

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: 05/10/2024

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 who was the Affected Person complained about an arrest made by members of the [Redacted] Police Service characterizing it as unlawful. The Affected Person reported that he was the person who called 911 for assistance because he was being threatened yet he was the one who was arrested and had his personal effects searched without consent.

Three Respondent Officers were named by the Affected Person. They were the officers present when the Affected Person was released from custody at the scene after being held in custody for 15 minutes.

Unsubstantiated Code of Conduct Allegations

Allegation 1 of 2: Sec. 7 - Unlawful arrest

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.

Allegation 2 of 2: Sec. 19 - Failure to perform duties

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

Sources of Information:

- a) Recordings of 2 calls made to 911 Public Safety Answering Point
- b) Occurrence report collected from the [Redacted] Police Service records management system
- c) Information on court order with no weapons condition enforceable on the Affected Person
- d) Police radio transmissions in relation to the occurrence
- e) Body-Worn Camera and In-Car Camera System records in relation to the occurrence

Allegation 1 of 2: Sec. 7 - Unlawful arrest

Evidence was gathered from the available sources of information. The Affected Person had left the scene of an altercation and was reported to have threatened others with a sharp metallic object, possibly a knife, while making hostile and racially derogatory remarks. The Affected Person was arrested nearby after being identified as the person responsible by the other involved persons. No knife or other weapon was located upon the Affected Person after being searched and the Affected Person was unconditionally released after being in custody for 15 minutes.

The arrest was evaluated with consideration given to the following precedent cases establishing legal standards for the reasonable grounds to believe standard for arrest (*R. v. Storrey*, CanLII 125 (SCC) [1990] and *R. v. Beaver*, CanLII 54 (SCC), [2022]). It was found that in the totality of the circumstances there was particularized evidence to support an objective basis for belief that an offence had been committed by the Affected Person contrary to the Criminal Code of Canada based on compelling and credible information causing there to be sufficient grounds for an arrest to be made. The search of personal effects in the vicinity of the Affected Person at the time of arrest was also lawful because it was conducted in accordance with the authority to search incident to arrest (*R. v. Beaver*, CanLII 54 (SCC), [2022])

Allegation 2 of 2: Sec. 19 - Failure to perform duties

The Respondent Officers' conduct was assessed with consideration given to the duties of a police officer as set out within section 82 of the Community Safety and Policing Act. It was concluded that all relevant duties were discharged promptly and diligently by the Respondent Officers.