

**Rebuttal to Probationary Constable Performance Evaluation Report (PCS-066P)****By: JACK, Michael (former OPP badge # 12690)****Report Month: 1 & 2****Evaluation period: 09 January 2009 to 09 March 2009****The evaluation was overdue by a month and a half.****Police Orders/Procedures/Technical Skills** Rating: Meets Requirements

While I did put together for the detachment's use and reviewed the Niche RMS manual, due to the size and complexity of the system it was impossible for me to learn it in such a short time frame. Just the system manual itself is a few hundred pages long.

**Police Vehicle Operation** Rating: Does Not Meet Requirements

On January 30, 2009, I was working a day shift. I was accompanied by Cst. Jeff Gilliam.

SP09020239	OPP	Motor vehicle collision	2009/01/30 17:41	Complete - solved (non-criminal) - LINDSAY RD between CHEMONG RD and CREAMERY RD, SMITH-ENNISMORE-LAKEFIELD ON Canada (Area: 1044, Duty locn: 1105, Beat: 30b, ESZ: 80968) Reportable 11-09-00151 / PC GILLIAM 12191 / CRUISER IN THE DITCH, MINOR DAMAGE TO VEHICLE AND / ROADSIGN, SEE TR.
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In an attempt to stop a speeding motorist I misread the U-turn and put the nose of the cruiser in the ditch with no resulting damage to the cruiser. A passing motorist stopped to render assistance to us by offering to pull the cruiser out of the ditch. The motorist used his own personal rope to tie to the rear axle of the cruiser which was still up on the shoulder of the road. Cst. Gilliam and myself got back into the cruiser before the motorist began pulling the cruiser out. During the pull, the cruiser struck a metal cautionary road sign in the ditch and sustained damage. Sgt. Flindall attended the scene of the accident. As a result of the after-the-fact accident I subsequently received a negative in-house personal documentation known as a 233-10 (Exhibit 14) stipulating my "inadequate operation of police vehicle" and was negatively rated in the *Police Vehicle Operations* section in my Month 2 performance evaluation (Exhibit 15). I was content with receiving the negative documentation as I believed I was at fault and assumed the responsibility for the accident. However, as I learned later not only was I accompanied by an officer (Cst. Gilliam) who was senior to me and who was familiar with the OPP policy to call a tow truck in situations like that but did not follow it, but I was the only one to receive the negative documentation for the accident. Cst. Gilliam was not documented despite his seniority and his familiarity with the proper procedure to deal with the situation. On the date of the accident, I was 12 days on the job while Cst. Gilliam was approximately 2 years on the job. Furthermore, my

coach officer Cst. Filman did not discuss the accident with me on the day it happened apart from uttering something to the effect that it was not his coaching. He did this in the Constables' office at the Peterborough Detachment later that day. Noteworthy is the location of Cst. Filman's comment that it was not his coaching – in the Constables' office. It was made in the hearing and presence of other officers thereby subtly poisoning my work environment. Comments like these that are made in the hearing and presence of others have a cumulative effect of tainting one's perception of another. Cst. Filman later mentioned to me that the accident was not a big deal and that he wrote off 5 cruisers during his first two years on the job. Around mid-March 2009, after I had been served with the negative 233-10 document (Exhibit 14), S/Sgt. Campbell approached me in the Constables' office and said that he believed that the responsibility should have been shared. Why was it not then? After all, not only Cst. Gilliam was two year senior to me, but he was also the officer in charge of the accident. In reflection, I conclude that Cst. Gilliam was born and raised in the City of Kawartha Lakes, which is bordering Peterborough County on the west, was not a minority and more so not a minority that spoke with a thick accent. Figuratively speaking, he was not a "Crazy Ivan". Furthermore and hypothetically speaking (at this early stage of my probationary period), if one were going to try to terminate a recruit the most appropriate way would be to document all negative incidents and where possible issue negative 233-10s.

**Oral**

Rating: Meets Requirements

On February 19, 2009, I was working a night shift at Peterborough Detachment. Cst. Filman and I were dispatched to a landlord tenant dispute call (SP09034153.) The weather was appalling. It was a stormy and snowy evening. At the scene Cst. Filman told me to speak with the tenant while he went to speak with the landlords. As I was speaking with the tenant Cst. Filman called me aside and directed me to place the tenant under arrest for an offence of "Uttering Threats to Damage Property" contrary to Sec. 264.1(1)(b) CC. Though I had no grounds to arrest the tenant, I complied with Cst. Filman's order and arrested the tenant. At the detachment I interviewed the landlords (the interview was audio-video recorded) while Cst. Filman watched the interview on a TV set in a separate room. Before I finished the interview Cst. Filman told me that he had got what he needed to lay the "Uttering Threats to Damage Property" criminal charge against the tenant. Subsequent to the event, Cst. Filman positively documented me in the *Oral* section in my Month 1 & 2 performance evaluation (Exhibit 15) for laying an appropriate charge based on the information received. The point here is that first, I arrested the tenant following Cst. Filman's order prior to forming the grounds for the arrest and the "appropriate" charge myself. Second, Cst. Filman began writing the Crown Brief Synopsis, laid the charge and entered my name as an investigating and charging officer in the Niche Records Management System (RMS) while I was still interviewing the second landlord. Third, the charge was subsequently tossed out of court on the grounds of "No Reasonable Prospect of Conviction" and though no one ever reprimanded me for "laying" the charge I had to bear the shame of "laying" the inappropriate charge. Fourth, as I learned much later, the landlords' actions of purposefully denying access to the tenant to retrieve the tenant's personal property provoked the tenant to react angrily and hastily and utter comments that were retaliatory in nature. The tenant should and ought to have never been arrested, detained and charged. The landlords ought to have been the ones charged. The only applicable criminal charge should have been "Forcible Detainer" contrary to Sec. 72 (2) CC (Exhibit 64). I was less than a month on the job at the time. Cst. Filman was 7+ years on the job at the time.

**Flexibility**

Rating: Meets Requirements

I would have no problem answering the phones and the front door should have I been advised to do so and taught as well how to do that properly. I was so new to the detachment with so many things coming my way that it was only natural for me to tackle one thing at a time properly. It was a surprise for me to see the "Does Not Meet Requirements" rating because the basis for the rating was derived literally from my first 2-3 weeks of work at the detachment. After approximately a month on the job, I picked up the pace. What was second nature to my co-workers was not yet to me at the time, but I was learning. Instead of being advised of my responsibilities and being taught the basic protocol for answering the phones and tending to the walk-ins I was left to find that out on my own and was subsequently negatively rated for allegedly not fulfilling my responsibilities frequently enough. It would have been proper to have my coach officer tell me to accompany him when he dealt with a walk-in.