

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: 08/09/2024

Type of Investigation:

Referred to Same Service:

Referred to Other Service:

Retained by LECA:

Service Investigations Referred to:

De-identified Summary of Complaint

1. The complainant alleges that the respondent officers undermined public trust by acting unprofessional during the investigation and arrest of the complainant. The complainant further alleges an unlawful arrest of the complainant without sufficient cause of grounds. The complainant also alleges the officers failed to perform their duties by refusing to investigate trespassing, fraud and break and enter.
2. On August 9th, 2024, the Law Enforcement Complaints Agency (LECA) sent correspondence to [Police Service], directing the Professional Standards Bureau (PSB) to investigate the allegations made by the complainant. Subsequently, PSB commenced an investigation into the conduct of the responding officer.

Unsubstantiated Code of Conduct Allegations

Allegation #1 – PERFORMANCE OF DUTIES – Section 19

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.
It is alleged that [the Respondent Officers] failed to properly investigate a trespassing, break and enter and fraud investigation.

Allegation #2 – CONDUCT UNDERMINES PUBLIC TRUST – Section 10(1)

A police officer shall not conduct themselves in a manner that undermines, or is likely to undermine, public trust in policing.
It is alleged that [the Respondent Officers] acted unprofessionally during the investigation.

Allegation #3 – INTERACTIONS WITH THE PUBLIC – Section 7(1)

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.
It is alleged that [the Respondent Officers] made an unlawful arrest of [Complainant], without sufficient cause or grounds.

Decision and Reasons

It is clear that the initial calls to police were to keep the peace in a landlord tenant dispute however the dynamics changed as the investigation continued. [Complainant] has been a landlord for a short period of time and it is apparent that despite being advised of her responsibilities and duties under the RTA and LTB on numerous occasions, she continued to operate as she interprets the relevant laws not as she has been educated by the tribunal and police. [Complainant] was given direction as to what can and cannot occur when dealing with her tenants and was advised the proper channels to evict an unwilling tenant was through the LTB.

The RTA states a landlord shall not alter the locking system on a door giving entry to a rental unit or cause the locking system to be altered during the tenant's occupancy of the rental unit without giving the tenant replacement keys.

This was a civil dispute until [Complainant] was educated of this. It is abundantly clear [Complainant] was made aware that she did not have colour of right to the property, when she attended on the numerous of times over the past couple of weeks. When [Complainant] continuously deprived the tenant of their lawful enjoyment of property, it then became a criminal matter.

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It is alleged that [the Respondent Officers] failed to properly investigate a trespassing, break and enter and fraud investigation.

[The Respondent Officers] made several attempts to resolve the landlord tenant dispute between [Complainant] and CW#1. [Complainant] was educated with the LTB and informed as to her rights and responsibilities as a landlord. [Complainant] was cautioned for mischief on two previous occasions and then continued to commit mischief by not giving CW#1 the replacement key to the rental property, thereby depriving his lawful enjoyment of the property. [Complainant] threatened CW#1 with contacting immigration if they did not leave the home, and gave CW#1 until midnight to leave or she would call police to report trespassing and fraud.

Despite [Complainant]'s allegations towards CW#1, the officers found no evidence to support her allegations. Her allegations were in regards to the trespassing and break and entering of CW#1's own residence which he was in lawful possession. The fraud allegation, came to light after [Complainant]'s release from custody, when [Complainant] asked [Respondent Officer] what he was going to do about her fraud report. indicated the report would be forwarded and investigated by a fraud investigator.

It is evident in these circumstances the officers completed their duties as required and acted in accordance with training.

Allegation #2 – CONDUCT UNDERMINES PUBLIC TRUST – Section 10(1)

A police officer shall not conduct themselves in a manner that undermines, or is likely to undermine, public trust in policing.
It is alleged that [the Respondent Officers] acted unprofessionally during the investigation.

[Complainant] alleges [the Respondent Officers] harassed, terrorized, intimidated, threatened and abused their authority in an attempt to show they can inflict fear and override laws in the RTA. She alleged the officers attended her residence at all hours of the night, and excessively rang the doorbell and called her phone.

[The Respondent Officers] had reasonable grounds to arrest [Complainant] for mischief and the officers were attempting to notify her of her of such. Officers were aware that she planned on attending CW#1's residence at midnight for the purpose of evicting CW#1. The officers believed, had they not made attempts to contact [Complainant] the situation had the potential to escalate beyond mischief. Further it was the officer's duty to inform [Complainant] of her pending arrest.

Both officers adamantly deny harassing, terrorizing, intimidating or threatening [Complainant]. [The Respondent Officers] advised at no time did they act in an unprofessional manner.

[Complainant] further alleged she called District and spoke with [Respondent Officer], who refused to allow her to speak and told her she was arrestable under the Criminal Code. She alleges he threatened her by saying if she did not turn herself in there would be a warrant out for her arrest.

[Respondent Officer] explained to [Complainant] that officers were going to arrest her, they were at her home to explain the arrest process and provide options as to how to surrender herself. He also explained if she refused to surrender herself, officers would seek to obtain a warrant for her arrest. [Respondent Officer] did not threaten her, he simply explained the process that was going to take place.

It is evident that in these circumstances, [the Respondent Officers] carried out their duties as required and acted in accordance with their prescribed training.

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Were there reasonable grounds for an arrest?

Reasonable Grounds means a set of facts or circumstances, which would satisfy an ordinary, cautious and prudent person to have a strong belief and which goes beyond mere suspicion. The reasonable grounds are the officer's personal belief and subjective in nature.

Both investigating officers who spoke to CW#1 on April 30, 2024, stated they had formed grounds for an arrest. [The Respondent Officers] were dispatched to investigate a landlord tenant related complaint. Contributing to their grounds were the previous occurrences involving [Complainant] and CW#1. In occurrence 24-124197 [Respondent Officer] cautioned [Complainant] for mischief, as she changed the locks to the rental property and refused to give the key to CW#1. [Complainant] agreed to hand the replacement key over to CW#1 and [Respondent Officer] explained to her that if she did not, it would constitute the criminal offence of mischief. In occurrence 24-128197 officers cautioned [Complainant] for mischief, as she was preventing the lawful enjoyment of property by moving and dismantling CW#1's furniture.

[Respondent Officer] stated his initial grounds for belief were based on a review of the reports and briefing by [Respondent Officer]. From the information available to the officers, there were reasonable grounds for the arrest.