

**IN THE MATTER OF:**            *The Law Enforcement Review Act*  
**Complaint No. 2004/271**

**AND IN THE MATTER OF:** **An Application pursuant to s. 13 of *The Law Enforcement Review Act*, R.S.M. 1987, c.L75.**

<b>BETWEEN:</b>	)	
	)	
<b>L.L.,</b>	)	<b>Self-represented.</b>
	)	
<b>- and -</b>	)	
	)	
<b>CONSTABLE C.B. and</b>	)	<b>Mr. William Haight</b>
<b>CONSTABLE E.D.</b>	)	<b>for the Respondents.</b>
	)	
<b>Respondents.</b>	)	<b>Mr. Sean Boyd</b>
	)	<b>for the Commissioner.</b>
	)	
	)	<b>Hearing Held: October 10, 2007</b>
	)	<b>Decision Date: November 2, 2007</b>

**Pursuant to section 13(4.1)(b) of the Act, I order that the ban on the publication of the Respondents’ names continue.**

**SANDHU, P.J.**

[1] The complainant, L.L., made a complaint under *The Law Enforcement Review Act* (‘the Act’) to the Law Enforcement Review Agency regarding the conduct of police in their investigation of a complaint of assault. The Commissioner, after reviewing and investigating the complaint found the evidence related to the complaint to be insufficient to justify a public hearing, and declined to take any further action on the complaint. This is a review of the Commissioner’s decision under s. 13 of the Act.

[2] The initial incident leading to the complaint occurred on September 9, 2004. The complainant reported that he had been assaulted by a male on the street. There were 2 other young males involved and a gun may have been present. He was able to escape and reported the

NOTE: For the purposes of distribution, personal information has been removed by the Commissioner.

matter immediately to the police. Police arrived about 2 hours later at his home and investigated the matter.

[3] The complainant's concerns were that the police did not take him seriously, the officers abused their authority, no charges were ever laid and there was an undertone of racism by the police.

[4] The police essentially denied any impropriety and were unable to lay charges as there was no identification of the alleged assailants.

[5] The entire incident and its evolvment appears to have been heavily influenced by the fact that the complainant has a heavy accent and English is not his first language.

[6] The complainant submitted a written complaint to the Commissioner on September 21, 2004.

[7] This matter has come to this late conclusion as proceedings have been held up in excess of one year by the inability of the complainant to retain counsel. Numerous adjournments have occurred since February of 2006 when the matter was received by me for review, as a result of this inability.

[8] The matter came for final hearing on October 10, 2007 when the complainant was once again without counsel. A further adjournment was refused and the matter proceeded to argument.

[9] Section 13(1) of the L.E.R.A. is the section of the legislation that authorizes the Commissioner to decline to take further action on a complaint on one of three grounds:

- (1) that the subject matter of the complaint is frivolous or vexatious or does not fall within the scope of section 29 (the section defining disciplinary defaults);
- (2) that a complaint has been abandoned; or

(3) that there is insufficient evidence supporting the complaint to justify a public hearing

[10] In his letter dated August 2, 2005 declining to take further action on the complaint, the Commissioner stated as follows:

“On review of this matter, there is no direct evidence from any independent witness to support your complaint. You feel the officers did not respond properly and conduct a thorough investigation of your complaint, however they did respond to your call and feel they did take the appropriate action given the information they were supplied. Although there is a difference of opinion on what was reported, I do not feel this is sufficient to justify taking this matter to the next level. Therefore, pursuant to section 13(1) of the Law Enforcement Review Act, I must decline from taking any further action on this matter”.

[11] In reviewing the entirety of the Commissioner’s file it is clear to me that a thorough investigation of the complainant’s claims occurred. There is in fact a lack of sufficiency of evidence upon which a Judge could not make a finding that the complainant seeks.

[12] As such the application is dismissed.

DATED this 2<sup>nd</sup> day of November, 2007 at the City of Winnipeg,  
in Manitoba.

---

F. SANDHU, P.J.