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Law Enforcement Complaints Agency Ontario

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 alleges the respondent officer was negligent in not conducting a thorough and fulsome investigation and failed to take the appropriate enforcement action.

The complainant was protesting outside of a bank located in a shopping centre parking lot. The complainant was approached by security guards and was advised that he did not have permission to solicit and was asked to leave as he had approached a bank customer.

The complainant who was on the boulevard approached a second civilian who had parked in the lot near the bank. The security guard approached and stepped in between the two and grabbed the arm of the complaint to stop him from distributing pamphlets which he did not have permission.

The complainant alleges assault, threats and harassment.

The complainant also felt that the boulevard was public property which he confirmed with the city by-law office the next day.

Video was recorded by the complainant after the security guard intervened.

Unsubstantiated Code of Conduct Allegations

19 - Neglect of duty

Decision and Reasons

It was determined that there was no ground for uttering threats and criminal harassment as alleged by the complainant.

The boundary is disputed by the complainant.

It was determined that the security guard did grab the complainants forearm and believed that he was acting under the authority of the Trespass to Property Act as the complainant had parked his vehicle in the mall parking lot and was protesting on the boulevard and approaching customers of the bank in or near the lot.

The RO completed a thorough investigation, obtained a statement from the civilian witness the mall security report, canvased for additional video and received a statement from the complainant. No neglect was found in relation to the investigation.

This decision not to proceed with an assault charge was found to be reasonable under the circumstances. Contact was minimal and minor with no injuries. The security felt he was acting under the authority of the Trespass to Property Act and within the boundaries of the property maintained by the mall management. No neglect was found in the officer's discretion not to proceed with criminal charges.

Unsubstantiated.