

**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: 09/16/2024

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 28, 2024, the complainant (Compl) was involved in a custody dispute with her ex-common law partner Civilian Witness One (CW1), regarding access to their daughter, 8-year-old Civilian Witness Two (CW2). Compl reported CW1 abducted their daughter when he failed to return her. Respondent Officer One (RO1) investigated the matter and determined the child had not been abducted and encouraged the Compl to go back to family court. Compl was not satisfied and was offered an opportunity to speak with a supervisor. Respondent Officer Two (RO2) reviewed the occurrence and then spoke with the Compl advising her that he was in agreement with RO1's assessment. The Compl filed a complaint with the Law Enforcement Complaints Agency (LECA) alleging RO1 and RO2 were neglectful in their duties for failing to properly investigate the matter.

PSU investigated this and unsubstantiated misconduct on both RO1 and RO2. The file number associated to this investigation was (Redacted). PSU report was completed on December 10, 2024.

## Unsubstantiated Code of Conduct Allegations

### Duty-Neglect or Omit - Sec 19 CSPA Reg. 407/29 – Unsubstantiated

## Decision and Reasons

The Compl alleged she called the police to report that her daughter had been abducted and the officers failed to properly investigate which allowed a criminal offence to continue. She initially spoke with RO1, then subsequently with his supervisor RO2 when she was not satisfied with the response.

Pursuant to Section 82(1) of the CSPA, RO1 was in the lawful execution of his duties and he performed his duties on June 28, 2024, when he responded to an abduction allegation. RO1 spoke with both involved parties and attended the residence where the child was presumed to be. While there he spoke with CW1 in person at which time he provided a reason for his failure to follow his family court order. RO1 further spoke with CW2 and found her to be healthy, happy and not in a position where she was being forced to stay somewhere she did not want to. Both CW1 and CW2 expressed concerns with the condition of the Compl's residence which supported his decision to not return his daughter. While in the driveway of the residence, RO1 contacted the Compl and updated her on his investigation. He provided her with options and then put her in contact with a supervisor as she expressed dissatisfaction with the investigative outcome.

(Redacted) IPV Critical Policy defines an intimate relationship as any current or former relationship. IPV occurrences include verbal disputes regarding child parenting orders. Policy states that when an officer receives a report of an IPV occurrence they are to consider it with the same priority as a life-threatening call. RO1 responded immediately to the call and within 17 minutes he had spoken with CW1 and identified the location of the Compl's daughter which appeared to be her primary concern. RO1 then attended the residence where he continued his investigation, speaking with both CW1 and CW2 in person and confirming she was not in any danger. IPV Critical Policy states that a uniform member shall lay a charge when they have reasonable grounds to believe that an offence has been committed. As a result of his investigation, RO1 did not believe an offence had been committed. Rather, he believed it was an issue that was appropriate to be dealt with in family court. Advice was given to both parents regarding their access to family court. Regardless of the Compl not being satisfied with the outcome of her complaint, RO1's investigation was compliant with (Redacted) Police Order and approved by supervisors.

When the Compl reported that CW1 had not returned their daughter pursuant to their Family Court Order, she clearly indicated she was aware the order was not "police enforceable" and that she was not expecting police to apprehend her child. Her request was that the responding officers investigate her abduction allegation and enforce the Criminal Code. Section 282(1) of the CCC states that "everyone who, being the parent, guardian or person having the lawful care or charge of a child under the age of 14 years, takes, entices away, conceals, detains, receives or harbours that child, in contravention of a custody order or a parenting order made by a court anywhere in Canada, with intent to deprive a parent or guardian, or any other person who has the lawful care or charge of that child, of the possession of that child is guilty of an indictable offence." CW1 admitted there was a family court order in place; however he did not believe it was in the best interest for his daughter to be attending the Compl's residence given the condition it was in and the status of her driver's license. There was no evidence suggesting his intention was anything other than to protect his daughter who also expressed concerns and was happy remaining with her father.

(Redacted) Orders (Redacted), Professionalism in the (Redacted) states "the conduct of an employee, both on and off duty, is scrutinized and applied to the (Redacted) as a whole. The more professional the conduct, the higher the public's confidence and co-operation. Similarly, this generates greater personal pride in the employee and the (Redacted)." PSU reviewed both th Compl's recorded phone calls with RO1 and RO2. During the almost 30-minute conversation with RO1 he was calm, patient and professional. It was obvious that the Compl was not satisfied so RO1 connected her with a supervisor. While the conversation with RO2 was not as lengthy, he provided clear and consistent feedback and was also found to be calm and professional throughout the conversation.

Further, in reviewing the Community Safety and Policing Act, Ontario Regulation 407/23, Code of Conduct, and comparing it to the above cited reference material, there is no evidence to support a breach of the code of conduct by RO1 or RO2 when compared to the allegations. Therefore, the allegation of failure to perform their duties appropriately is unsubstantiated.