to the first two allegations as seen above. As the Respondent Officer was acting lawfully under the circumstances and did not use excessive force, these two allegations of misconduct are considered to be unsubstantiated.