

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 (CO), had alleged that the Respondent Officer (RO), was negligent when they conducted a historical sexual assault investigation. The CO further alleged the RO undermined public trust by arresting the CO and charging them with criminal offences, which were withdrawn after the Crown Attorney determined there was no reasonable prospect of conviction.

Unsubstantiated Code of Conduct Allegations

Duty-Neglect or Omit - Sec 19 CSPA Reg. 407/23
Public-Undermine Public Trust - Sec 10 CSPA Reg. 407/23

Decision and Reasons

Allegation 1 Neglect to do Duty – CSPA

Section 19, O/Reg 407/23 of the CSPA under the Code of Conduct, states that 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.

Allegation 2 – Undermine Public Trust - CSPA

Section 10 (1), O/Reg 407/23 of the CSPA, under the Code of Conduct, states that a police officer shall not conduct themselves in a manner that undermines or is likely to undermine public trust in policing.

Section 10 (2)(a), O/Reg 407/23 of the CSPA, under the Code of Conduct, states that a police officer shall not be subject to discipline for a contravention of subsection (1) if the police officer demonstrates, on a balance of probabilities, that their conduct was in the good faith performance of, their duties as a police officer.

Neglect to do Duty

The CO alleged that the RO conducted a negligent criminal investigation, that there was a duty to interview the CO's adult children, obtain employment records and obtain historic medical records for the victim.

The RO executed duties as a trained Sexual Assault investigator in accordance with Policy . by following the Victim Centered Approach guidelines, maintained contact with the victim throughout the investigation and was compliant with the Victims Bill of Rights and Criminal Investigation Management Procedures. The RO apprised the supervisor on investigative updates and ensured Victims Services and necessary support were provided to the victim.

Therefore, upon reviewing the Community Safety and Policing Act Code of Conduct, the referenced material, and comparing it to the evidence of the CO, the RO and all identified Witnesses, there is insufficient evidence to substantiate or support a breach of the Code of Conduct. As such the allegation of Neglect to Do Duty is unsubstantiated.

Allegation 2 – Undermine Public Trust

The CO alleged that the RO undermined public trust .

The allegations referring to the RO's actions and comments that were obtained from secondhand sources, allegedly disclosed by the victim,

In response to the CO's allegation that the RO was unprepared, the minor delay is not a breach of Charter Rights.

The Criminal Code of Canada, Section 495(1)(a) states: A peace officer may arrest without warrant a person who has committed an indictable offence or who, on reasonable grounds, he or she believes has committed or is about to commit an indictable offence.

The Supreme Court of Canada in R. v. Storrey (1990) confirms officers must have subjective and objective reasonable grounds before making an arrest. The decision states, "the Criminal Code requires that an arresting officer must subjectively have reasonable and probable grounds on which to base the arrest. Those grounds must, in addition, be justifiable from an objective point of view. That is to say, a reasonable person placed in the position of the officer must be able to conclude that there were indeed reasonable and probable grounds for the arrest."

The RO had obtained video statements which enabled the RO to form reasonable and probable grounds. The Crown's later decision to withdraw the charge for no reasonable prospect of conviction is not indicative of a lack of authority to arrest.

Therefore, upon reviewing the Community Safety and Policing Act Code of Conduct, the referenced material, and comparing i all identified Witnesses, there is insufficient evidence to substantiate or support a breach of the Code of Conduct. As such the allegation of Undermine Public Trust is unsubstantiated.