

**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: 10/07/2024

Type of Investigation:

Referred to Same Service:

Referred to Other Service:

Retained by LECA:

Service Investigations Referred to:

### De-identified Summary of Complaint

On July 18, 2024, the complainant (compl) reported a Neighbour Dispute (ND) to [REDACTED] and requested his neighbour, Civilian Witness 1 (CW1) remove items that he had leaning on his fence. Witness Officer 1 (WO1) attended the location and spoke to both parties. CW1 agreed to remove the items and both the compl and CW1 agreed to keep the peace. The compl was under the impression that WO1 cautioned CW1 that he could be charged criminally if he continued to destroy the fence, however CW1 denied that he was warned, and WO1 confirmed the warning was never issued.

On July 31, 2024, the compl and his spouse reported another ND incident to [REDACTED] and requested criminal charges against CW1 for damaging his fence. The Respondent Officer (RO) attended the compl and CW1's residences and spoke to both parties. The RO was not able to determine the legitimacy of the survey and further learned that CW1 had no intention (mens rea) to damage the compl's fence. The RO determined that they did not have Reasonable Probable Grounds (RPG) to charge CW1. CW1 agreed to remove his items that leaned on the fence; however, it was taking him longer to do so due to his health.

On August 1, 2024, WO2 attended the residence of both CW1 and the compl. WO2 concluded that CW1 did not have the mens rea to damage the fence of the compl therefore police did not have RPG to lay a charge. WO2 informed the compl that police had now completed their investigation.

## Unsubstantiated Code of Conduct Allegations

Duty-Neglect or Omit - Sec 19 CSPA Reg. 407/23  
Public-Uncivil - Sec 12 CSPA Reg. 407/23

## Decision and Reasons

### Complaint # 1 – Neglect of Duty

The compl alleged that the RO failed to conduct a thorough investigation related to his ND complaint which involved property boundaries and his fence being damaged by CW1.

On July 31, 2024, The RO responded to a ND involving the compl and CW1. The RO conducted a proper investigation when they spoke to all parties and concluded that they did not have RPG to charge CW1 for Mischief. The RO utilized their Common Law authority of discretion defined in R. V. BEAUDRY. The RO made this decision because after speaking to CW1, they determined that CW1 did not have the mens rea to damage the fence. CW1 confirmed this through his interview with PSU and advised that he was under the impression that he was a partial owner of the fence as well.

The compl advised that CW1 had been warned on July 18, 2024, by WO1 that he would be charged criminally if police had to re-attend. CW1 denied being warned by WO1 who also confirmed that was not accurate and no warning had been issued.

### Complaint # 2 – Uncivil

The compl alleged that the RO further behaved discriminatory towards him due to his family's Latino/Indigenous background.

The RO was surprised to learn the compl felt that their investigation was conducted in a dishonest and discriminatory manner. The RO stated that they completed their investigation with honesty, and integrity, without prejudice or discrimination. At no point during the RO's investigation did they display prejudice or breach any of the compl's rights. Due to the lack of participation by the compl, PSU was unable to obtain further details as to why he believed the RO was discriminatory towards his family and there was no reason not to believe that the RO's actions were anything other than appropriate and professional throughout.