

CITATION: Talwar v. Law Enforcement Complaints Agency, 2025 ONSC 5136
DIVISIONAL COURT FILE NO.: 2917/24
DATE: 20250919

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: RISHA TALWAR, Applicant

AND:

LAW ENFORCEMENT COMPLAINTS AGENCY, Respondent

BEFORE: Sachs, Matheson and Shore JJ.

COUNSEL: *Self-represented Applicant*

Maeve Mungovan, for the Respondent

HEARD at Toronto: September 11, 2025, at Ottawa, by video-conference

ENDORSEMENT

[1] Risha Talwar (the applicant) seeks judicial review of the decision of the Director of the Law Enforcement Complaints Agency (LECA) dated August 20, 2024 (the LECA decision). LECA conducted a review of a decision of the Ottawa Police Service (OPS) regarding a complaint made by the applicant about the conduct of two police officers. LECA concluded that the investigation adequately addressed the allegations in the complaint and that it was reasonable for the OPS to conclude that there was insufficient evidence to establish, based on reasonable grounds, that misconduct had occurred.

[2] The applicant's complaint arose from contact between the applicant and police officers when the applicant phoned the Ottawa Police Service Alternate Response Unit. The applicant called for help handling a situation with his former physician, who the applicant said was abusing and harassing him. The applicant alleged that his former physician had yelled at him, kept him on the phone without letting him finish his sentences, was trying to lure him back into his office and encouraged him to get escorts.

[3] In his complaint about the police, the applicant said that when he called the Response Unit, instead of listening to his concerns, he was yelled at, interrupted and hung up on by two police officers. He named RO G. McCoy and RO H. Cooper as those officers.

[4] The applicant's complaint was screened and referred to the OPS for investigation. The investigation included obtaining responses from the police officers who spoke with the applicant, as well as a review of documents including the occurrence report, email communications and tracking logs, legislation regarding the duties of police officers and sectional procedures. Additional information was also obtained from the applicant.

[5] The records obtained in the investigation showed that RO Cooper was not on duty at the relevant time, but another female officer, RO Knox, spoke to the applicant. As a result, the investigation focused on RO Knox instead of RO Cooper.

[6] The investigation report included a detailed summary of the information collected from RO McCoy and RO Knox and other information obtained in the investigation. The report addressed the conduct of those two police officers. The first officer who spoke with the applicant (RO McCoy) said that after listening to the applicant's concerns about his former physician he determined that the concerns were of a non-criminal nature. RO McCoy therefore suggested that the applicant contact the College of Physicians and Surgeons (CPSO). RO McCoy denied yelling or being rude to the applicant. He said that when the applicant became argumentative and unwilling to accept his assessment, his conduct escalated to the point that the officer did terminate the call.

[7] The applicant spoke to the second officer (which the OPS determined was RO Knox) later that day. The applicant alleged that she also yelled, was rude and hung up on him. RO Knox denied the allegations. She said that she also concluded that the applicant's issue should be raised with the CPSO. She said that the applicant was interrupting her, became irate and started yelling at her, and the applicant hung up.

[8] The investigator determined that there were no other witnesses to the above calls and, as a matter of practice, phone calls to the Unit were not recorded. The investigator obtained information from a third officer, RO Cathcart, who was not named as a subject of complaint but was referred to in the complaint document. That officer also communicated with the applicant and was of the view that the concerns should be raised with the CPSO.

[9] The investigator concluded that it was clear that the applicant did not agree with the police officers' assessment that his concerns were not criminal. The investigator found that the investigation showed that the applicant was trying to get a different answer about the problem with his former physician. The investigator said that both officers may have hung up on the applicant but that was after numerous attempts to convince the applicant that it was not a criminal matter. The investigator noted that there was no way to independently determine some of the disputed facts, such as the tone of the telephone calls.

[10] The investigator concluded that there was insufficient evidence to establish the threshold to refer the complaint to discipline, specifically, reasonable grounds to believe that misconduct had occurred.

[11] The applicant disagreed and requested a review by LECA. The applicant raised a number of issues with LECA that were also raised in this Court, including the following:

- (i) that the investigation report ought to have analyzed the conduct of RO Cooper;
- (ii) that the report did not address his allegation that RO McCoy had phoned him from an unknown number and talked in an overbearing and intimidating manner;
- (iii) that the report did not address the fact that when he called the Unit he was in a state of mental distress and felt that he was not listened to by the police officers;
- (iv) that if he had been listened to, the officers would have known that he had already filed a complaint with the CPSO;
- (v) that the investigator did not review all relevant facts and legislation, and made errors as a result, including the above errors; and,
- (vi) that he believed that the OPS had him under surveillance, showing animus against him.

[12] LECA proceeded with the review, which called for a consideration of whether the investigation was adequate and whether the findings were supported by the available evidence. LECA obtained and reviewed the investigative file and considered the issues raised by the applicant.

[13] As set out in the decision, the LECA review concluded as follows:

- (i) the investigation file showed that RO Cooper was not on duty at the relevant time – RO Knox was the female officer who spoke to the applicant – there was therefore no need to address misconduct issues against RO Cooper;
- (ii) the fact of a phone call from an unknown number was noted in the complaint, but not as an allegation against RO McCoy, and calling from an unknown number is not misconduct;
- (iii) the report assessed whether RO McCoy's conduct was generally unprofessional and the absence of the above specific example was not material;
- (iv) RO McCoy and RO Knox acted reasonably in the circumstances and their actions did not constitute a breach of the *Code of Conduct*;
- (v) the investigation adequately addressed the allegations raised in the complaint; and,
- (vi) the OPS reasonably concluded that there was insufficient evidence to find reasonable grounds to believe that misconduct occurred.

[14] The applicant then commenced this application for judicial review. The applicant submits that the LECA decision was unreasonable and procedurally unfair.

[15] The standard of review on this application is reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653. For issues of procedural fairness, the requisite level of fairness must be provided.

[16] Beginning with reasonableness, the applicant focuses on issues with the investigator's report rather than the LECA decision. LECA was not obliged to do a fresh investigation or a new decision. LECA was reviewing the report and asking whether the investigation was adequate and whether the findings in the report were supported by the available evidence. LECA found that they were.

[17] The applicant has not shown that the LECA decision is unreasonable. We have considered all of the applicant's submissions. We focus on the main submissions below.

[18] The applicant maintains that he was interrupted, not listened to and treated unprofessionally, and submits that the investigator wrongly accepted the officers' version of the events. The investigator did not do so. The investigator indicated that he could not verify the statements about the tone of the calls. Even though only one officer said that he had done so, the investigator said that both officers may have hung up on the applicant. LECA applied the accepted law on the test for discreditable conduct, which is an objective test, and also noted that a police officer's legitimate exercise of discretion is not misconduct.

[19] The applicant further submits that different inferences should have been drawn from the evidence. Yet he has not shown that the inferences drawn by the investigator were not available on the evidence or render LECA's decision unreasonable.

[20] The applicant submits that the investigation was not sufficient, again relying on his belief that he spoke with RO Cooper not RO Knox. LECA addressed that issue. The full investigative file was obtained and reviewed. It showed that RO Cooper was not on shift and RO Knox was the officer who spoke with the applicant.

[21] The applicant also continues to rely on the absence of any mention of the call by RO McCoy from an unknown number in the investigative report. LECA addressed that issue as well, saying that the original complaint noted that call but it was not clearly identified as an allegation against RO McCoy and calling from an unknown number is not misconduct.

[22] The applicant further submits that LECA and the investigator ought to have addressed his allegations that RO Cathcart was overbearing in his phone call with him. Yet the applicant did not list RO Cathcart as an officer he was complaining about in his complaint form.

[23] The applicant submits that there were insufficient reasons for the decision, criticizing both the investigation report and the LECA decision. He submits they did not recount his complaints in sufficient detail or provide sufficient and coherent reasons for rejecting his allegations.

However, as set out in *Vavilov* at paras. 304-305, reasons for decision need not refer to everything. The reviewing court must consider the submissions and record before the decision-maker, and the materiality of any omission to the decision rendered, to decide if an omission renders the decision unreasonable. None of the omissions raised by the applicant do so.

[24] In this Court, the applicant raises delay for the first time. He submits that the investigation was not completed in a timely way. Having failed to raise this in the LECA review, we do not agree that it can render the LECA decision unreasonable.

[25] The LECA decision is based on internally coherent reasoning and is justified in light of the legal and factual constraints that bear on it. Having considered all of the applicant's submissions, we are not persuaded that it is unreasonable.

[26] There is then the issue of procedural fairness. Some of the applicant's submissions about procedural fairness overlap with the above issues and analysis and need not be addressed again. In addition, the applicant submits that the process was unfair because he did not receive the responses from the police officers that were promised to him, because he was told by a police officer that there were audio recordings of the phone calls, which should have been reviewed, and because there was a reasonable apprehension of bias regarding the investigator.

[27] There is no issue that procedural fairness is determined with regard for the factors in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817. The "duty of procedural fairness in administrative law is "eminently variable", inherently flexible and context-specific": *Vavilov*, para. 77.

[28] For the first two issues, the applicant does not have an adequate factual foundation to advance his arguments. The record does not provide a foundation for the submission that the applicant was promised the police officer's notes responding to his complaint, nor is there a foundation for the submission that he was told that there were audio recordings. Even if the applicant was told there were recordings, the investigation showed that there were none. Further, the applicant received a detailed summary of the police officer responses to his complaint in the investigation report.

[29] There is then the allegation of bias, which, if shown, would be a breach of procedural fairness. The test is agreed: what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude.

[30] The applicant again relies on his allegations about the nature of the phone calls, the disagreement about which female officer he spoke with, the suggestion that the investigator accepted the police officers' version of events, the allegation that more facts should have been gathered and a more detailed report provided, and the submission that he should have been provided with the officers' written responses. In addition, on this issue the applicant relies on the practice of not recording the phone calls and on his assertion that he was under surveillance (which also does not have an adequate foundation).

[31] It is not clear that bias was raised before LECA, although the above issues relied upon were. Even if it was, the applicant has not established a reasonable apprehension of bias before this Court.

[32] This application is dismissed. There shall be no order as to costs.

Sachs J.

Matheson J.

Shore J.

Date: September 19, 2025