

Issues Arising from Will-say of Michael Jack

Page	Line No.	Basis of Exclusion
3-4		These pages contain irrelevant personal information. Reference to Richard Nie as (Big Brother) is frivolous and vexatious.
5	13	The comment "They lied to me" is a conclusion.
5	26-31	Double hearsay evidence from the representative of the Applicant.
6	20-22	The conclusion that the nickname lighted "a flame of racial hatred" is opinion evidence and a conclusion.
8	6-8	The conclusion that comments were made in a particular location so as to create a poisoned work environment is a conclusion.
8	14-19	The sentence commencing with "In reflection, I conclude..." is a conclusion. The remaining lines are speculation
8	36-41	The fourth point addressed by Mr. Jack appears to be reiterating opinion evidence offered by Mr. Tapp in Exhibit 64 of the Applicant's List of Exhibits. Mr. Tapp cannot act as a representative and provide "opinion evidence" as this undermines the principle of the independence of a witness providing opinion evidence.
9	6-8	The sentence commencing with "I believe it is incumbent" is a conclusion.
10	13 & 17	"vexatious and tantamount to explicit harassment" are conclusions.
10	22-24	This paragraph is irrelevant.
11-13	30-4 (of p. 13)	The information in these paragraphs is irrelevant.
13	29-34	The statement here is conclusion. Line 33-34 –the sentence beginning with "That was..." is opinion.
14-15	2-9 (of p. 15)	This information is irrelevant.
15	33-40	This is hearsay evidence and opinion evidence of Mr. Tapp. As noted above, Mr. Tapp is acting as representative and providing opinion evidence.
16-17	26 to 3 (of p.	This information is irrelevant.

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Page	Line No.	Basis of Exclusion
	17)	
17	8-12	The description of the accusations as “vexatious” and “tantamount to explicit harassment” are conclusions.
17	35-37	This sentences contain personal information that is irrelevant.
18-19	44-6 (of p. 19)	This contains hearsay evidence of Mr. Tapp. Lines 1-6 of page 19 are speculative and not fact.
19	28	The statement is a conclusion.
19	35-37	This sentence contains a conclusion that Mr. Jack was subjected to “harassment and blatant discrimination”.
21	28-29 32-34	The description of Mr. Flindall is frivolous and/or vexatious. Lines 32-34 regarding the malicious fabrication of the charge is a conclusion. Such a conclusion would be beyond the scope of the Tribunal’s jurisdiction to make.
22	29-36	This paragraph contains conclusions. The statements relating to Mr. Tapp’s HTA charges are not relevant.
24	22-25	This is a conclusion.
26	19-23	This is a conclusion and is irrelevant.
28	27-30	This is a conclusion which contains legal terms (fraud).
30	Whole page	This page simply raises questions which are not evidence and call for a conclusion. This page contains conclusions that are conclusions of mixed fact and law (i.e. negligence).
31	7-8 & 13	“false, frivolous etc.” these are conclusion. Line 13 references reprisal which is a legal terms under the Code.
32	10-11	This is hearsay evidence from Mr. Tapp and is not relevant.
32	40-41	This is personal information and irrelevant.
33	10-12	This is a conclusion and speculation.
34	19 to end of p.	Mr. Jack appears to be using OPP performance evaluation standards to rate Mr. Nie, his coach officer. This is irrelevant, frivolous and vexatious.
35	15-16	“as a python looks at its prey...” is a frivolous and/or vexatious comment aimed at colouring the character of Mr. Nie.

Page	Line No.	Basis of Exclusion
37	28	Line 28 is a conclusion.
38	1-3	This sentence is a conclusion.
38	8-9	The use of the words "vexatious", "false" and "bad faith" are conclusions.
38	19-20	The description of the work environment as "hostile and poisoned" are conclusions.
38-40	21-last line of page 40	The Applicant attempts to review the report and arrive at conclusions with respect to the implied meaning of the report.
41	34-35	The conclusion that the person who filed the report did so contrary to the PSA is a conclusion; irrelevant and beyond the scope of the Tribunal's jurisdiction to make a finding upon.
42	20-26	The nose blowing incident is irrelevant.
43	15	The reference to "brazen and bare faced discrimination" is a conclusion.
43	45	The use of the phrase "Big Brother", in parenthesis, is an attempt to colour the character of Nie and, as such, is frivolous and vexatious.
44	33-35	This sentence calls for a conclusion with respect to the character of Nie. The use of "Big Brother" is frivolous and vexatious.
44	38-41	This is evidence of Mr. Tapp which is hearsay and is irrelevant. The reference to Exhibit 95- Mr. Tapp's Minutes of Settlement with the OPP is irrelevant and is a breach of the confidentiality terms of the settlement.
46	17-20	This paragraph is a conclusion with respect to discrimination. It also purports to introduce evidence of a "syndrome" without a qualified expert.
46	26-34	These facts are irrelevant.
46	43-44	This is conclusion with respect to the state of mind of Nie and is therefore opinion evidence.
47	11-28	This contains evidence with respect to an unrelated incident and individual and, as such, is irrelevant. It also contains hearsay evidence from Mr. Tapp and conclusions for which the Applicant has no direct knowledge or evidence.
47	35-39	This information is irrelevant.

	Basis of Exclusion	
Page	Line No.	
47-48	42-7 (of p. 48)	This contains double hearsay. The information is not relevant. There are also statements made with respect to the state of mind of various individuals, including unidentified individuals, which is opinion evidence. Reference to Exhibit 95 is irrelevant and is in breach of the confidentiality terms of the minutes of settlement.
50	Paras 3-5	These paragraphs are not relevant.
52	3-5 8-9	This is a conclusion regarding neglect of duty under the PSA. This is irrelevant and beyond the scope of the Tribunal's jurisdiction to make findings upon. Lines 8-9 are also speculation.
53	12-36	This is conclusion/speculation.
56	3-13	This paragraph contains conclusions. The statements regarding Mr. Tapp are not relevant.
57	11-19	The information provided by the Applicant falls into the following categories: <ul style="list-style-type: none"> - medical opinion evidence (i.e. chronic fatigue syndrome and post traumatic street - conclusions (re: poisoned work environment, discrimination, harassment) all of which cannot be proffered by the Applicant.
58	2-13	Mr. Tapp has disclosed his Minutes of Settlement with the OPP to Mr. Jack which is a breach of the confidentiality terms of the Minutes of Settlement. There is also hearsay evidence being provided by Mr. Tapp which is not relevant to this Application.
58	14-25	Mr. Jack is providing medical opinion evidence which cannot be offered by an unqualified expert witness.
60	15-16	This statement is a conclusion with respect to credibility.
61, 62, 63, 64	1-2	This is a conclusion.
65	4-10	This statement calls for a conclusion regarding Mr. Filman's state of mind. The following statements are not relevant.
66		The entire page relates to an irrelevant anecdote with respect to use of force and makes a conclusion of mixed fact and law with respect to the conduct of Filman.
67-68		These two pages contain conclusions which are not evidence and are properly left to the trier of fact.

Michael Jack v. Her Majesty the Queen in Right of Ontario as represented by the Ministry of Community Safety and Correctional Services and operating as the Ontario Provincial Police.

ANTICIPATED EVIDENCE OF: Michael Jack

My background:

My name is Michael Jack. The correct spelling of my given name (in Latin letters) is Mikhail. However, it has never been used in any documents. I have always used Michael. My former surname in Russian, before it was "changed" to Jack, is (in Cyrillic) Жак (pronounced properly Jacques). I am a Russian Jew. I was born on December 16, 1972, in St. Petersburg (formerly Leningrad) in Russia. I lived in St. Petersburg for 17 years until February 1990 when our family (my mother, my father and I) immigrated to Israel. From February 1990 until September 2000 I lived predominantly in Israel, where I attended a nautical high school (Exhibit 2 and Exhibit 72) and college (Exhibit 3) and served in the Israeli Navy for 3 years from May 1993 until April 1996 (Exhibit 4). From May 1996 until July 1997 I worked in the Israeli Merchant fleet – I lived and worked on a number of different merchant ships wherever they sailed (Exhibit 5). From July 1997 until September 2000 I worked for Intel Electronics Ltd. (Exhibit 6). From September 1997 until September 1998 I lived and worked in the USA as part of my job related training. From September 1998 until September 2000 I lived and worked in Israel. In September 2000 I immigrated to Canada. I have lived in Peterborough, Ontario permanently from September 30, 2000. From January 2001 until August 2006 I studied and worked at Trent University in Peterborough, during which time I earned two degrees – Bachelor of Science in the Honours Program in Computer Science (Exhibit 7a) and Master of Science in the Applications of Modeling in the Natural & Social Sciences (Exhibit 7a). I graduated from Trent University with a 92.6 cumulative average (Exhibit 7b) and during my schooling I was the recipient of multiple awards and prestigious scholarships (Exhibit 7c) for my academic achievements, teaching assistance, interpersonal and leadership abilities, and research accomplishments. From January 2007 until July 2008 I worked as a course instructor in the Computer Science department at Trent University.

In August 2007 I met the Chief of York Regional Police, Armand La Barge, in the Trent University's weight lifting room. At the time, I was teaching Computer Science courses on a contract basis and was looking for a permanent job where I could maximize my skills and cash in upon the knowledge and skills acquired over the 35 years of my life. At the time, the Chief was completing his Master's degree in the Native and Canadian studies at Trent University. During a few workouts together we talked a fair amount and among other things discussed our traveling and academic experiences, books we read in common, spirituality, religion, physical fitness and firearms. In one of the conversations towards the end of August the Chief said that I had some great qualifications. He further suggested that modern police services were looking for people with multilingual and computer skills and that I was a good candidate for becoming a police officer. I did not know much about policing at the time but the Chief presented himself to me as an erudite and wise man and literally inspired me and gave me the encouragement to re-evaluate the direction of my life. I decided then and there that I would pursue a career in policing (Exhibit 11b).

In March 2008 I obtained my O.A.C.P. Certificate of Results (a mandatory set of tests required to be passed by an applicant to qualify for applying with any police service in the province of Ontario) through the Ontario Provincial Police (OPP) (Exhibit 9) and on April 4, 2008, I applied to the York Regional Police (Exhibit 11a) and the Ontario Provincial Police. A couple of weeks later I also applied to the Halton Regional Police (HRP). The OPP were the first one to get back to me and invite me for an interview.

On May 29, 2008, I was interviewed by two recruiting sergeants at the OPP headquarters in Orillia – Sgt. Steve Haennel and a female sergeant whose name I do not remember. Some 20-30 minutes after the interview, when I was en route to Peterborough, I got a phone call on my cellular phone from Sgt. Haennel who told me they believed I was a good fit for their organization and they had a psychological assessment ready for me on the following day if I was interested, to which I immediately agreed. He also said that I could come in dressed casually.

On May 30, 2008, I successfully passed my psychological assessment and informed Sgt. Haennel that I had been scheduled for an interview with the Halton Regional Police on June 6, 2009, and asked him for advice on my course of action. Sgt. Haennel said that while he could not tell me what to do, he said, "We want you" and reassured me that they were going to put my application on a fast track. There was a feeling of trust in what he was saying to me so I cancelled my interview with the HRP and informed Sgt. Haennel about it via email the following day. I later learned from Cst. Alice Jolicoer, who conducted my background investigation, that Sgt. Haennel personally approached her and put my case on the top of her "to do stack" asking her to investigate me first. My background investigation was completed by mid-July.

On July 24, 2008, I received and signed an offer of employment from the OPP (Exhibit 12) and was advised of my posting at the Peterborough Detachment.

On July 27, 2008, I got a call from the York Regional Police recruiter Cst. Fisher (905-830-0303 ext. 6729) inviting me for an interview, which I turned down due to the fact that I had already been hired by the OPP.

For almost eight years that I studied and worked at Trent University, which is a multicultural environment comprised of students and faculty from all over the world, there has not been a single incident where I felt I was discriminated against or harassed based upon my strong Russian accent, place of origin, ethnic origin, racial status, creed, or the fact that I was not originally from the Peterborough area. I was valued and appreciated for my work ethic, initially as a student (Exhibit 7d, page 3) and then as an instructor in the Computer Science department (Exhibit 10a). During my time at Trent University it never dawned on me that outside of the University boundaries in the Peterborough area I would encounter a differential treatment. I did not know what I was getting myself into when I was posted at the Peterborough Detachment. Not only did I have no opportunities at the Peterborough Detachment to apply my multilingual, multicultural and computer skills (which were the very reasons I chose the occupation of a police officer based upon the suggestion of a Police Chief that my skills constituted great assets in modern policing), but I was also subjected to the acts of racial harassment and racial discrimination because I was highly educated, was not a local, was not a Roman Catholic, was a Russian Jew and to top it off spoke with an accent.

From September 1, 2008, until November 27, 2008, I attended the Ontario Police College in Aylmer from which I graduated with a 91.6 cumulative average (course average was 81.5; number of recruits approximately 470) (Exhibit 13a). At the college I was the recipient of the 100% Ontario Police Fitness Award (only 5 recruits (1%) received the award) (Exhibit 13b). From November 30, 2008, until January 9, 2009, I was trained at the Ontario Provincial Police Academy (Exhibit 13d). At the academy I was the recipient of a "Top Dog" award for being the best in my class (110 recruits) in handgun use based on draw speed, shooting speed and accuracy (Exhibit 76).

While at training at the Ontario Police College I was assigned a coach officer – Constable (Cst.) Jennifer Payne. This assignment was done via e-mail. She was to coach me once I reported to the Peterborough Detachment. My training continued at the Ontario Provincial Police Academy in Orillia Headquarters. I was there that I was re-assigned to another coach officer – Cst. Shaun Filman as Cst. Payne was seconded to the Peterborough Detachment Crime Unit for a term of six months as of December 2008.

From January 12, 2009, I was stationed at the Peterborough Detachment as a Probationary Constable (Exhibit 13e). From January 12, 2009, until August 20, 2009, I worked on Platoon 'A' shift. My shift supervisor was Sergeant (Sgt.) Robert Flindall and my coach officer was Cst. Filman. From August 21, 2009, until December 15, 2009, I worked on Platoon 'D' shift. My shift supervisor was Sgt. Peter Butorac and my second coach officer was Cst. Richard Nie. Staff Sergeant (S/Sgt.) Ron Campbell was the Operations Manager from before I reported to the Peterborough Detachment until late November 2009. Inspector (Ins.) Mike Johnston was the Detachment Commander from before I reported to the Peterborough Detachment until October 2009.

Background on some of the involved Officers at the Peterborough Detachment:

Sgt. Robert Flindall (my first shift supervisor) was born and raised in Peterborough County. Sgt. Flindall has been an OPP officer for approximately 11.5 years. After becoming a police officer he was posted somewhere up north and transferred to Peterborough circa summer 2008 assuming the role of the Platoon 'A' shift supervisor in the rank of a Sergeant. Sgt. Flindall's father, Inspector Bill Flindall, was the Peterborough Detachment Commander between June 2002 and spring 2004. Sgt. Flindall is approximately 36 years old. Sgt. Flindall's wife, Cst. Tanya Flindall, is a Constable with the City of Kawartha Lakes Detachment. Cst. Flindall is a sister of the Sgt. Trevor Banbury. Thus, Sgt. Flindall and Sgt. Banbury are brothers-in-law.

Sgt. Trevor Banbury was raised in Peterborough County. Sgt. Banbury was originally with Peel Regional Police Service before joining the OPP. He has been an OPP officer for approximately 10 years. Sgt. Banbury was Platoon 'C' shift supervisor. Sgt. Banbury's father was a sergeant at the Peterborough Detachment. Sgt. Banbury is in his mid/late thirties.

Cst. Shaun Filman (my first coach officer) was born and raised in Peterborough. Cst. Filman has been an OPP officer for approximately 7 years. After becoming a police officer he was posted in the City of Kawartha Lakes Detachment for approximately a year and then transferred to the Peterborough Detachment. Cst. Filman is a son of a retired OPP officer Cst. Brad Filman of the Peterborough Detachment. Cst. Filman is approximately 29 years old.

Cst. Jennifer Payne (my supposed to be "go-to" mentoring officer) was born and raised in Peterborough County. Cst. Payne has been an OPP officer for approximately 11 years. After becoming a police officer she was posted in the City of Kawartha Lakes Detachment and then transferred to the Peterborough Detachment. Cst. Payne is approximately 37 years old.

Cst. Jamie Brokley was born and raised in Peterborough County. Cst. Brokley has been an OPP officer for approximately 9 years. After becoming a police officer, he was posted at another detachment before transferring to Peterborough County and becoming the common law spouse of Cst. Payne. Cst Brokley is approximately 32 years old.

Cst. Payne and Cst. Brokley live together and they have two daughters together. Cst. Brokley worked as a Detective Constable (D/Cst) in the Peterborough Detachment Drug Unit. In April 2009 it became publicly known that between sometime in the fall 2008 and April 2009 Cst. Brokley was having an affair with Cst. Stephanie Mackaracher, who worked on the Platoon 'D' shift. Following the announcement of the affair, Cst. Payne, Cst. Brokley and Cst. Mackaracher booked approximately month and a half off work each to sort things out, after which Cst. Payne returned to work on the Platoon 'A' shift, Cst. Brokley was transferred from the Drug Unit to work as a uniform officer on the Platoon 'C' shift, and Cst. Mackaracher worked for a couple months on the Platoon 'D' shift until her transfer to the Barrie Detachment in July 2009.

Inspector (Ins.) Michael Johnston was raised in Peterborough County. He became the Staff Sergeant of Northumberland County OPP with a desire to return to Peterborough County. Cst. Lloyd Tapp is personally aware of this information since he worked with this Staff Sergeant while stationed at Northumberland between October 2001 and March of 2003. When he did get promoted to the rank of Inspector he received his much awaited transfer to the Peterborough Detachment and that was in mid 2007.

In October 2009, when Ins. Johnston left the Peterborough Detachment, S/Sgt. Ron Campbell assumed the role of the detachment commander while still maintaining his rank of Staff Sergeant. Sgt. Flindall was temporarily promoted to the rank of Acting Staff Sergeant (A/S/Sgt.) to assume the role of Operations Commander. Cst. Payne was temporarily promoted to the rank of Acting Sergeant (A/Sgt.) to assume the role of the Platoon 'A' shift supervisor.

Sgt. Flindall and Cst. Payne are good friends. At times, Sgt. Flindall and Cst. Payne would spend hours in the Sergeants' office talking behind closed doors. Sgt. Flindall once said that Cst. Payne was his number one

officer. When Sgt. Flindall assumed the role of the Operations Manager, he made Cst. Payne Platoon 'A' shift supervisor despite the fact that there were two more senior officers on the Platoon 'A' shift at the time – Cst. Mary D'Amico and Cst. Robert Paradis. Note: Cst. D'Amico has been an OPP officer for over 17 years and had also been the Platoon 'A' shift Second-In-Command (2IC) under Sgt. Flindall. Cst. Paradis had been a police officer (first with Metro Toronto and then with the OPP) for over 23 years. Sgt. Flindall would call Staff Sergeant (S/Sgt.) Campbell "S/Sgt. Beaker" after the Muppet Beaker behind S/Sgt. Campbell's back.

Cst. Richard Nie (my second coach officer, the Big Brother) was born and raised in Peterborough. Cst. Nie has been an OPP officer for approximately 9 years. After becoming a police officer he worked in the Highway Safety Division at Downsview Detachment in Toronto for approximately 3 years and then transferred to the Peterborough Detachment. Cst. Nie is approximately 37 years old. Cst. Nie is friends with Cst. Payne. Cst. Nie and Sgt. Flindall are neighbors. They literally reside one house apart from each other.

Cst. Trevor Pitts was born and raised in Peterborough. Cst. Pitts has been an OPP officer for approximately 12 years. After becoming a police officer he worked in a northern detachment for approximately 4 years and then transferred to the Peterborough Detachment. Cst. Pitts is approximately 34 years old.

Cst. Melinda Moran is from Peterborough County and her boyfriend/fiancé is a Constable with the Peterborough Lakefield Police Service.

Cst. Mary D'Amico is originally from Peterborough County and is a resident of the county.

Cst. Jeff Knier and his wife, Cst. Amanda Knier, were raised in Peterborough County and are residents of the county.

Cst. Mike Davidson was raised in Peterborough County and is a resident of the county.

Cst. Dan Gay is a resident of Peterborough County.

Cst. Mike Gravelle and his brother Cst. Marc Gravelle were raised in Peterborough and are residents of the county.

Cst. Daniel Clark was born and raised in Peterborough County and is a resident of the county.

Cst. Paul MacNeil was born and raised in Peterborough County and is a resident of the county. His father is also a retired OPP officer of rank.

Cst. Curtis Little was raised in Peterborough County and is a resident of the county.

Cst. Ryan Unsworth is another Peterborough County local. He was a cadet at the Peterborough Detachment. He was hired by the Peterborough Lakefield Police Service and on the same day given an offer of employment with the OPP and promised Peterborough Detachment and so is now with the Peterborough County OPP.

Cst. Jeff Gilliam is resident of the City of Kawartha Lakes County. He transferred from Peterborough County to City of Kawartha Lakes County in July 2009.

There are probably more officers at the Peterborough Detachment who are originally from Peterborough County and residents of the county that I am not aware of.

My statement:

I believe that my first coach officer Cst. Filman was not doing his job with respect to coaching me properly from the very beginning. Knowing that my first posting was going to be Peterborough Detachment I attended there in late July 2008 (shortly after accepting the offer of employment) to introduce myself. It was there that I met Cst. Marc Gravelle at the front counter who offered to take me on ride-along patrol. I subsequently went on two ride-alongs, during which for the first time in my life I was exposed to police work. The first ride-along was with Cst. Marc Gravelle and the second one was with Cst. John Pollock. It is noteworthy to mention that at the end of each ride along the officers dropped me at my home, which was incidentally located in their respective patrol zone (Zone 3). I invited both officers inside for a few minutes to offer them some refreshments and to simply show them where I lived. Incredibly, a few days later my reference contacts started receiving phone calls from Orillia and being questioned whether I was a "gun-happy" person. Once I learned that, I phoned Orillia and asked them what was going on. I was told it was a follow up on my background investigation and it had no relation to officers visiting my home. They lied to me.

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It was during my schooling at the Ontario Police College (Sept to Dec. 2008) that I received information that my coach officer was supposed to be Cst. Jennifer Payne. I looked forward to meeting my coach officer as many of the recruits I interacted with already talked about who their coach officer was and some even had met with them. I learned there were three other recruits attending Peterborough Detachment - Cst. Dan Gay, Cst. Michael Davidson, and Cst. Amanda Knier. Upon speaking with them I found out that they had met with their coach officers in person already, whereas I had not even been offered an opportunity to meet with my coach officer.

In mid-December 2008, while at the Ontario Provincial Police Academy (in Orillia), I received an email from S/Sgt. Campbell that my coach officer was going to be Cst. Filman. I emailed Cst. Filman twice, but he never responded to me. Though I felt a little left out and uncomfortable I did not realize the gravity of what was to come. Later on when I was shared information from Cst. Kevin Duignan in October 2010 that the nick name of "Crazy Ivan" was given to me prior to me commencing duty at the Peterborough Detachment (Exhibit 69) I realized why I had been left out. Furthermore, according to Constable Tapp I later learned that ever since he started at the Peterborough Detachment he had always seen or heard of officers leaving the detachment to meet their recruits. While he was Second-in-Command (during 2004) on 'A' platoon, his shift supervisor, Sgt. Butorac advised the platoon officers, during a shift meeting that a coach officer had to attend the graduation ceremony in Orillia to welcome the new recruit. Sgt. Butorac indicated that this was mandatory as per Non-Commissioned Officers (NCO) directives. In reflection and much later on I realized that it was after those two "ride-along" patrols that I was nick named "Crazy Ivan". I reasoned this based on the following:

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- After each of these two "ride-along" patrols the officers dropped me off at my residence since it was in their patrol zone. In both instances I invited both officers inside my residence for refreshments.
- In both instances the officers were privy to my gun collection and how securely and properly they were stored. (Note: By that time, I had been a member of the Peterborough Fish and Game Association for 2 years) (Exhibit 68).
- Both officers were privy to my thick Russian accent and knowledge that I was from Russia and Israel since my background was a common topic of discussion during our time together on the road during each of the two "ride-along" patrols.
- During the first day of the first week of the orientation training at the Ontario Provincial Police Academy in Orillia I was pulled out in the middle of the physical fitness test by Mr. Shipley, the Provincial Police Academy Chief Instructor, and taken to a one-on-one examination with an OPP's civilian psychologist/psychiatrist, whose name I do not remember.
- In that half-an-hour conversation, the psychologist disclosed to me that one of the officers whom I showed inside of my house reported me to their supervising sergeant as a gun happy person because I

showed them my registered firearms. The sergeant in turn reported the incident to the Operations Manager S/Sgt. Ron Campbell, who in turn reported it to the Detachment Commander, Ins. Mike Johnston, who in turn reported it to the OPP Headquarters.

- The psychologist further told me that he believed I was a bit of an intellectual and that the chain of emails that ensued was a tempest in a tea pot. He advised me to always keep in mind that when I talk to people that I do not talk to one person but to many people that stand behind them. He told me he saw no issues with me and sent me off to continue my training with his blessings.
- The conversation with Cst. Kevin Duignan in the Tim Hortons coffee shop on October 19, 2010 (Exhibit 69).
- Anticipated evidence of Sgt. Jason Postma (Exhibit 70).
- Anticipated evidence of Mark Greco (Exhibit 71a).

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I later confronted both officers separately about the incident and both said they did not report me to anyone. While I believe that Cst. John Pollock told me the truth, I firmly believe that Cst. Marc Gravelle lied to me in the face. I believe it was him who intentionally and maliciously reported me as a gun-happy person after I had shown him inside of my house and how safely and securely I stored my registered firearms. However, in the scope of the final picture (so to speak) it is immaterial who did that. What is material were the negative connotations attached to one possessing a large gun collection. The OPP were fully aware of my background with the Israeli Navy, my membership in the local gun club (Exhibit 68) and my qualifications in firearms. Hence, it would appear that it was the association of a Russian (me) and my large gun collection that labeled me as a Crazy Russian (Ivan) that in turn ignited a flame – a flame of racial hatred and contempt towards me. The Sergeant's lack of professional fortitude and objectivity caused this flame to spread all the way to upper the upper management of the OPP that ultimately led to my demise.

I met and spoke with Cst. Filman for the first time when I reported to my first night shift at the Peterborough Detachment on January 18, 2009. I remember the impression that the look in his eyes conveyed to me when we first met: one of caution and suspicion. From the very beginning I felt that I was a nuisance to Cst. Filman. I felt that he resented my presence and that I was not welcome. I became aware of subtleties in the way he treated me. It felt like there was me and then there was everybody else. Cst. Filman was not harming me directly as he never directly harassed or belittled me. Cst. Filman also wrote positive comments in my monthly performance evaluations for the most part in the first 5 months of my probationary period. He appeared to hate paperwork and I even proofread his comments in some of my evaluations to fix spelling mistakes, but there were way too many (Exhibit 30). (Note: I later showed him how to use a spell checker). However, I never felt that he cared what was going to happen with me, whether I was going to get through my probationary period or not. I cannot recall him asking me how I was doing or if I needed help, neither had he stepped in to defend me from the harassing and discriminatory acts to which I was subjected by other officers on 'A' platoon. He basically left me to my own devices. I believe that he ought to have cared as it was his coach officer duty to look after his Probationary Constable.

I have to admit I liked Cst. Filman's laid-back personality and tried to be understanding of his perspective. First, not only was I his 3rd probationary recruit back-to-back (1st - Cst. Jeff Gilliam, 2nd - Cst. Ken Rusaw, 3rd - Cst. Michael Jack), but he was still coaching Cst. Rusaw as he was only 4 months on the job. So for the first few months of my probationary period, Cst. Filman had two rookies to look after – Cst. Rusaw and myself. Second, he had a son born in February 2009. Third, he aspired to work in plain clothes as a member of the Peterborough Detachment Crime Unit but could not because he was assigned to coach me. Fourth, he hated the managerial situation at the Peterborough Detachment. Fifth, his morale appeared to be low. As a cumulative effect of the above, Cst. Filman's mind appeared anywhere, but on coaching me properly. For example, when we were on the road, most of the time he was operating the cruiser while I was sitting in the front passenger seat observing him constantly either text message or talking on his mobile phone to somebody about

something. I truly felt like a burden to him. He liked working alone. He had Cst. Rusaw start patrol on his own just recently and now he had me attached to him with an umbilical cord. I was eager to learn but it was winter season – a relatively quiet time of the year with few calls for service. I felt that when I was asking him questions I was irritating him. He would just frequently answer me, "Wait till you do it". Occasionally, in the office environment, during shift changes I would get a glimpse of other rookies sitting side-by-side with their coach officers working on the computer together. That rarely happened in my case. I had to beg Cst. Filman to show me something around the office. Yet another illogical setup was that Cst. Filman started his shifts at 5:00 am/pm and had me start mine at 6:00 am/pm. Sometimes, by the time I reported to duty he'd be already gone to an early call (frequently with Cst. Rusaw) and I found myself left out. At other times, I would get a call or assigned a task when he was already off duty and forced to seek help from other officers, frequently from the following shift. Again, the best way to describe me in relation to Cst. Filman in one word is nuisance.

On January 22, 2009, I was working a night shift. Cst. Filman and I attended my first motor vehicle collision. Though both cars were totaled, no serious injuries were sustained by the drivers and both drivers remained at the scene. Cst. Filman interviewed the driver who was at fault and had me interview the second driver without even asking if I knew what questions to ask. Later, when I looked at the questions that Cst. Filman asked his driver, I realized that I had asked my driver the wrong questions. At the Ontario Police College and at the Ontario Provincial Police Academy we were taught to fill out traffic reports. However, we never practiced asking basic field investigative questions such as, "What was your travelling speed prior and at the time of the collision? Which lane were you travelling in? Did you see the stop sign?", etc. which I quickly learned on the job from various completed traffic and interview reports. The point here is, "How can you let a brand new rookie interview a victim of a serious motor vehicle collision without even asking if the rookie knows what to do, let alone teaching the rookie first? What was common sense to Cst. Filman was not yet to me at the time and his narrow-mindedness or unwillingness to share his knowledge with me, which was his duty, made me feel that I was not welcome.

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.

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 just a month on the job at the time. Cst. Filman was 7+ years on the job at the time.

Sometime around February 2009, I was working a night shift at Peterborough Detachment. Cst. Filman and I were dispatched to a call of a suspected impaired female driver allegedly traveling east from Lindsay to Peterborough. Cst. Jeff Gilliam, Cst. Paul Crowder and another OPP officer, whose name I do not remember, (the latter two were both Emergency Response Team (ERT) officers) came to our assistance in separate cruisers. I was the driving officer. Up until that date I had not had any field experience pulling over and investigating a suspected impaired driver on scene. Cst. Filman wanted me to do the call. Once we determined the location through which the suspected vehicle should have been travelling, the ERT officers parked on one side of the road, while we and Cst. Gilliam parked on the other side. Cst. Gilliam parked his cruiser next to ours. We waited for approximately 10-15 minutes for the suspected vehicle to arrive. During that time period Cst.

Filman and Cst. Gilliam chatted casually and laughed about police unrelated matters. While I do not remember the content of their conversation, I clearly remember that during that time Cst. Filman did not even turn his head towards me let alone show any interest in my readiness for handling the call. I pondered for a while why. It was my first actual experience of intercepting a suspected impaired driver. We had some lead time to discuss and do a dry run on what I was going to do while waiting in the cruiser. But we did not. Cst. Filman was busy shooting "B" with his friend Cst. Gilliam during all that time. His attitude towards my training boggled my mind. I believe it is incumbent upon every coach officer to utilize this spare time discussing the approach a probationary officer would take in such a call. Any prudent person would ask why that wasn't discussed. It is also very apparent that I was placed on ignore during this whole time. It was rude and ignorant. When the suspect vehicle arrived, we pulled it over, I handled the stop in an awkward manner, the driver was not impaired in any way and was let go. 6 8

From mid April 2009, I was patrolling on my own. I found that job, although stressful at times, was manageable and even exciting for me. I was eager to learn and invested considerable amount of my personal time to learn the job, both at home and at the detachment. However, I was having a tough time adjusting to the unwelcome and unsupportive environment created by some officers on my shift. There were a few very nice and polite uniform officers and civilian staff who welcomed and assisted me whenever I asked for help. However, a few officers at the detachment, primarily on the Platoon 'A' shift made my life very stressful. I constantly felt that I was not welcome at the Peterborough Detachment. It was just a feeling that I did not fit in. Oh well, I thought to myself: first I was a rookie and many experienced police officers have said that it takes an average of 5 years on the job to become a full-fledged police officer; second I had spent the past 8 years of my life in academia – a very different culture from that of the policing environment; third, I came from two totally different cultural backgrounds – Russian and Israeli. To top it off I aspired to be a police officer in a world to which I was not native in the first place. So I rationalized my treatment and sucked it up. However, I observed that other rookies, who were not minorities and did not speak with an accent, were treated differently than I, as if they were welcome and supported at the Peterborough Detachment more than I was. In short, at times I just felt like I was a leper.

For example, Cst. Filman never asked me if I was ready or comfortable to start working on my own. One day in mid-April I found out that I was going to patrol alone from the white board in the Constables' office. I was assigned the oldest cruiser in the Peterborough Detachment, even though there were better cruisers available that day, and that was how I knew that my day shift umbilical cord was severed. It is noteworthy that just a week earlier Cst. Scott Thompson asked me if I was ready to start patrolling on my own. I was grateful to Cst. Thompson for showing interest in me since my coach officer did not. As a matter of fact, Cst. Filman and I barely talked. I tried to be friendly with him as I needed him, but as I mentioned earlier, his mind appeared to be everywhere else but in coaching me. After about a month of working on my own, I approached Cst. Filman in the Constables' office at the Peterborough Detachment and asked him if he wanted to talk about what I had been up to. Cst. Filman looked at me and said, "No, I can get it from the Niche". I was puzzled. "Don't you want/need to know what your rookie has to add to what has been reported on the Niche?" I thought to myself but did not voice it. (Note: The Niche RMS is a computerized database used by the OPP to manage and document all calls for service along with all the relevant information). After that day, having realized that the flow of information between Cst. Filman and me would be limited primarily to what has been reported on the Niche RMS, I started putting extra effort into documenting my investigations on the Niche RMS as detailed as possible.

Yet another example that demonstrated Cst. Filman's lack of true interest in my performance was the fraudulent credit card transaction call (SP09087157) I was dispatched to on April 29, 2009 (Exhibit 40). In the *Analytical Thinking* section in my Month 4 performance evaluation (Exhibit 18) Cst. Filman wrote that I had completed a detailed investigation and had since turned the investigation over to the regional intelligence officer. The problem with that statement was that first of all, Cst. Filman never asked me how the investigation was going, let alone assisting me with it. Second, as it turned out, the regional intelligence officer was not the investigating officer, which I was unaware of until late June 2009 when Sgt. Flindall told me that I was the investigating officer. Third, it was a complicated multi-jurisdictional investigation which required detective skills, which I, being a front line rookie, did not have and could not have had at the time. I subsequently invested many hours of my personal time both at home and at work researching, educating myself, investigating the case and

eventually led it to completion (I did not complete it during my Month 4 performance evaluation period as Cst. Filman wrote). I was, however, reprimanded by Sgt. Flindall and by Cst. Filman on August 3, 2009, for taking too long to complete the investigation. The tenderness in my service at the time of this investigation and the lack of any direction and guidance from my coach officer and especially considering the fact that it was a multi-jurisdictional investigation which in itself falls under the mandate of the Crime Unit attests to the alienation that I was already feeling and experiencing.

Sometime in late April, 2009 during a morning shift briefing a court officer, Cst. Paradis was advocating the switch from the paper Crown Brief preparation and submission process to digital. Cst. Paradis expressed his frustration with the inefficiencies involved in the preparation of the paper Crown Briefs that were being utilized at the Peterborough Detachment. Having a solid background in the Computer Science field I saw an opportunity to put my skills to use and thereby feel that I was contributing something unique. I also saw an opportunity to try to be a team player and hence I volunteered to offer my computer expertise in the matter. After the shift briefing I was told by Platoon 'A' 2IC (second-in-command) Cst. Mary D'Amico in a vexatious manner and in the presence of other Platoon 'A' officers, "You should keep quiet when a senior officer speaks. You might come across as knowing too much and it is not good for your career". Cst. D'Amico further told me that there had been another officer who "knew too much" and that he no longer worked at the Peterborough Detachment. Her comments, which were vexatious and tantamount to explicit harassment, threw me into a state of agitated confusion and humiliation. Further to this, it instilled an inferiority feeling in me and made me self-conscious of expressing my opinion and being proactive from that day on. Unless I was explicitly asked something, I never opened my mouth at shift briefings for the fear of displeasing some of my colleague officers and ruining my rapport with them.

22 Note: I have since come to know who the officer that "knew too much" might have been – Cst. Lloyd Tapp who has told me that he always felt that it was because he knew more than even some of his Sergeants, 24 was an outsider and a visible minority and was targeted because of that.

Over the first few months of my work at Peterborough Detachment on multiple occasions I was reminded that I had a thick accent and that some officers had difficulty understanding me on the radio initially (until they got used to it). I was not offended by those comments as I do have a strong accent. Instead, I made a conscious effort to speak slowly on the radio, PCS-066P (Month 4) (Exhibit 18):

JACK is aware that he has a thick accent and makes an effort to speak clearly and consisely.

In yet another incident sometime during the spring of 2009, I was confronted by Cst. Melinda Moran who asked me if I could speak with a Canadian accent. I told her I could not. While I was not offended by her question it made me feel uneasy. It was also very disturbing for me to hear that I had a "funny" accent in behind-my-back conversations.

Yet another example was when I was working a night shift sometime in late April 2009. Cst. Filman and I were en route to a family dispute call. As Cst. Filman was driving he told me that before he became a police officer his father, Cst. Brad Filman who had served at the Peterborough Detachment for many years, had told him not to say anything during his first year on the job. He further added that he followed his father's advice to the letter and remained quiet throughout his first year on the job. The message was clear: I should not be speaking unless spoken to.

As a cumulative effect of those comments, despite not being consciously offended by them, I became very self-conscious of my accent. I reduced my radio communications to a bare minimum and in a multitude of instances resorted to using my personal cell phone instead of the radio for the fear of being reminded of my accent again. I also became very self-conscious of my conversations to the point that I felt embarrassed when I talked to my peers. If similar (vexatious) comments were not made to any other officer, can I be mistaken or faulted for having the perception that I, a visible minority, have been singled out by some officers at the Peterborough Detachment?

In early May 2009, I advised Sgt. Flindall I did not feel I was getting the proper coaching and I had no one to seek help from. I also advised Sgt. Flindall that Cst. D'Amico was taking cheap shots at me. Sgt. Flindall acknowledged my concerns and explained to me that Cst. D'Amico is a very bossy woman and that if I were to serve on a municipal police force I would have been bossed around by my peers to a greater extent than in the OPP.

Response to the Application (HRTO 2010-07633-I) Paragraph 44:

44. Paragraph 27 – Sergeant Flindall has no recollection of the Applicant every approaching him about derogatory comments by Constable Maria D'Amico.

As to the coaching issue Sgt. Flindall explained that it was the result of the mismanagement of human resources at the Peterborough Detachment and that Cst. Filman was not supposed to be my coach officer in the first place and that he was assigned to be my coach officer shortly prior to my reporting at the detachment (Cst. Jennifer Payne was supposed to be my coach officer but she was seconded to the Peterborough Crime Unit shortly prior to my reporting at the detachment). I advised Sgt. Flindall that I was concerned about my probationary period progress and that I did not want to jeopardize my employment because of the mismanagement of human resources, which was obviously beyond my control. Sgt. Flindall reassured me that this was not going to happen on his shift. Sgt. Flindall further advised me that Cst. Filman was going to continue to be my official coach officer and as such was going to continue to write my performance evaluations, while Cst. Payne was going to be my "go-to" mentoring officer and as such was going to guide and assist me with work. I was very happy to hear that and anticipated the return of Cst. Payne to Platoon 'A' shift. I was full of hope as I desperately needed someone to provide me with inspiration, guidance and assistance in complicated investigations.

Cst. Payne returned to the Platoon 'A' shift in early June 2009. By that time, we had entered the busy summer season and due to the fact that senior officers (including both of my zone partners Cst. Filman and Cst. Payne) had booked vacation and parental leave a year in advance I found myself being left out while dealing with increased work load.

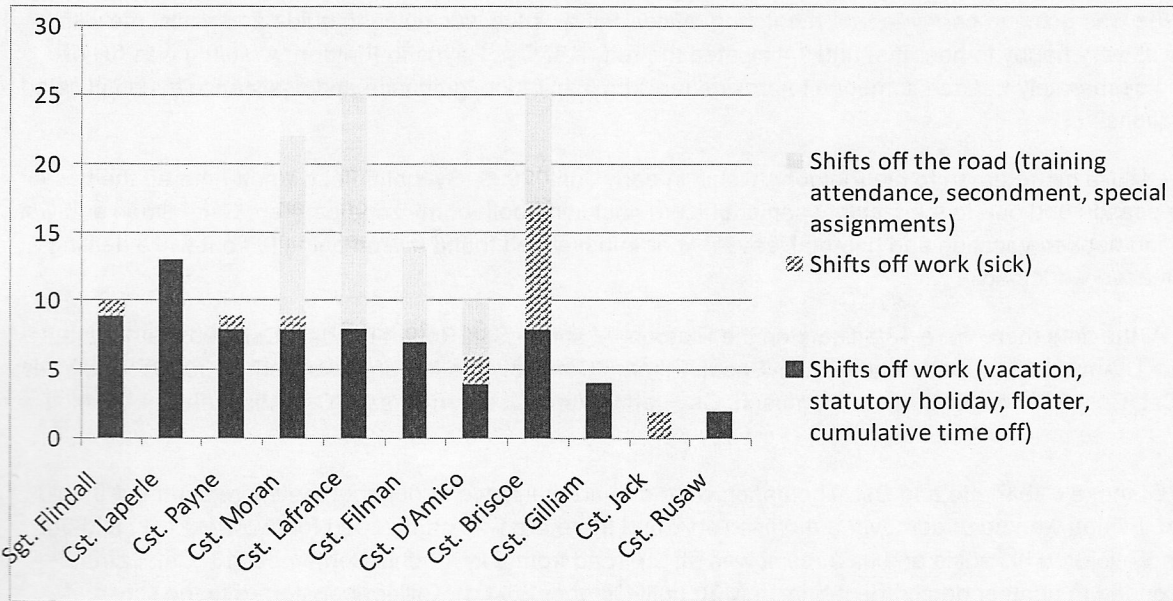
At the time there were 13 officers on the Platoon 'A' shift – Sgt. Robert Flindall, Cst. Jennifer Payne, Cst. Mary D'Amico, Cst. Chad Laperle, Cst. Shaun Filman, Cst. Melynda Moran, Cst. Mark Lafrance, Cst. Yves Piette, Cst. Cory Briscoe, Cst. Scott Thompson, Cst. Jeff Gilliam, Cst. Ken Rusaw, Cst. Michael Jack (Exhibit 66).

Of those Cst. Piette and Cst. Thompson were on parental leave throughout the entire summer. In mid-June Cst. Filman worked undercover a modified shift and therefore was off the road for two weeks. In mid-July Cst. Briscoe injured his ankle and as a result was off the road from July 13 until September 16. Cst. Lafrance was seconded to another detachment from July 20 until October 25. Cst. Gilliam transferred to the City of Kawartha Lakes Detachment at the end of July. Cst. Robert Paradis, who had been seconded to work as a court officer, returned to Platoon 'A' shift on August 10 (Exhibit 66). 30

In addition to the above, between June 1 and August 20 (my last day on the Platoon 'A' shift) of which the platoon was scheduled to work 40.5 shifts, Sgt. Flindall booked 10 shifts off work, Cst. Laperle booked 13 shifts off work, Cst. Payne booked 9 shifts off work, Cst. Moran booked 9 shifts off work, Cst. Lafrance booked 8 shifts off work, Cst. Filman booked 7 shifts off work, Cst. D'Amico booked 6 shifts off work, Cst. Briscoe booked 17 shifts off work, Cst. Gilliam booked 4 shifts off work, Cst. Rusaw booked 2 shifts off work, Cst. Jack booked 2 shifts off work. Cst. Moran attended training for a total of 13 shifts. Cst. D'Amico attended training for a total of 4 shifts (Exhibit 66).

Officer	Shifts off work (vacation, statutory holiday, floater, cumulative time off)	Shifts off work (sick)	Shifts off the road (training attendance, secondment, special assignments)
Sgt. Flindall	9	1	
Cst. Laperle	13		
Cst. Payne	8	1	
Cst. Moran	8	1	13
Cst. Lafrance	8		17
Cst. Filman	7		7
Cst. D'Amico	4	2	4
Cst. Briscoe	8	9	8
Cst. Gilliam	4		
Cst. Rusaw	2		
Cst. Jack		2	

The above table numerically presents the number of shifts booked off work and off the road by the Platoon 'A' shift officers between June 1, 2009, and August 20, 2009 (my last day on the Platoon 'A' shift).. This literally translates to 40.5 scheduled shifts during this time period. The data were collected from the Peterborough County OPP Duty Schedule 2009 (Exhibit 66).



The above column chart graphically depicts the number of shifts booked off work and off the road by the Platoon 'A' shift officers between June 1, 2009, and August 20, 2009 (my last day on the Platoon 'A' shift) – a total of 40.5 shifts. The data were collected from the Peterborough County OPP Duty Schedule 2009 (Exhibit 66).

As a result, during the busy summer months, not only were there a number of days when I worked alone in my zone (Zone 3) throughout the entire shift but I was also dispatched to calls in other zones on a nearly regular basis. Note: Zone 3 is the largest geographically and in population size zone in Peterborough County.

Now, when one considers that in a fortnight one only works 7 shifts and is off 7 shifts then in the mentioned period there is a total of 81 days. Hence one would only be scheduled to work (entitled to work) 40.5 shifts. The point here is that when one factors in the number of days the platoon was scheduled to work one can see that I was literally left on my own. Though one might rationalize that the officers that were off for the mentioned number of days would only have worked that many days less and hence the calls for service that

they handled are proportional to the number of calls for service that I handled. However, one has to realize that I was on probation and being targeted, and in the absence of a coach/mentoring officer's guidance the chance of me making mistakes detrimental to achieving a perfect performance evaluation, which was crucial for me, was high. Other probationary officers were getting regular one-to-one coach/mentoring officer guidance whereas I was not. Few wanted to work with me – an outsider, a minority and further a highly educated minority that spoke with a very thick accent of which colleagues were already making fun of. 4

Between June 09 and August 09 (my Month 6 & 7 performance evaluation period) I had a total of 40 reportable calls for service as a reporting officer and 10 non-reportable. In addition I had 5 calls for service in which I took part either as an assisting officer, an arresting officer, or a fingerprinting officer. During the same time period my zone partners (Cst. Filman and Cst. Payne) had a total of 37 reportable calls for service together, 20 and 17, respectively, and 35 non-reportable, 10 and 25, respectively. It is a fact that I took, handled and completed more reportable calls during the two months period than both my coach officer and my "go-to" mentoring officer combined. Note: Reportable calls include investigations (which can be lengthy), interviewing of the involved parties, detailed documentation, and follow-ups. The cumulative effect of all this sometimes result in laying charges and or additional charges which in turn entails more paper work.

I was very busy performing my Constable duties both on and off duty. Whenever I asked for support, I was advised that due to the shift shortage, which was constant at the time, and the increased workload there was no help available. Everybody who worked was very busy. As a matter of fact, there was not even enough time to ask for help. To cope with the increased work load that fell onto my shoulders, I got into a habit of reporting to the detachment prior to the beginning of my shifts and leaving late. I was also coming to the detachment on my days off to catch up on paper work and to learn how to handle certain calls and situations by soliciting help from officers from other shifts. I also took work home, something I was verbally reprimanded for by some senior officers, but I really had little choice in the matter. Instead of the support, however, I got reprisals from my supervisor Sgt. Flindall and other senior officers on my shift, primarily from Cst. Payne and from Cst. Filman, that I was not performing certain tasks properly or fast enough. The reprisals were very thoroughly documented in my Month 6 & 7 (Exhibit 24) and Month 8 (Exhibit 27) performance evaluations. I was at that time 6-8 months on the job dealing with the increased workload without any time off. They (Sgt. Flindall, Cst. Payne and Cst. Filman with an average of 10 years each on the job were taking vacations during the busiest time of the year (Exhibit 66). They were born and raised in the Peterborough area making them more 29 accustomed to dealing with local customs, whereas I came from two different cultural backgrounds, which were radically different than the local area. In an attempt to seek their empathy and understanding I openly confided my concerns to them. They used this innocent and genuine act of good faith of mine and disclosed it to others so much so that the negative relations between my peers and I escalated. That was detestable behaviour on their part. 34

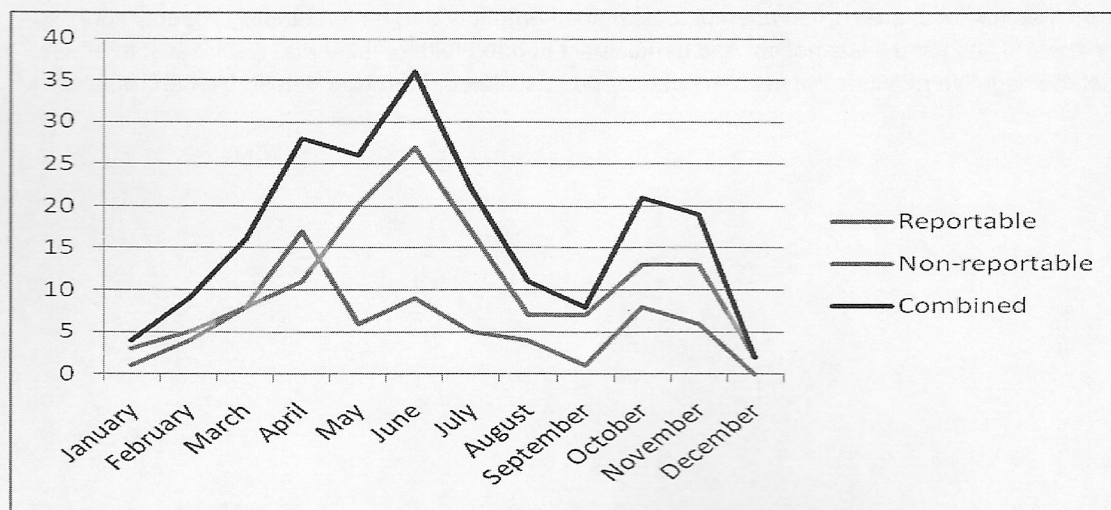
Background on my workload:

Month	Reporting Officer		Assisting Officer		Issuing Officer
	# of Reportable	# of Non-reportable	# of Reportable	# of Non-reportable	# of PONs
January	3	1	1	1	27
February	5	4	1		
March	8	8	5		17
April	11	17	2	2	23
May	20	6	2	2	29
June	27	9	2		23
July	17	5	3		
August	7	4	1		4+
September	7	1	4		5
October	13	8	2		12
November	13	6	3	1	3+
December	2	0			u/k
Total	133	69	26	6	143+

The above table shows the number of the reportable and non-reportable calls for service I was assigned and responded to in either a reporting or an assisting officer role (Exhibit 47a, Exhibit 47b, and Exhibit 47c) and the number of the Provincial Offence Notices (PONs) I issued during my probationary period at the Peterborough Detachment. Of the 69 non-reportable calls for service 30+ calls were motor vehicle collisions (Exhibit 47d).

Note: The figures in the table are a conservative estimate based on the data retrieved and compiled from the Niche RMS and from my monthly performance evaluation reports. I believe that I responded to more calls for service than shown in the table. Unfortunately, since I surrendered my officer notebooks to Sgt. Banbury (on December 15, 2009), I have no access to 100% accurate data.

In addition to the above workload, I also performed other numerous police officer duties such as cruiser checks, vehicle patrol, foot patrol, subpoena delivery and service, prisoner transport, prisoner fingerprinting, prisoner meal delivery, court attendance, community policing meeting participation, training session attendance, phone answering and assisting other officers with their respective tasks.



The above line chart graphically depicts the cumulative number of the reportable and non-reportable calls for service I took and handled exclusively as the reporting officer.

Resume my statement:

In the early part of June 2009, upon returning to the Platoon "A" shift, Cst. Payne made a very explicit and loud comment in the Constables' office that she was going to rip Cst. Mackaracher's head off. (Recall: Cst. Payne's common-law spouse, Cst. Brokley, had an affair with Cst. Mackaracher for approximately half a year). Cst. Payne further asked Cst. D'Amico to give Cst. Mackaracher a nasty look that Cst. D'Amico was so good at, to which Cst. D'Amico replied she certainly would. Then they talked about setting Cst. Mackaracher up with something. I paid little attention to those conversations as they appalled me. From what I know, Cst. Payne subsequently had a very aggressive face-to-face one-sided conversation with Cst. Mackaracher, but that is all I know. 2

On another occasion sometime in June of 2009 in an attempt to seek an understanding through a confidential conversation face-to-face with Cst. Payne, I divulged to her that I felt I was a nuisance to Cst. Filman and that I had been investing a lot of my personal time to learn the job to compensate for the lack of assistance from Cst. Filman. I further added that I needed help with some investigations and some aspects of the paper work. She said we would double up sometime, but we never did due to the constant shift shortage. At one point she even called me on my cell phone and left a message advising me that she was going on vacation after which we were going to double up. When she returned to work I reminded her of that, but she responded that we could not double up because of the shift shortage again.

On June 31, 2009, I worked a night shift. Cst. Payne, Cst. Briscoe and I attended and assisted in the investigation of a suspected arson in the City of Kawartha Lakes OPP territorial division (occurrence numbers SP09143413 and SP09143389). Upon returning to the Peterborough Detachment at around 6:00 am we were required to fax our officer notes to the City of Kawartha Lakes OPP Crime Unit. I asked Cst. Payne if she could give me a copy of her notes as I wanted to learn from them. I explained to her that since I took part in the investigation of the incident and basically saw what she saw I wanted to see how she documented the investigation to learn from it. This was a reasonable request especially one coming from a probationary rookie. She responded by saying that I had to do my own notes. I was rattled and explained again that I was not going to copy her notes: I just wanted to learn from them since it was a perfect opportunity for me to see how an investigation of an incident I witnessed and took part in was documented by my mentoring officer. I was further rattled by the fact that I was left out while the two of them sat in one cruiser doing their notes. If two experienced officers could share the benefits of their independent recollections to prepare their notes, why was I being ostracized for wanting to view her notes? Is it inconceivable to imagine an experienced officer writing up his/her notes and then presenting them to a probationary officer stressing that he/she view the notes for the sole purpose of examining the manner in which the author's observations have been documented?

Note: As later pointed out by Cst. Tapp, the mistake of an inexperienced (in years of service) coach officer is to let a probationary officer be isolated or left alone to make up their notes in an investigation, especially an investigation involving other officers. Though one gets some training at the Ontario Police College in note taking it is always crucial that probationary officers literally be given their coach officers' notebook and explained: look it over as to how one's observations are documented; note the absence of notations of other officers' views and other officers' comments since that would be hearsay evidence; note in particular what you saw in comparison to what they noted and then write down exactly what you recollect for in doing so one can see the independent recollection of another officers' view in a similar incident. 33

At approximately 6:30 am Cst. Payne handed me a copy of her notes in a somewhat ungraceful manner. I thanked her, but I felt that there was something very wrong in the way she gave them to me. I briefly reviewed them (5 minutes tops) and returned them to her. What followed was a storm out of the blue. All of a sudden Cst. Payne lashed out on me right in the Constables' office in the presence of two officers from the Platoon 'C' shift, Cst. Dan Gay and Cst. Marc Gravelle (Exhibit 26c, page 10). She started by saying, "So why don't you want my notes, Mike?" When I replied that I had reviewed them and no longer needed them, she raised her voice and started reprimanding me for things I cannot recall as I was in shock. She said something along the lines that Cst. Filman tried really hard to coach me and that basically I sucked. She went on and on 40

and when I attempted to defend myself and answer to her accusations in a rational manner she raised her voice even further by saying, "Do not interrupt me because I am senior to you". By the time the storm subsided I felt I was one-inch high. So much for The Promise of the OPP (Exhibit 87, page 3):

Treat all others with equality, as I would want my loved ones and myself to be treated; victims and accused (their families and communities), colleagues and staff, regardless of gender, race, ethnicity, ability, age, etc.; enable others to maintain their dignity even in the face of adversity
Support colleagues, especially those who may feel vulnerable or at a disadvantage because of their employment status, e.g. new recruits, volunteer, civilian, contract; or background, e.g. race, gender, ethnicity
Exercise humility and self-control/discipline

Maintain an open mind, try to be impartial and non-judgmental; be aware of and manage my personal biases or attitudes, e.g. stereotypes

not to mention an officer's code of conduct towards another officer especially a probationary one (Exhibit 88, page 3):

treating people fairly, with dignity and respect, and ensuring all workplace practices allow each employee an equal opportunity to participate;

developing the knowledge and skills of every employee;

providing ongoing, honest and constructive performance feedback;

After the reprisal was over and Cst. Payne walked away, Cst. Marc Gravelle called me and reprimanded me for allowing her to talk to me in such a vexatious manner in front of other officers, saying that it was not his business but because he had witnessed the incident, it became his business. Cst. Dan Gay did not say a word. He was sitting motionless in front of a computer and acting as though he was not there (Exhibit 26c, page 10). I also thought to myself, "Wow, she was supposed to be my coach officer."

26 Note: I wondered for a while what might have triggered Cst. Payne lashing out on me so unexpectedly. A few days later I seemed to have figured it out. At the time, I was dating a girl whom I met at the Ennismore Community Policing Office. At approximately 1:00 am on the day of the incident (July 1, 2009) I received a text message from my girlfriend on my cell phone while I was in the Constables' office. Cst. Payne asked me who I received the text message from, to which I replied that it was from my girlfriend. Cst. Payne seemed surprised that I had a girlfriend and questioned me who she was and where I had met her. I frankly answered her questions and Cst. Payne asked no more. A few days later, my girlfriend said that she had known Cst. Payne and even had a ride along with her in the past. My girlfriend further added that Cst. Payne treated her like a nuisance and was not nice to her. My girlfriend was a good person and I had not heard her saying negative things about other people to that day so when she said that Cst. Payne was not nice to her that made me suspect that there was more to the story than mere work relations and my alleged incompetence as a rookie.

On July 15, 2009, Cst. D'Amico was hosting a yearly horse-shoe party at her property. Active and retired police officers from the Peterborough Detachment were invited. When I asked Cst. D'Amico for her address a couple of days prior to the event, instead of just telling me the address she told me to look it up in the

address book. My girlfriend and I subsequently attended the party as I believed it was impolite not to go, but Cst. D'Amico's attitude in her response to my question again re-assured me that I was not welcome at the Peterborough Detachment. Cst. Payne was at the party as well. 3

On July 18, 2009, at approximately 6:45 am Cst. Payne called me into the board room and in a face-to-face conversation accused me of winking at her and in one instance, back in the spring of 2009 when she was still seconded to the Crime Unit, looking at her inappropriately, stating that she had been put off by the way I looked at her. She stated that it was unprofessional of me and she wanted it to stop. I was astounded, speechless and frightened as I had done nothing of the kind. Her accusations were vexatious and tantamount to explicit harassment. It literally scared me to the point that from that moment on I was afraid to look at or speak with Cst. Payne fearing what else she might accuse me of. Because I was a minority and a Probationary Constable that absolutely must please everybody to make it through the probationary period and was not expected to raise any objection to the harassment and discriminatory actions I sucked this one up as well. I 12 could not sleep that day. So much for receiving help from my "go-to" mentoring officer!

When Constable Payne raised these two previous incidents with the Applicant on July 18, 2009 he denied the first one and admitted to the second. The Applicant reiterated that the winking of his eye happens all the time. Constable Payne said either way it was inappropriate and unprofessional and should not continue. Constable Payne asked the Applicant if he wanted to say anything and he thought for a minute and said yes but he did not want to talk about it right now. The Applicant never came back to Constable Payne to talk about it and never came to her again for any advice, direction or assistance.

On July 23, 2009, at 6:40 pm I was ordered by Sgt. Flindall to stay at the detachment to work on overtime to complete the Criminal Harassment case (SP09164458) on which I was assigned to work on earlier that day. First and foremost I was sick the day before and booked a sick day off work. On July 23, 2009, I was still unwell but felt strong enough to report for duty. I had hoped for a light shift. Second, I was 13 hours into my day shift when I was ordered to stay at the detachment to continue working on overtime. Third, I had not handled criminal cases of this nature before and therefore lacked the necessary skills and experience to handle the investigation on my own in such a short time frame. Sgt. Flindall gave me a brief set of instructions on a small piece of paper to follow and advised me that the night shift were going to assist me. Sgt. Flindall further advised me that the night shift supervisor (2IC) Cst. Bruce Hanna had been advised to track the accused down and arrest him. Sgt. Flindall was anxious to leave the detachment as he was leaving for a vacation and was already late. Despite being exhausted, not having eaten all day and not having the necessary experience to complete the required paper work in a given time frame I did not dispute Sgt. Flindall's order and stayed at work.

At around 7:00 pm, upon leaving the detachment, Cst. Payne mentioned that Cst. Brokley (her 35 common-law spouse) was in the office and that I could apparently seek assistance from him if needed. Cst. Brokley had undergone a vasectomy and was assigned to light duties. I took an energy pill to keep myself 37 awake, got a meal from Wendy's and bought a set of headphones from Staples. Note: I purchased the headphones so I could use an office computer to analyze the complainants' video recorded statement I took that afternoon more effectively. I analyzed the video statement and put the general occurrence report as it helped me to determine the facts-in-issue and put them in writing. I then photocopied my notes and the evidence (mail envelopes and numerous photos) provided by the complainants and at around 10:30 pm asked Cst. Brokley to assist me with writing the Crown Brief Synopsis as I was mentally and physically exhausted and could no longer comprehend what I was doing. Cst. Brokley advised me he could not do that as Crown Brief Synopsis must be written by the investigating officer and instead offered me his assistance with the preparation of the Promise To Appear (PTA) document. I advised Cst. Brokley that this was not what Sgt. Flindall ordered me to do and showed him a piece of paper with Sgt. Flindall's instructions. Cst. Brokley in turn advised me that since the

accused did not have a criminal record, he could be arrested and released on a PTA and re-iterated that he was going to prepare the PTA for me. At around 11:00 pm I called 2IC Cst. Hanna on the sergeant's mobile phone to inquire if the accused had been tracked down and arrested. Cst. Hanna advised me that the last message he got was not to arrest the accused and that he did not dispatch any officers from the night shift to arrest the accused. I advised him that this was not what Sgt. Flindall advised me and that I expected the night shift to help me. Cst. Hanna in turn advised me that this was "bullshit" and that the accused should have been contacted over the phone and requested to attend the detachment earlier in the evening to turn himself in. Cst. Hanna further advised me that he was on a call en route to Bancroft (two hours of drive north of Peterborough Detachment) and could not be of any assistance to me at the time. In light of this information, Cst. Brokley advised me to send an email to the Peterborough Detachment personnel in reference to the occurrence, that should the accused be arrested overnight that he (Cst. Brokley) was going to complete the PTA and leave two copies in my diary slot. I sent an email out as advised and at around midnight obtained S/Sgt. Campbell's permission, who happened to be working late at the detachment on an unrelated matter at the time, to go home and return to work the following morning (Friday, July 24, 2009) to work on overtime to complete the case. When S/Sgt. Campbell looked at me he told me, "Go home Mike, you are spinning wheels now". I left the detachment at around 1:00 am and came back to work in the morning at around 10:00 am.

Note: First, I believe that at the time I lacked the necessary skills to investigate and properly handle a Criminal Harassment case on my own. Second, I was abandoned by the night shift. Third, I was mentally and physically exhausted (I was also sick the day before and despite not being fully recovered reported on duty on July 23, 2009). Fourth, I followed the directions of a senior officer (Cst. Brokley) with respect to handling the case. Fifth, I was approved by S/Sgt. Campbell to go home (after 20 straight hours of work) and therefore I was reassured I was doing the right thing.

The accused was not arrested overnight. I reported to the detachment at 10:00 am and with a fresh mind I promptly finalized the Crown Brief Synopsis. Though Cst. Brokley did prepare the PTA and left two copies in my diary slot, I had to prepare it from scratch as the PTA that Cst. Brokley prepared was erroneous and was not even saved in the Niche RMS. At around noon, I learned from the complainant's husband that the accused was employed as a land surveyor and was supposed to be at work at a road construction site in the vicinity of the Peterborough Detachment that day. I sought advice from the day shift supervisor (2IC) Cst. Jason Postma how to handle the arrest (I only had one arrest, for Over 80, on my own prior to that day) and then attempted to locate the accused. At the construction site I located a co-worker of the accused and learned from him that the accused had left for the day. I was subsequently able to get hold of the accused on the phone at his father's place in the City of Kawartha Lakes County and requested him to attend the detachment. At the detachment I arrested the accused on the charge of Criminal Harassment and released him on a PTA. At around 6:30 pm I attended the accused's residence along with an officer from the City of Kawartha Lakes Detachment, as the accused's residence is located in the City of Kawartha Lakes OPP territorial division, and in the accused's presence seized his 15 registered firearms under Sec. 117.04 CC. I was then assisted by an officer from the night shift (Cst. Neal Read) with the lodging of the 15 seized firearms and concluded my overtime day shift at 11:00 pm.

On August 3, 2009, at approximately 3:30 am, I had a meeting with Sgt. Flindall with an Ontario Provincial Police Association (OPPA) representative, Cst. Filman (Yes, my official coach officer!) sitting in on it. I must emphasize that it was only the second time since I reported to the Peterborough Detachment in January 2009 and started working on Sgt. Flindall's platoon that the three of us – Platoon Sergeant Robert Flindall, Coach Officer Constable Shaun Filman and Probationary Constable Michael Jack – actually met for the purpose of discussing my progress (the first meeting took place sometime in the winter of 2009.) Aside from this meeting being a conflict of interest by the dual roles my coach officer was playing it is extremely noteworthy since according to Cst. Lloyd Tapp, who has been a police officer for 23 years, this type of meeting is supposed to be a monthly occurrence. All three (Platoon Sergeant, Coach Officer and Probationary Constable) must be meeting during the monthly evaluation at the least. Cst. Tapp has witnessed this during his tenure with the Peterborough Detachment on 'A', 'B' and 'C' platoons. The absence of such a meeting raises questions of adequacy and quality of a Probationary Constable's development. Yet further, the timeliness this meeting in relation to the

latter half of one's probation raises the inference that the Probationary Constable was successful up until a period immediately prior to this meeting. Furthermore, it is also suggestive that if problems existed prior, then why were such meetings not held in the first half of one's probationary period? Consequently the absence of such meetings supports the lack of adequacy and quality of coaching. Hence when reflected upon, at the end of a probationer's employment would it not support a perception of not being wanted, desired, liked, but actually hated? The numerous comments, innuendos in reference to my accent would indeed attest to this perception. ↳

At the meeting Sgt. Flindall advised me that I mishandled the Criminal Harassment case and that he was pissed off that I did not comply with his orders with respect to handling the case. Sgt. Flindall advised me that Cst. Payne had called him during his vacation and advised him that I had failed to comply with his orders with respect to handling the case. Sgt. Flindall further advised me that he was pissed off when he got called as he absolutely hated being disturbed with work related issues while vacationing. Sgt. Flindall then advised me that he had never had such an incompetent recruit yet and that he was considering charging me with neglect of duty and insubordination under the Police Services Act because my mishandling of the case could have cost him his Sergeant's stripes. Note: Sgt. Flindall's attitude towards me and his words 'pissed off' completely and flagrantly violate police orders with respect to how a supervisor communicates and relates to a subordinate, not to mention a probationer (Exhibit 67). *Supervisors must at all times be cognizant of how they impact their subordinates and correction should always be geared towards the goal of building up a subordinate.* I attempted to defend myself by bringing up the very reasons I handled the case the way I did – being abandoned, following the directions of a senior officer (Cst. Brokley), being mentally and physically exhausted, obtaining S/Sgt. Campbell approval to go home (after 20 straight hours of work), and after all that, the case was completed without any incidents. However, Sgt. Flindall was relentless and my attempts to reason with him failed. Sgt. Flindall further stated that his Sergeant rank superseded that of Cst. Brokley and that I should have complied with the orders he gave me and not Cst. Brokley. At the end of the meeting, I asked Sgt. Flindall if my employment was in jeopardy, to which he replied, "At this point yes, and that is why we are having this conversation". I then advised Sgt. Flindall that I had been doing the best I could in the given set of circumstances and that since he threatened my employment I was going to contact the OPPA as per the advice I received during my training at the Provincial Police Academy.

If anything, this example attests to Sgt. Flindall's dire racially motivated disdain towards me. He even 28 made it known to me in his comments "never have I had such an incompetent recruit ... and that I could have cost him his Sergeant stripes". Yet, later he threatened my future employment. His threats materialized shortly afterwards. In that one meeting on the 3rd of August he exemplified everything that the OPP's promise (Exhibit 87), OPP's professionalism (Exhibit 88), OPP's Workplace Discrimination and Harassment Prevention policy (Exhibit 89), Ontario Public Service Workplace Discrimination and Harassment Prevention policy (Exhibit 90e) and the Ontario Public Service's pledge on Valuing Diversity (Exhibit 90a) did not want.

With respect to the OPPA's presence during this meeting, my "representative" (coach officer) did 36 nothing to impede the harassment and blatant discrimination I was being subjected to (threats of dismissal, humiliating and derogatory treatment) in plain view. Sgt. Flindall would certainly not be speaking to someone like 37 Cst. Filman, Cst. Payne, or Cst. Nie in similar manner.

Note: My further investigation revealed that the allegations of Criminal Harassment by the complainants against the accused were not substantiated and that had I been given more time to investigate the matter there would not have been sufficient grounds to proceed with laying the Criminal Harassment charge under the Criminal Code of Canada. The complainants were well known to some experienced officers at the Peterborough and the City of Kawartha Lakes Detachments (including Cst. Filman). I believe that should there have been an experienced officer available to assist me with the investigation the case would have never made it to court. Regardless, the matter was eventually resolved in court by dropping the Criminal Harassment charge and proceeding by way of a Peace Bond. I am ashamed of laying the charge against the accused without due investigation. I am also accepting responsibility for being weak for not advising Sgt. Flindall before he left the detachment on July 23, 2009, at around 7:00 pm that I was mentally and physically exhausted and lacked the necessary experience to investigate the case properly on my own that night.

On August 3, 2009, I called S/Sgt. Coleen Kohen on her mobile phone (905-973-8877) addressing my concerns and seeking advice. S/Sgt. Kohen was the Staffing Officer in the Human Resources in the OPP Headquarters in Orillia. In a presentation during the orientation week of August 25 – 29, 2008 in Orillia she advised our class (class 411) that her responsibility was to review and file Probationary Constable performance evaluation forms (PCS-066P) and should we encounter problems during our probationary period we are not to wait until the end but call them as they would be able to do something before it was too late. She further stated that when a Probationary Constable is dismissed from employment that Constable's personal file is very thick as they want to ensure that the Probationary Constable has been provided with every opportunity to succeed. When I spoke with S/Sgt. Kohen on the phone she advised me that she works with coach officers, not probationary officers, and advised me to contact the Ontario Provincial Police Association (OPPA) and speak with Jim Styles. This information contradicted her information during the orientation week and a feeling of hopelessness started to well up inside me. Yet, I followed her advice and called the Headquarters of the OPPA in Barrie (1-800-461-4282; 705-728-6161). Jim Styles was on vacation so I spoke with Marty MacMarow, who forwarded the handling of my case to the President of the 8th Branch of the OPPA D/Cst. Karen German from Northumberland Detachment of the OPP.

On August 4, 2009, D/Cst. German called me on my cell phone and advised me she was going to look into my case. At last I felt that someone was going to consider my plight and offer hope or so I thought.

On August 6, 2009, I was working a night shift. At around 10:30 pm I was dispatched to a call of a break and enter in progress at an old public school in Young's Point (SP09178964) (Exhibit 34a). Other officers from Platoon 'A' shift attended the call as well. Four male suspects – three youths and one adult - were apprehended and arrested at scene. After the apprehension and the arrest of the four male suspects, Sgt. Flindall asked all the officers at the scene if anyone wanted to lead the investigation. No one volunteered. I had not handled criminal cases of this nature before, yet I said that I could do it if I got assistance with the handling of the case. Sgt. Flindall advised me that it would be a team effort in which everybody would take on a piece of work.

Upon arrival at the detachment I found out through the Niche RMS that the investigation was assigned to me. Everybody completed their initial respective paper work, such as prisoner release papers and notices to parent and left the case in my hands. At around 3:00 am Cst. Filman went back on the road leaving me behind while I continued interrogating the suspects and then releasing them on a PTA one at a time into the custody of their parents. Later Ins. Johnston put out a detachment wide e-mail requesting in which Cst. D'Amico was named as the investigating officer. Cst. D'Amico was further commended by Inst. Johnston for leading the investigation (that had been assigned to me!) (Exhibit 26c, pages 13, 14, 18, 20, 29, 30; Exhibit 34a, Exhibit 34b) and her name was passed up to the OPP Headquarters as the investigating officer. By then I had understood that I was being targeted and it was pointless to argue any lack of recognition for my involvement.

Due to the complexity of the case for my level of skills and experience I asked Cst. Paradis to assist me with adding charges properly on the Niche RMS because neither Cst. Filman nor Cst. Payne nor anyone else on the shift were there to assist me with the paper work (Exhibit 26c, page 2). Further to this, I asked Sgt. Flindall through email once and verbally 3 times for a copy of his officer notes from the occurrence (Exhibit 26c, page 20), as Sgt. Flindall arrested one male suspect at the scene and I needed his notes to complete the Crown Brief Synopsis. Sgt. Flindall acknowledged my requests, but never disclosed his officer notes to me. I therefore completed the Crown Brief Synopsis with the exception of the missing piece of information that was in Sgt. Flindall's notes and put the 4 Crown Briefs together prior to going on my time off on August 20, 2009. I advised Sgt. Flindall that I was willing to come to work during my time off to finalize the paper work (Exhibit 26c, pages 29, 30), to which he replied he wanted me to have rest before I switched platoons and that he would take care of the rest and ordered me to surrender to him the 4 Crown Briefs that I had put together, with which request I complied.

It is noteworthy to mention that Sgt. Flindall advised all Platoon 'A' shift officers who responded to the call that he was going to write positive documentation for each. I never received any positive documentation despite that my involvement was the most significant one as not only did I respond and actively took part in the

apprehension and the arrest of the perpetrators (I personally arrested only one of them), but I also investigated the case and led it to completion (Exhibit 34a and Exhibit 34b). However, I was the only one to receive a negative documentation for doing my job (Exhibit 23b).

On August 15, 2009, I was working a day shift. At approximately 11:30 am Sgt. Flindall, Cst. Payne, Cst. D'Amico, Cst. Moran and I attended a family dispute call. We drove to the call with lights and sirens scaring the motoring public along the way. The call turned out to be nothing and was cleared as non-reportable to my badge. While en route from the call to detachment I was charged under the Highway Traffic Act (HTA) by Sgt. Flindall for "Fail to Yield to Traffic on Through Highway" – not for causing an accident, but for something that was perceived as an error by Cst. Payne and by Sgt. Flindall. Prior to serving me with the Provincial Offence Notice, Sgt. Flindall told me that he had first consulted with S/Sgt. Campbell and received his approval to charge me under the HTA. Subsequent to the charge, Sgt. Flindall thoroughly documented the incident and the charge in the Niche RMS (RM09096931) for the policing world to see that I was charged under the HTA, handed me an in-house personal documentation known as 233-10 (Exhibit 19) stipulating my "inadequate operation of police vehicle" and negatively rated me in two separate sections of my Month 8 performance evaluation – *Police Vehicle Operations* and *Personal Accountability* (Exhibit 27). In the *Personal Accountability* section Sgt. Flindall accused me of not taking any responsibility for my actions with respect to receiving the PON ticket for my "alleged" traffic infraction.

During this evaluation period, PC JACK was involved in a traffic related incident in which he was charged with failing to yield to traffic on a through highway. PC JACK's cruiser operations almost resulted in a motor vehicle collision that was witnessed by his Sergeant and a fellow officer on shift. Documentation is on file for this incident. RM09096931

PC JACK continues to struggle with personal accountability. PC JACK was issued a PON for a traffic infraction, for which he has not taken any responsibility for his actions. As well PC JACK has complained on a number of occasions that he felt abandoned or didn't have help with calls for service. In a number of instances in which he's complained, it was found that he had not let it be known that he required assistance and did not actively seek out assistance.

It appears that Sgt. Flindall believes he is the ultimate judicial authority and convicts me without being found guilty in a court of law first. However, all I did was to exercise my constitutional right under the Charter of Rights and Freedoms as a Canadian Citizen and pleaded not guilty to the false charge. Though the truth was plainly shown later on when the charge was dismissed through the courts (Exhibit 20b) the stigma associated with the charge remained amongst those I worked with. Furthermore, the HTA charge was so maliciously fabricated that Cst. Tapp who, having worked in the OPP's prestigious Highway Safety Division testified for defense that such a charge ought to have never been applied. During the trial this became very apparent and the charge was thrown out by the presiding Justice who had stern words to say about the two officers for prosecution (Cst. Payne and Sgt. Flindall) (Exhibit 20b). With respect to the personal accountability, nothing was ever mentioned about the dedication and commitment I had towards completing and reducing my task list since I was personally accountable for that. These two sections in my Month 8 performance evaluation that I refer to attest to the amount of animosity I experienced and was subjected to by my supervisors and peers at the Peterborough Detachment. The comments and signatures from Regional Command Staff supported the performance evaluation like all previous performance evaluations. Hence the performance evaluations also re-enforced the feeling of hopelessness and despair. All for being an outsider, a minority, a minority that supposedly 'came across as knowing too much', a minority who spoke with a thick accent, a minority who had a derogatory nick name "Crazy Ivan" and one that few wanted to associate with.

At approximately 12:15 pm after being advised by Sgt. Flindall that I was being charged under the HTA I was in shock. My nose started bleeding, a sure indication that my blood pressure shot through the roof. I felt that I was neither mentally nor physically fit to continue performing my police officer duties that day and therefore I wanted to take the rest of the day off. However, I was dispatched to two calls for service almost back-to-back

and decided to stay at work. I responded to the first call (in Zone 2) by speaking with the complainant on the phone, gathering the relevant information, and advising him that I was going to make every effort to drive to his cottage to see him in person that day (the call was not urgent). I responded to the second call (in Zone 3) by driving to the beach on Sandy Lake to remove two intoxicated males (the call was urgent). En route to the second call I stopped at the Buckhorn Community Policing Office as my nose severely bled again (Exhibit 26c, page 5) and it was unsafe for me to continue driving in that condition. At the office there was a community policing female volunteer on duty who witnessed my condition and the bleeding. I took note of her contact info in my officer notebook (Johanna Denis, 705-657-1181) (Exhibit 26c, page 5). After I stopped the bleeding, I drove to the beach, apprehended the intoxicated males, removed them from the beach and transported them to a nearby trailer camp. I released them unconditionally into the custody of their sober friend after charging them (issuing 2 PONs) with being intoxicated in public (Exhibit 26c, pages 5-6). I was then dispatched to a 911 hang up call (in Zone 3), which I attended and cleared. After clearing the 911 call, which was towards the end of my shift, I was en route to the first call (in Zone 2) when I was radio called by the Communication Center and requested to return to the detachment on Sgt. Flindall's order (Exhibit 26c, page 7). I complied. At approximately 6:30 pm at the detachment Sgt. Flindall served me with the PON. Sgt. Flindall knew how to have an OPPA "representative" present when he wanted to chastise me for not following his orders regarding the Criminal Harassment case. Sgt. Flindall did not offer me the opportunity to have an OPPA representative present. Cst. Filman would have had to have been advised of this charge since he was still my coach officer at that time and he chose not to be present and therefore the OPPA once again failed to accommodate me at this stage. I could not sleep the following night. My nose bled again. I called in sick in the morning of August 16, 2009 (Exhibit 26c, page 8).

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Due to the nature of the charge I requested and promptly obtained OPPA approval (Exhibit 25) to cover the costs of the legal assistance to contest the allegation. The legal fees were approved by the Vice President of the 8th Branch of the OPPA Sgt. Paul Ziggel who is from the Northumberland Detachment. Note: When I met and spoke with Sgt. Ziggel at the OPPA Christmas party in early December 2009 I asked him why he had approved the legal fees to which he replied that after reviewing the synopsis he believed the matter could have been handled differently by Sgt. Flindall. Sgt. Ziggel told me that Sgt. Flindall could have spoken to me about my alleged traffic infraction and documented it in his notebook for further reference if ever needed instead of laying a formal charge. However, if one were trying to build a file to support the termination of a probationary recruit laying the charge would be the most appropriate avenue. From the disclosed officer notes (Exhibit 20a), it was evident that Cst. Payne orchestrated laying the charge. Furthermore, I can also see how Cst. Tapp felt when he was charged with Stunt Driving and Careless driving in April 2008 (Exhibit 96a). He maintained his innocence indicating that the investigation was shoddy and lacked a prima facie case to substantiate charges. Cst. Tapp was exonerated of the charge (Exhibit 96b). On August 12, 2010, I was exonerated of the charge by Justice of the Peace Carl Young of the Peterborough Court (Exhibit 20b). Note: The first hearing took place on April 1, 2010 continued on May 27 and concluded on August 12, 2010.

On August 18, 2009, I reported to detachment on my day off to deal with the HTA charge and to follow up on my calls for service, as it had been my habit since I commenced at Peterborough Detachment of the OPP. I had a conversation with the OPPA representative Cst. Mitch Anderson in the parking lot of the detachment (Exhibit 26c, page 9). During this time, I advised him about the HTA charge and the concerns I had about my coaching, in particular how I felt that I was being backstabbed by my peers. I stressed that my performance evaluations were behind by a few months. Furthermore, I told him about my fear of Cst. Payne and her false accusations of me winking at her and lashing out on me in the Constables' office in the midst of my peers. Cst. Anderson was surprised to learn that Cst. Filman did not speak with me regarding the HTA charge as it was his coach officer duty to address it with me right away. Cst. Anderson advised me to call Cst. Filman and the Branch 8th OPPA President, D/Cst. Karen German. Though I felt it to be an extreme conflict of interest, I nonetheless contacted Cst. Filman, who in turn advised me he had been told about the HTA charge by Sgt. Flindall on the day it was laid (3 days prior). Upon hearing this I felt that he deliberately neglected to do something that I felt was his duty to do. I realized he had a total lack of interest in coaching me then and there.

Though I was not aware of it at the time, upon reflection much later on I realized how true my first impressions of Cst. Filman's attitude towards were.

On August 19, 2009, I had a meeting with S/Sgt. Ron Campbell and Sgt. Flindall with an OPPA alternative representative, Cst. Mitch Anderson sitting in on it.

First, at the meeting I was informed that I was being re-assigned to Platoon 'D' shift with another coach officer (Cst. Richard Nie) and that I would report back for duty on September 9, 2009, after my days off that commenced on August 20, 2009, at 6:00 pm. (Note: Between August 20, 2009, and September 9, 2009, there were only 9 scheduled shifts. During those 9 shifts I had to use up my accumulated hours in my cumulative time off bank and statutory holidays bank). S/Sgt. Campbell re-assured me a few times that it was not a punishment (Exhibit 26c, page 19) and Sgt. Flindall advised me that it was his decision to transfer me from Platoon 'A' to Platoon 'D' because I had alienated the majority of the officers on his shift. Sgt. Flindall did not know that I had already been advised by D/Cst. German that Northumberland Detachment commander Acting Superintendent Doug Borton was responsible for my shift change, and not him (Exhibit 26a, page 3):

Re: Michael Jack
From: Karen German (br8.president@oppassociation.org)
Sent: August 27, 2009 4:45:53 PM
To: Michael Jack (mjack_31@hotmail.com)
Michael:

I left a voice message for you to call me, but you can disregard and I will explain everything here.

I spoke with Acting Superintendant Doug Borton today. He is my detachment commander and we have a good working relationship and is approachable on these types of issues.

I have discussed your issues with him at length. He advised me that he is responsible for your shift change and that it is in your best interest to look at this as a clean slate and start fresh with your new platoon and coach officer. He advised that you can dispute the last PCS066 (MAY) and put your disputes in writing and it will be attached to that document for reference.

I wondered who was being truthful with me at the time and to this date I still wonder.

Response to the Application (HRTO 2010-07633-I) Paragraph 48:

48. Paragraph 38 – The Applicant had an opportunity at this meeting to raise any concerns he might have and he said nothing. The decision to move the Applicant to a different platoon and a different coach officer was made in response to the negative performance issues which had been identified and to attempt to give him a fresh start with a different coach to see if different personalities might result in improved performance.

Second, at the meeting Sgt. Flindall accused me of deceiving him. In his words, "I do not tolerate deceit". Sgt. Flindall alleged that I had planned to take a sick day off work on August 16, 2009, in advance. Apparently, when I was on the phone with the complainant (Zone 2 call on August 15, 2009), right after I had been told I was being charged under the HTA, I advised the complainant that I might be off duty the following day. That was conveyed to me at the meeting by Sgt. Flindall. I have no clear recollection of making such a statement because immediately following the notice of a charge my judgment was clouded. However, I will not deny saying that as I did want to take the rest of the shift off on August 15, 2009, but changed my mind upon being dispatched to remove intoxicated males from the Sandy Lake beach.

Third, at the meeting Sgt. Flindall advised me that it had been discovered that I was issuing speeding tickets mainly at 15 km/hr over the speed the limit. Sgt. Flindall further stated that at the Provincial Police

Academy we were specifically instructed not to reduce charges and personally ordered me not to reduce speeding tickets from that day on.

Note: I was reducing tickets to 15 km/hr only when the locked speed on my radar of the speeding vehicle did not exceed 30 km/hr over the speed limit. Second, at the Academy different instructors expressed different points of view with respect to issuing and reducing speeding tickets, which only makes sense since an officer has the authority to exercise his/her own discretion when issuing a PON to an offender. For example, in the morning of August 26, 2008, at the recruitment session held at the OPP Headquarters in Orillia, manager of the recruitment section Inspector Sandy Thomas told our class of 110 recruits, while speaking from the podium, that reducing speeding tickets makes the public feel good towards the police. In her words, "So you reduce the ticket and that makes the person feel better". Third, Cst. Filman did not care this way or the other whether I was reducing the speeding tickets or not. All of a sudden after 8 month on the job it became a problem and I was spoken to about it by Sgt. Flindall. Further to this, Sgt. Flindall stated that "at the Provincial Police Academy we had been specifically instructed not to reduce tickets" as if he had been in my class from start to finish.

The point being stressed is first, I was complying by my training under the authority of the Provincial Police Academy. Second, I was in total compliance with Inspector Sandy Thomas's message which centered on fostering a positive rapport with the public and the police. Third, my own coach officer had no issues with it. Fourth, I was in compliance with the related authority of the Highway Traffic Act. In fact I was being honest and true to the public because during the operation of the OPP's approved radar (Genesis system) erroneous readings could be obtained and there is a danger that should an officer arbitrarily activate the lock mechanism without being objective, a member of the public could be erroneously charged. I would have rather issued due process based on that which I was certain of and in my evidence (which was written on the rear of the ticket)

22 would make a notation of the fact that my first observations were of a higher reading. In light of aforementioned, one can see that Sgt. Flindall was clearly demonstrating differential treatment towards me and not to his other platoon members for if he were then other officers would not have been reducing their tickets and Cst. Filman

25 would have certainly instructed me not to reduce them as well. In any case, from that day on I complied with Sgt. Flindall's order and issued speeding tickets to the motoring public at the speed I locked them on my radar.

Background on my performance evaluations:

On April 26, 2009, I was presented with my Month 1 & 2 performance evaluation (form PCS-066P) (09 Jan 2009 – 09 Mar 2009) (Exhibit 15) by Sgt. Flindall. The evaluation was prepared by Cst. Filman. There were 3 “Does Not Meet Requirements” ratings out of 28 evaluation criteria ratings and 3 work improvement plans (Exhibit 16). **The evaluation was overdue by a month and a half.** Sgt. Flindall advised me that it was his fault and reassured me that it was not going to happen again.

On April 26, 2009, I was presented with my Month 3 performance evaluation (09 Mar 2009 – 09 Apr 2009) (Exhibit 17) by Sgt. Flindall together with the Month 1 & 2 evaluation. The evaluation was prepared by Cst. Filman. There were no “Does Not Meet Requirements” ratings.

On May 14, 2009, I was presented with my Month 4 performance evaluation (09 Apr 2009 – 09 May 2009) (Exhibit 18) by Sgt. Flindall. The evaluation was prepared by Cst. Filman. There were no “Does Not Meet Requirements” ratings.

On August 19, 2009, I was presented with my Month 5 performance evaluation (09 May 2009 – 09 June 2009) (Exhibit 21) by Sgt. Flindall. The evaluation was prepared by Cst. Filman. There were no “Does Not Meet Requirements” ratings. **The evaluation was overdue by two months.** What happened to Sgt. Flindall’s assurance that the tardiness of my evaluations would never re-occur?

ONTARIO PROVINCIAL POLICE ORDERS

CHAPTER 6: ADMINISTRATION & INFRASTRUCTURE (Exhibit 99b)

6.4.9 PROBATIONARY PERIOD – UNIFORM MEMBER

Detachment Commander A detachment commander is responsible for the overall development of each probationary constable and shall:

- select a coach officer utilizing the coach officer competency model;
- assign each probationary constable to a coach officer;
- where advised by an accountable supervisor that an irresolvable conflict exists between the probationary constable and his/her coach officer, re-assign the probationary constable to another coach officer forthwith;
- ensure that duty schedules are arranged so the coach officer and probationary constable work corresponding shifts, where practical;
- ensure that the Form PCS066P—Probationary Constable Performance Evaluation is completed in accordance with the Probationary Constable Guidelines; and
- review, comment and forward Form PCS066P to the regional commander each month.

Probationary Performance Evaluation Guidelines (Exhibit 99a) stipulate the following:

Timeline for submitting evaluations

Evaluations shall be received by region no later than 15 working days after the end of the reporting period for the month. It is imperative that evaluations be completed in a timely manner, as the organization is dependant on the information in the reports to either begin specific development or take remedial action or begin the process to release.

In light of the imperatives in the aforementioned Police Orders I reiterate the following:

- My Month 1 & 2 evaluations were late by a month and a half even though they were combined into one evaluation as per Probationary Constable Guidelines (Exhibit 99a).
- My Month 3 evaluation was presented to me at the same time as my Month 1 & 2 evaluation.
- The copies of these 3 evaluations that were given to me reflected no presence of the Regional Commander's reviews and/or his presence.
- My Month 1 & 2 evaluations are among the most important evaluations since they identify a probationer's immediate deficiencies should the organization (OPP) have a need to begin specific development or take remedial action.
- Alas, in my case, Month 1 & 2 evaluations were a month and a half late!
- My Month 5 evaluation was a little more than 2 months late!

19 The Detachment Commander failed to carry out his duty under Police Orders 6.4.9 in such crucial stages of my probationary period by ensuring my evaluations were done in a timely manner according to orders and in compliance with the Probationary Constable Guidelines and shockingly the Regional Command followed right along. All of the mentioned are in violation of the Police Services Act –

23 Neglect of Duty.

Probationary Performance Evaluation Guidelines (Exhibit 99a) stipulate the following:

Performance Development

The coach officer is responsible for developing a plan of training based on the Recruit Field Training Manual; the probationary constable's learning needs, and detachment priorities.

When a work performance deficiency is identified, the coach officer must:

- Identify the deficiency using specific examples to support their observations.
- Discuss the issue with the probationary constable and advise the probationary constable of the deficiency prior to making an entry onto the monthly evaluation. Document the work performance deficiency at the time of the incident or shortly thereafter.
- Advise the probationary constable of the expected/required level of performance.

As with regular performance evaluations, there should be no surprises for the probationary constable on the monthly evaluation.

Completing the Evaluation

A number of specific examples are required in each probationary constable performance review.

All assessment sub-categories shall be given one of the following performance ratings:

- | | |
|------------------------------------|--|
| Meets Requirements: | Performance consistently meets requirements. |
| Does Not Meet Requirements: | Performance fails to meet requirements. |
| No Basis for Rating: | Not demonstrated or observed. |

Meets Requirements – Probationary constable has demonstrated the expected performance consistently.

Does Not Meet Requirements - It is mandatory that a Work Improvement Plan (see page 9) is implemented by the accountable supervisor for any sub-category that is rated as Fails to Meet Requirements.

No Basis for Rating - There are months when examples of work for some sub-categories will not be observed because there was no opportunity and it will be appropriate to apply No Basis for Rating. If a Probationary constable receives this rating in two consecutive PCS066P reports for the same sub-category, the accountable supervisor shall implement a Work Improvement Plan that includes an opportunity for the member to demonstrate the required performance in that sub-category.

In light of the imperatives in the aforementioned Probationary Performance Evaluation Guidelines I state the following:

- In some categories of many of my evaluations the evaluator goes on to state that he carried over the specific example from the previous evaluation due to the lack of an available example and rated me with a Does Not Meet Requirements again instead of the more appropriate No Basis For Rating as per Police Orders.
- Even more alarming is the usage of a rating of Does Not Meet Requirements in the Self-awareness section of my Month 8 evaluation, which has no specific example when the same section is rated with Meets Requirements with a specific example in my Month 6 & 7 combined evaluation. I was denied the benefit of No Basis For Rating which would be in compliance with Ontario Provincial Police Orders.
- Furthermore, I was literally deprived of the opportunity of having the 3 identified deficiencies in my Month 1 & 2 performance evaluation, the 10 identified deficiencies in my Month 6 & 7 performance evaluation and the 17 identified deficiencies in my Month 8 performance evaluation brought to my attention and discussed prior to being entered onto the evaluations!
- I was genuinely taken by surprise due to the lack of compliance to the stipulated Police Orders state and I was literally shocked in the forthcoming evaluations.

By placing a computerized X mark beside each of the three statements on the last page of each of my first 6 evaluations the evaluator is conveying impression that I have gone over them with my coach officer and/or supervisor beside a computer so that the appropriate boxes could be marked with an X.

- I have met and discussed my performance with my coach officer or my accountable supervisor.
- I have reviewed and discussed with my coach officer or my supervisor, my responsibilities under the policy on Safe Storage and Handling of Firearms.
- I have reviewed and discussed with my coach officer, or my supervisor, my performance in relation to my responsibilities under the Professionalism, and Workplace Discrimination and Harassment Prevention policies.

That simply was not the case!

27 Furthermore an analysis of the comments and signatures pages of all of my evaluations (Exhibit 43) reveals the fraudulence and raises questions as to the credibility of their points of view and the documentation of the information to support the ratings of each and every one of the 28 evaluation categories.

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ONTARIO PROVINCIAL POLICE ORDERS

CHAPTER 6: ADMINISTRATION & INFRASTRUCTURE (Exhibit 99b)

6.4.9 PROBATIONARY PERIOD – UNIFORM MEMBER

*Orientation to
Provincial
Communication
Centre*

All probationary constables are given a short tour and question and answer session at the Orillia Provincial Communication Centre (PCC). In addition, once a probationary constable is posted to a detachment, the detachment commander and coach officer shall ensure that the probationary constable attends an orientation day at his/her respective PCC. This will enable the probationary constable to gain first-hand experience in understanding the operations of the PCC and enhance his/her awareness of the complexity of the operator role and responsibilities.

Duration

The duration of this assignment shall be one shift and shall be completed before the probationary constable is recommended for permanency.

During my entire probationary period the aforementioned order was never complied with.

Regardless of the Respondent's position with respect to Cst. Filman:

36. Paragraph 21(1) – The Respondent denies that the Applicant was treated differently than other recruits because of his race, ancestry, place of origin, citizenship, ethnic origin or association. At the time Constable Filman became the Applicant's coach officer he was completing his coach officer functions with another recruit. In addition, his wife was expecting their first child which arrived not long after the Applicant joined the Detachment which may have meant he was on the phone at various points during the day. In addition, he was a fairly senior member of the platoon which also required him to be on the phone from time to time.

it was the inherent duty of the Detachment Commander to ensure the aforementioned Police Order was complied with.

According to the Respondent my coach officer was multi-tasking in so many different areas that he just did not have the time to comply with such an order. The Respondent goes on to state that:

Constable Filman was not disinterested in the Applicant's training or development. On the contrary, it was the Applicant who was not open to constructive criticism or suggestions. At times when Constable Filman would point out something where improvement was needed, the Applicant would not speak to him for hours, even when they were traveling in the same car.

It is clear that according to the Respondent's position Cst. Filman was so busy and constantly on the phone that he could not comply with that order. Hence why was he not directed by his Sergeant and/or Detachment Commander for one day to comply with that order? On the contrary, it is very apparent that Cst. Filman simply lacked the desire/willingness to coach me as was his duty.

Being that Cst. Filman only started his parental leave on December 14, 2009, and in light of how busy he was to not have a single day from January to August to take me to the PCC, why were the supervisor or the Detachment Commander not cognizant enough to ensure I had a coach officer who had the time to properly coach me?

Furthermore, if what the Respondent is stating in their response is really the truth then obviously the supervising Sergeant, Detachment Commander and Regional Commander are in dire neglect of duty under the Police Services Act for being aware of this and neglecting to place me with a coach officer that could truly have the desire/willingness/ability and time to coach me.

Hence, contrary to the Respondent's position that the coach officer was not disinterested in his duties towards me, one has to wonder what interest he was attempting to display. It is very obvious that Cst. Filman did not have the desire/willingness to accept the responsibilities of a coach officer contrary to the Ontario Provincial Police Orders:

ONTARIO PROVINCIAL POLICE ORDERS

CHAPTER 6: ADMINISTRATION & INFRASTRUCTURE (Exhibit 99b)

6.4.9 PROBATIONARY PERIOD – UNIFORM MEMBER

Coach Officer

Selection A regional/detachment commander shall, when recommending a uniform member to perform the role of coach officer, consider whether he/she:

- demonstrates the desire/willingness/ability to accept the responsibilities of a coach officer as listed in the Probationary Field Training Manual and meets the required level for a coach officer in the competency model;
- possesses the desire/ability to transmit his/her knowledge to others;
- has an awareness of detachment objectives;
- understands OPP policy and relevant statute law;
- has a good reputation with other detachment uniform members and within the community; and
- displays loyalty to the OPP and superior officers.

Furthermore, the negligence of Sgt. Flindall and the Detachment Commander to pick up on this makes one wonder how much care and effort was actually being placed in my Performance Evaluations.

Regional Command was equally responsible for not having the Professional Fortitude and Insight to pick up on this negligence.

Their individual negligence constitutes a Neglect of Duty under the Police Services Act.

Resume my statement:

On the afternoon of August 20, 2009, I was working at the Peterborough Detachment on a number of calls, one of which was an arrest I had made earlier that day for an impaired operation of a motor vehicle (Exhibit 22). At 5:40 pm I was presented with my Month 6 & 7 performance evaluation (09 June 2009 – 09 August 2009) (Exhibit 24) by Sgt. Flindall. There were 10 "Does Not Meet Requirements" ratings. The evaluator's name on the PCS-066P form was Cst. Filman (who was on vacation at the time) (Exhibit 66) yet the evaluation was prepared by Sgt. Flindall personally and all the negative comments were thoroughly documented by Sgt. Flindall. The majority of the comments in the evaluation in addition to being false, frivolous, vexatious and made in bad faith, dealt with the information which I had divulged in confidence with other colleagues. I was the only police officer at the Peterborough Detachment at that time being subjected to this type of treatment and unusual and extraordinary demands for my level of police experience by my supervisor(s). Sgt. Flindall also handed me two in-house personal documentations known as 233-10 (Exhibit 23a and Exhibit 23b) stipulating my "inadequate conduct". It was at that time that I realized that I was being reprimed for standing up for my rights. I realized that I had been under the constant surveillance by several of my colleague police officers since I had contacted the OPPA and sought help. ⁷₈ 13

Once again what happened to Sgt. Flindall's assurance that the tardiness of my evaluations would not re-occur? Once more, how can I have had the opportunity to view my 10 alleged deficiencies in my Month 6 performance evaluation and attempt to improve myself so that my Month 7 performance evaluation might have reflected the improvement? Once again I was literally deprived of the opportunity to develop myself through this crucial probationary period. A pattern seemed to be materializing – a pattern in which a plan to terminate my employment was orchestrated and being carried out. I was never called into meetings at the end of these months to discuss my progress – meetings that should have taken place in the first place; my evaluations were tardy; I was not being given the opportunity to develop and work the stipulated deficiencies; incidents that would generate positive 233-10s were being deliberately overlooked; a false allegation to generate an investigation by the Professional Standards Bureau and a frivolous charge under the Highway Traffic Act (the latter two becoming apparent in the next two-and-a-half months). Once again, how can one place any credibility to the performance evaluations and negative 233-10s?

Note: The 233-10 documentations are disciplinary in nature. According to the Ontario Provincial Police and Directives, a 233-10 is an informal disciplinary decision that is used by a supervisor to help prepare a member's yearly Performance Evaluation Reports. Furthermore, due to the fact that it stays in a member's file for a period of two years if no further disciplinary documentations (233-10) are incurred, means it could stay longer if prior to the expiration of two years the member gets another one.

On August 20, 2009, at 6:00 pm I called D/Cst. German on her personal phone to seek advice (Exhibit 26c, page 32). D/Cst. German advised me that I did not have to sign anything at the time and that PCS-066P should be progressive discipline (Exhibit 26c, page 33) and that if I did not feel comfortable signing the forms I did not have to. She further advised me that she was going to look into my case again. I did not sign any of the forms Sgt. Flindall gave me. I told him that I needed more time to review my Month 6 & 7 performance evaluation (Exhibit 24) and that I wanted an OPPA representative to have a look at it as well. I also told him that I would sign the two 233-10 forms (Exhibit 23a and Exhibit 23b) if he ordered me to do so, to which he replied, "Nope" and immediately wrote "Refused" in the Employee's Signature section at the bottom portion of the forms (Exhibit 26c, pages 31-37). That was the end of our meeting that concluded at approximately 6:10 pm. This notation by Sgt. Flindall on the 233-10 forms was very unprofessional of him for at no time did I ever indicate that I refused to sign them other than mention that I wanted to review them with an OPPA representative, which was my right. Signing for such documents is optional. That option is an inherent right of the recipient. Merely declining to sign does not constitute a "refusal". A more appropriate notation would have been "declined". Not so for me.

On August 21, 2009, at approximately 10:00 am I spoke with an OPPA alternative representative Cst. Anderson on the phone. Cst. Anderson advised me that it was only fair for me to have some time to go over my

performance evaluation and that I did not have to sign either 233-10 or PCS-066P documents on such a short notice. I advised him that I had spoken with D/Cst. German and asked him to advise S/Sgt. Campbell of the situation, to which he replied he would.

As a result of the investigation conducted by D/Cst. German it was recognized that I had been targeted by some of my platoon members and by Sgt. Flindall. I was advised that Sgt. Flindall had several of my colleague police officers keep me under surveillance and reporting to him about my performance. D/Cst. German advised me that I was being re-assigned from Platoon 'A' shift to Platoon 'D' shift and that I should be looking at it as a clean slate and a fresh start. I was further advised that Northumberland Detachment commander Acting Superintendent Doug Borton was responsible for my shift change. I was also advised that I could not dispute my Month 6 & 7 performance evaluation (appears to be a common advice given by association representatives according to similar comments made to Cst. Tapp) but I could put in writing my comments in writing and submit them along with the evaluation for reference, which I did (Exhibit 26a, page3).

I spoke with Acting Superintendent Doug Borton today. He is my detachment commander and we have a good working relationship and is approachable on these types of issues.

I have discussed your issues with him at length. He advised me that he is responsible for your shift change and that it is in your best interest to look at this as a clean slate and start fresh with your new platoon and coach officer. He advised that you can dispute the last PCS066 (MAY) and put your disputes in writing and it will be attached to that document for reference.

We cannot make it go away, however, you can also make reference to anything positive that you feel you have done during that evaluation period. He also advised that there is one outstanding PCS 066 that needs to be completed and it will be completed by your current Sgt and Coach. I'm assuming that this is Flindall and Fliman and that is beyond his control because that needs to be completed as you are switching shifts. The next 4 will be completed by your new coach and supervisor. If you do what you are told and show your new platoon that you are capable of doing the job, then things should go smoothly. Don't give your new platoon REASON TO FIND FAULT WITH YOUR PERFORMANCE!!

If you need anything else, don't hesitate to ask. You have 4 people at your detachment that can act on your behalf in relation to Association matters, Shaun Filman, Mitch Anderson, Malcolm MacArthur and Kathy Chapman. Please seek any of them out if you require further.

I hope this helps and good luck with your new shift mates.

Following my shift reassignment in the early fall of 2009 Sgt. Flindall assumed the role of the Operations Manager as an Acting Staff Sergeant, Cst. Payne assumed the role of the Platoon 'A' shift supervisor in the rank of Acting Sergeant, Cst. Filman transferred to work in plain cloth in the Peterborough Detachment Crime Unit. (Note: Shortly after my transfer to Platoon 'D' I presented Cst. Filman with a bottle of Russian vodka as a token of my appreciation for coaching me. He said to me: "You will be fine. If you ever have any questions feel free to ask me for help". During the following three-and-a-half months Cst. Shaun Filman and I ran into each other at the detachment a few times. He would always pass by me like I did not exist.

On September 9, 2009, I commenced work on my new Platoon 'D'. I was assigned a new coach officer, Cst. Richard Nie. However, I was unaware that Cst. Nie and Sgt. Flindall were neighbors (Exhibit 65). Furthermore, they are both in the same age group and are both local to Peterborough.

10517	CST.	NIE, Richard	Valerie	15 Carson Court, Peterborough K9K 2R1	(705) 876-0710
9740	A/S/SGT.	FLINDALL, R. (Rob)	Tanya	19 Carson Crt. Peterborough K9K 2R1	749-6195

30. Paragraph 18 – The Respondent acknowledges that Constable Nie and Sergeant Flindall are neighbours but deny they are “close friends”. They work opposite schedules, rarely therefore see each other at work and do not socialize with each other outside of work.

I was assigned a new patrol zone – Zone 2 (I worked in Zone 3 for the first 8 months; it takes a few months to adequately learn zone geography). I was forbidden to work on my own. I was forbidden to work paid duties. I was forbidden to work over time (Exhibit 66). From the first hour on the new platoon Cst. Nie started constantly finding “faults” with me and meticulously documenting them in his notebook and in my monthly performance evaluations. Later on in reflection I realize why he was doing this. The targeting did not stop and the neighborly relationship between Cst. Nie and Sgt. Flindall meant that the plan to terminate my employment was being carried on.

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On September 9, 2009, Cst. Nie accused me of not contacting the complainant in a pending threats call in a timely manner. The incident was subsequently negatively documented in the *Flexibility* section of my Month 9 performance evaluation (Exhibit 32).

On 09SEP09 at the start of shift PC Jack was advised of a pending threats call. He was asked to call the dispatcher for details. Upon returning to his coach, he advised that there were three calls outstanding and he had taken details on a stolen vehicle. He was advised to call back and get all three call details, and then prioritize which one to deal with first. He returned to advise that the threats call was not in his zone. It was explained how with only three day shift officers working for the first hour of the day, he would be taking calls in every zone. After 45 minutes he still had not contacted the complainant for the threats call which was obviously the most important call.

Due to the ‘up to the minute’ documentation by my coach officer a detailed analysis of this negative rating is essential for one to get a clear understanding of the truth:

- I started my shift at 5 am.
- When I was walking towards the detachment Sgt. Banbury advised me of the pending threats call which was left over from night shift.
- I was in my civilian attire and did my routine: changed and went into the Constables’ office.
- I subsequently contacted the dispatcher and obtained the details of the leftover calls.
- I placed a call to the complainant in the threats call since it, though it was not the oldest call it appeared to be the most serious. The complainant did not answer.
- I touched base with the other calls that did not require immediate police involvement.
- At 05:42 am I telephoned the complainant again at which time I spoke with him. He was very agitated and resolute in the fact that he had already told the police dispatcher everything and so he was not telling me ‘shit’ and hung up on me.
- At 5:50 am I called the complainant again and spoke with him again during which time he was extremely rude again.
- By now it was a few minutes past 6:00 am and shift briefing was announced.

- During the shift briefing I was introduced to my new shift. It is noteworthy to mention that I telephoned Cst. Nie a few days prior on my scheduled day off to see if he wanted to meet to have a coffee so we could establish some rapport. His response on the phone was very curt and sharp, 'I do not any police work on my days off,' and I sensed by the tone of his voice that he was displeased.
- Upon hitting the road with my new coach officer, Cst. Nie we attended the address of the threats call where we spoke to the complainant around 07:20 am. The complainant was a not-so-bright middle-aged male with a very lengthy criminal record who had recently got out of jail. He lived in a small trailer on his friend's property.
- At that time the complainant was agitated and was under the belief that police were not going to do anything. Using strong language he told us not to come back and that he did not want us to do anything (Exhibit 28). Note: I have subsequently compiled a record of the complainant's interaction with Peterborough OPP Detachment and to date have this record on file.

Any officer working on one's evaluation sometime later can easily access the occurrence and see that I spoke to the complainant at 05:42 am. In the performance evaluation Cst. Nie wrote, "After 45 minutes he still had not contacted the complainant for the threats call which was obviously the most important call". Hence Cst. Nie's documentation of this incident with a negative rating is erroneous and false. Considering the fact that I started my shift at 05:00 am, where is Cst. Nie getting his 45 minutes from? Did Cst. Nie ever consider what I was doing during those alleged 45 minutes?

19 This example in the very first evaluation from Cst. Nie serves a two-fold purpose. Aside from it showing that it is completely erroneous and false it also serves to rate him in the following areas:

Communicational Skills

- 1) Written – (... documents information accurately ...) – Does Not Meet Requirements

Problem Solving Skills

- 2) Decisive Insight – (... uses knowledge and training ... to make the best decision ...) – Does Not Meet Requirements
- 3) Analytical Thinking – (... demonstrates logical thinking ...) – Does Not Meet requirements

Leadership Attributes

- 4) Personal Accountability – (... takes responsibility for one's own actions and consequences...) – Does Not Meet Requirements. Should have been able to see that the call was indeed handled in a timely and efficient manner.

Interpersonal Attributes

- 5) Integrity – (... demonstrates ... ethical standards as set out in The Promise of the OPP ... protects the rights of all persons ... consistent with the Human Rights Code) – Does Not meets Requirements

Personal Impact

- 6) Self-Awareness – (... recognizes and manages personal biases ...) – Does Not meet Requirements

The aforementioned is just an example of how one of my ratings in one field can cast speculation on the credibility of performance evaluations and also on their author. Aside from all of the aforementioned: it is my first day on a new platoon with a new coach officer working early shift for the first time (starts at 5:00 am as opposed to 6:00 am). We literally just started off. Why would Cst. Nie time me with a minute precision? Does it not look overly zealous on his part?

50. Paragraphs 40 to 44 – Constable Nie's evaluations of the Applicant accurately reflected the Applicant's performance. Contrary to the Applicant's assertion, both positive and negative performance was noted. Constable Nie did carefully document the Applicant's performance. That is the job of a coach officer.

On September 9, 2009, Cst. Nie told me that I needed to complete a vehicle record search form and send to the Ministry of Transportation as a follow-up on a Compulsory Automobile Insurance Act (CAIA) charge I laid on August 20, 2009. I advised Cst. Nie that I knew how to complete the form as I had filled out and mailed two in the spring of 2009 when I laid similar charges. For some reason, Cst. Nie said that if I had done it in the past he could easily find it in the Niche RMS. I told Cst. Nie that I had done it twice and further advised him that Cst. David McNab had taught me the procedure when I came to work at the detachment on my time off. I was so glad and excited to have a fresh start with my new coach officer that I rushed to an adjacent room with an available computer and set out to work. By the time I finished, Cst. Nie entered the room and I gladly presented him with the completed form for a review. He looked at me in a sort of way as a python looks at its prey before devouring it and said, "Michael, I am not going to play games with you. You just told me you have never done it before. I will not tolerate this". I was speechless. When I attempted to reason with him by asking, "Richard, if I have two occurrences in the Niche RMS where I filled this form out that can easily be verified and an officer who can testify that he taught me how to do it, why would I tell you that I did not know how to complete the form and then in 10-15 minutes present you a completed form?" Cst. Nie responded he did not know why but that he had heard me saying that I did not know how to do it. All my further attempts to reason with him failed. He then said it was water under the bridge. Though I felt extremely shaken and uncomfortable I assumed we resolved our misunderstanding and moved on. Later, I found the whole incident thoroughly documented in the *Personal Accountability* section in my Month 9 performance evaluation (Exhibit 32) from Cst. Nie's perspective only.

From the first day with his new coach officer, it was evident that this was going to be a problem area. PC Jack requested help with completing a vehicle record search on MTO. He advised that he had never done this before, which was a surprise given he was at the 8 month mark on the road. He was shown where to locate the form and advised to attempt to fill in the blanks. He then brought it back for review and there were two minor errors pointed out. Upon hearing this, PC Jack advised that when another officer showed him before how to do the form that he said it was okay the way he had done it. PC Jack was advised immediately that answer shopping was one of his problem areas and it would not be tolerated. He was advised that he could not set up his coach or other officers by asking questions that he already knew the answers to just to point out that he had been taught differently. He was also told that lying and blaming other officers was unacceptable. PC Jack apologized and said it wouldn't happen again.

When I voiced my concerns about his take on the incident being plain wrong, he simply said "One of us is not telling the truth". I was already accused of being a liar. So much for the "good start with a clean plate" on the new platoon with a new coach officer!

Exhibit 26a, page3:

I have discussed your issues with him at length. He advised me that he is responsible for your shift change and that it is in your best interest to look at this as a clean slate and start fresh with your new platoon and coach officer. He advised that you can dispute the last PCS066 (MAY) and put your disputes

PCS-066P (Month 8) (Exhibit 27):

PC JACK has been offered a fresh perspective with his move to Platoon D. He will be getting closer direct supervision from a new coach officer in an effort to ensure he has the proper tools to succeed.

Response to the Application (HRT0 2010-07633-l) Paragraph 48:

to attempt to give him a fresh start with a different coach to see if different personalities might result in improved performance.

On September 9, 2009, at around noon when I was still doing my paperwork Cst. Nie told me that we had been sitting at the detachment for too long and had to go on a patrol. I promptly stopped doing what I was doing and we left the detachment. In my Month 9 performance evaluation (Exhibit 32) in the *Traffic Enforcement* section Cst. Nie commented, "PC Jack is often content on staying at the detachment to complete paperwork. He has difficulty prioritizing his tasks to allow for more enforcement".

this month he had 21 calls for service of which 10 were reportable incidents. PC Jack is often content on staying at the detachment to complete paperwork. He has difficulty prioritizing his tasks to allow for more enforcement. He will get focused on one task or assignment and not

In my Month 6 & 7 performance evaluation (Exhibit 24) in the *Planning and Organizing* section I was reprimanded for being in my patrol zone conducting proactive enforcement while I had 4 tasks on my list.

On the 17th July 2009 PC JACK was following up on an investigation that he wasn't asked to assist with, while he had his own investigations that required follow-up. PC JACK's notebook for this date refers to his follow-up relating to SP09152940. His task list at the time had a 2 frauds, a theft call, and a neighbour dispute that S/SGT CAMPBELL was requesting he follow-up on.

While in my Month 5 performance evaluation (Exhibit 21) in the *Written* section I was commended for taking care of my calls in a timely and accurate manner:

During this evaluation period PC JACK has responded to 44 calls for service and assisted to an additional 13 calls for service. The reports have been done in a timely manner and are detailed and accurate SP09146471

Only 4 tasks on my list!!! Instead of getting commended or positively documented, I received a negative documentation. This too, is yet another clear example of the extreme negative biasness I experienced from my supervisors. It is also evidence of the lack of credibility of these performance evaluations. For a truthful unfolding of the events please refer to my rebuttal to PCS-066P (Month 6 & 7) *Self-Awareness* section (Exhibit 57).

What should have I done to please my evaluators? It deserves pointing out that I invested approximately 3 days of my personal time during my time off between August 20 and September 9 to complete the best part of my paperwork as I wanted to start on a new platoon with a clean task list. Was I commended for taking the initiative to catch up on the paperwork during my time off duty? No! Was I reprimanded for doing my job? Yes!

Also, in the morning on September 9, 2009, while in the Constables' office, I asked Cst. Nie if I could go to the washroom. Cst. Nie looked at me and said, "Michael, do not ever ask me that question again". At that time, it felt normal and logical to me to ask for a permission to take a washroom break. Later I pondered why I asked such a childish question. The only rationale answer appears to be that I felt like a slave. My self-confidence was severely eroded and I feared to even go to the washroom without asking for permission first. I

felt like I was a puppet. How does one adjust from being made to feel like a slave at the detachment to being an authority figure on the road and in the interactions with the members of the public at large?

On September 10, 2009, I asked Cst. Nie to show me how to properly locate addresses on the Niche RMS as I had never been shown how to locate certain ones properly. First and foremost, I retained very little knowledge about the Niche RMS from my training at the Provincial Police Academy. Due to the constant sleep deprivation we were subjected to at the Academy it was almost impossible to remain mentally focused while seated in a classroom environment (Exhibit 13c). As a result, the 3 day training on the usage of the Niche RMS was very inefficient). Second, my first coach officer Cst. Filman had never shown me how to locate addresses on the Niche RMS. I learned how to locate addresses on the Niche RMS by playing with the system but I also suspected that there must have been a better, more effective and simpler method to accomplish that. (Note: I searched in the Niche RMS manual, which I put together for the detachment, but did not find it). Instead of simply showing me how to do it, Cst. Nie accused me of checking to see if he would show me something different than I had been shown before. I was rattled by Cst. Nie's attitude. When I asked Cst. Nie this question I felt embarrassed because with 8 months on the job I did not know how to effectively locate certain addresses on the Niche RMS and had to ask him to show me. I could not have possibly envisioned that instead of getting help I would be reprimanded, accused of playing mind games, and subsequently rated negatively in the *Attitude Towards Learning* section of my Month 9 performance evaluation (Exhibit 32).

On 10SEP09, PC Jack was completing a report from a stolen vehicle. He advised that he needed assistance locating the address as he had never been shown how to search for one before and link it properly. He was questioned as to how this was possible with eight months on the job as this would have been taught in Orillia or his first occurrence at detachment. He brought up another occurrence of his and showed the address which had not been entered correctly. He was explained how to correct it and he placed the blame on another officer for showing him the wrong way. It was apparent that he knew how to enter the address, but was checking to see if his new coach would show him something different. When confronted on this, he then advised that it was his mistake and he had been shown properly saying he was embarrassed and was not trying to be untruthful.

This position that Cst. Nie took is indicative of, at the very least, an extremely biased individual. The incident occurred on the second day of "training" with my new coach officer. What was wrong with a probationary asking his new coach officer how to do something that a previous coach officer ought to have showed him? Weren't we supposed to start with a clean slate as it was put to me? 28

Exhibit 26a, page3:

I have discussed your issues with him at length. He advised me that he is responsible for your shift change and that it is in your best interest to look at this as a clean slate and start fresh with your new platoon and coach officer. He advised that you can dispute the last PCS066 (MAY) and put your disputes

PCS-066P (Month 8) (Exhibit 27):

PC JACK has been offered a fresh perspective with his move to Platoon D. He will be getting closer direct supervision from a new coach officer in an effort to ensure he has the proper tools to succeed.

Response to the Application (HRTO 2010-07633-l) Paragraph 48:

to attempt to give him a fresh start with a different coach to see if different personalities might result in improved performance.

Had Cst. Nie been genuinely interested in helping me pass my probationary period, he ought to have displayed some understanding and ought to have just explained to me that this is what he does regardless of what someone else showed me. So much for the "clean slate"!

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On September 14, 2009, I was presented with my Month 8 performance evaluation (09-Aug-09 – 09-Sep-09) (Exhibit 27) by my new shift supervisor Sgt. Peter Butorac. The evaluation was prepared by my former shift supervisor Sgt. Flindall and my former coach officer Cst. Filman and signed by the Acting Detachment Commander S/Sgt. Campbell. There were 17 "Does Not Meet Requirements" ratings out of the 28 evaluation criteria ratings. The majority of the comments in the evaluation was vague, contradictory, repetitious, and were filled with false and vexatious accusations and made in bad faith in general. Since I worked only 6 shifts during Month 8 performance evaluation period (August 9 to September 9), my evaluators carried the bulk of the negative comments from my Month 6 & 7 performance evaluation (Exhibit 24) over to Month 8 performance evaluation (Exhibit 27) while adding a few more "sins" that I allegedly committed during the 6 shifts in August of 2009. That was not exactly "starting with a clean slate on a new platoon" that I was advised of. I only had two months of my probationary period left before a recommendation had to be made either to recommend me for permanency or for dismissal from employment with the OPP. Under the given circumstances, it was NOT possible for me to regain focus and to clear my name. I cannot emphasize enough how receiving that evaluation eroded my self-confidence and belief in what I was doing. After all the efforts I had put into learning the job (practically on my own) I was faced with an almost impossible challenge to convert 17 "Does Not Meet Requirements" ratings into "Meets Requirements" ratings in a two month period in a hostile and poisoned work environment.

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In the Employee's Signature place at the end of my PCS-066P (Month 8) there was a word "REFUSED" written (Exhibit 27). I was shocked at the manner in which it was presented to me in, so much that:

- It implied that I had an opportunity to view it previously and refused to sign it.
- It also implied that my evaluators had an occasion to review this evaluation with me while they were seated at a computer and check the three statements above the employee signature section in computer print.
- The date of the signatures used by the S/Sgt. Campbell, Sgt. Flindall and Cst. Filman (11 Sep 09) implied that I refused to sign it on that same date. **However, on September 11, 2009, as one can see from the Peterborough County OPP Duty Schedule 2009 (Exhibit 66) S/Sgt. Campbell, Sgt. Flindall and Cst. Filman were working day shift while I was on scheduled day off!!!**
- The maliciously orchestrated plan to terminate me was speeding ahead in so much that I now had 17 negative ratings in the fraudulent evaluation. Not only the targeting never stopped, but it intensified.
- Furthermore, the blatant openness of the plan became very apparent by S/Sgt. Campbell, Sgt. Flindall and Cst. Filman answering for me and **fraudulently** printing "REFUSED" in the place of my signature on this evaluation.

13. The Applicant received copies of all of his PERs during his probationary period. Work Improvement Plans were also developed in relation to the Applicant. The Applicant refused to sign several of his later PERs when they started to contain negative comments.

- In actuality, when Sgt. Butorac presented me with the evaluation in mid-September, 2009 it was the first time I ever laid eyes on it! The Evaluation Meeting never took place!

- Though there was a statement printed above the coach officer signature stipulating that I was on my days off for the majority of this evaluation (I actually worked only 6 shifts) the evaluation purports to reflect the previous evaluation.
- I knew at that time I was being harshly targeted in order to have me fired from the OPP in a "legitimate" way.

COMMENTS AND SIGNATURES		
Evaluation Meeting		
<input checked="" type="checkbox"/> I have met and discussed my performance with my coach officer or my accountable supervisor. <input checked="" type="checkbox"/> I have reviewed and discussed with my coach officer or my supervisor, my responsibilities under the policy on Safe Storage and Handling of Firearms. <input checked="" type="checkbox"/> I have reviewed and discussed with my coach officer, or my supervisor, my performance in relation to my responsibilities under the Professionalism, and Workplace Discrimination and Harassment Prevention policies.		
Employee's Comments:		
Employee's Signature:	REFUSED	Date:
Coach Officer Comments: During this evaluation period PC JACK was off on rest days for the majority of the evaluation period. This has resulted in a lack of content for this evaluation period. As well sue to the fact that the previous evaluation had a number of Work improvement plans and PC JACK was off he has not had a significant opportunity to rectify the identified performance deficiencies.		
Coach Officer's Signature (Performance has been observed that supports the rating assigned for each category):		Date: 11 Sep 09
Accountable Supervisor's Comments (Mandatory): PC JACK has only worked 6 shifts during this last evaluation period due to his vacation leave. A number of the sections in this evaluation have been carried over from his last evaluation. It is expected upon his return to work, that he will actively meet the objectives of his Work Improvement Plans as he continues his probationary period with Platoon D.		
Accountable Supervisor:	Accountable Supervisor's Signature:	Date: 11 Sep 09
SGT. R. FLINDALL	[Signature]	

Detachment Commander:	Detachment Commander's Signature:	Date: 11 Sep 09
R. S. GAMBELL	[Signature]	
Instructions:		
At the conclusion of each evaluation period:		
<ul style="list-style-type: none"> • Forward the completed and signed ORIGINAL document to Region/Bureau for signatures and tracking purposes. 		

In that case one has to wonder why was not the very first section, *Attitude Towards Learning* not given the same rating as in the previous evaluation (Exhibit 24)? This evaluation (Exhibit 27) shows the section to have a "Does Not Meet Requirements" rating whereas the previous evaluation (Exhibit 24) shows the *Attitude Towards Learning* section to have a "Meets Requirements" rating. This evaluation (Exhibit 27) shows this section to have no specific example whereas the previous evaluation (Exhibit 24) shows this section to have a specific example.

PCS-066P (Month 6 & 7) (Exhibit 24):

<p>ATTITUDE TOWARDS LEARNING</p> <p>Able to re-evaluate personal opinions, judgments and assumptions based on new information and experiences; able to learn from mistakes and accept disappointments as well as successes.</p> <p>Specific example: PC JACK has an obvious desire to learn and takes his own initiative to do so. However, having said this, his ability to take advice or constructive criticism or direction from experienced officers is sometimes met with "I know". This has led to some question about his attitude from these officers.</p> <p>SP09148553 - As the result of a traffic complaint about a possible impaired driver PC JACK located and stopped the vehicle. He appropriately issued a roadside demand and when the subject failed the roadside he arrested the driver and issued the Demand for the intoxilyzer. PC JACK however, did not issue the rights to counsel and caution to the accused until he was back at the detachment after I questioned him about this time. PC JACK acknowledged the mistake and immediately corrected the issue.</p>	<p>Meets Requirements</p>
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PCS-066P (Month 8) (Exhibit 27):

<p>ATTITUDE TOWARDS LEARNING</p> <p>Able to re-evaluate personal opinions, judgments and assumptions based on new information and experiences; able to learn from mistakes and accept disappointments as well as successes.</p> <p>Specific example: PC JACK has an obvious ability to learn but is not willing to take responsibility for mistakes or accept any disappointments. He has been found to avoid an officer that has given him negative feedback. He has also been argumentative with officers that have given him direction and states that discipline is "humiliating".</p>	<p>Does Not Meet Requirements</p>
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The presence of the noted comment of Issues Noted clearly implies that the evaluation was reviewed and approved by the Regional Commander who is the manager of Staff Development and Training (Exhibit 27):

<p>Regional Commander (or designate)</p>	
<p>Comments (Mandatory)</p>	
<p><i>Issues noted. Work Improvement plan is attached.</i></p>	
<p>Regional Commander (or designate) Staff Development and Training</p>	<p>Regional Commander's (or designate) Signature: <i>D. Lee</i> Date: <i>050609</i></p>
<p>Instructions: At the conclusion of the evaluation period:</p> <ul style="list-style-type: none"> Return a signed COPY of completed document to the member. Forward the completed and signed ORIGINAL document to Career Development Bureau for tracking purposes. 	

In light of the aforementioned I see that fraudulent activity was involved in a good portion of this evaluation. Hence, **this evaluation is completely fraudulent and by being approved by Regional Command it was being approved by the Ontario Provincial Police!**

On September 18, 2009, I had a "Driver Competency Assessment" in Kingston (Exhibit 29). S/Sgt. Campbell was responsible for sending me to the assessment (Exhibit 26c, page 13). The driving instructor was surprised to learn that the assessment was not requested as the result of a motor vehicle collision, but as a result of a simple HTA charge. Also, by that time I had already been under a lot of stress, which was noticed and documented by the driving instructor). Subsequent to the assessment I was sent for a remedial driving training. Over the fall of 2009 I attended 3 driving sessions in Lindsay each lasting about an hour. The driving sessions were conducted by the Provincial Police Academy driving instructor Sgt. Kent Taylor. My driving skills were deemed to be good.

On September 19, 2009, in yet another attempt to follow Cst. Nie rules to the letter, I asked him how he wanted me to sign a PON ticket. He immediately accused me of trying to set him up and playing mind games with him and subsequently rated me negatively in the *Personal Accountability* section in my Month 9 performance evaluation (Exhibit 32):

Since that day, it has been daily that something will come up where PC Jack attempts to ask questions that he already knows the answer to. On 19SEP09 he asked his coach how to sign

No matter what I did or how I did it, Cst. Nie almost always found a problem with me. I grew fearful of his presence next to me. I was afraid of asking him questions. Every time I asked him a question I anticipated he would find something wrong with either the question or with me.

On September 23, 2009, I was served with a Notice of Internal Complaint (Exhibit 39, page 1) that on September 11, 2009, an internal complaint was commenced against me alleging that I was associating with undesirables and that I was under the investigation by the Professional Standards Bureau (PSB) of the OPP. When Sgt. Butorac served me with the notice, I was dumbfounded and when I asked Sgt. Butorac who the complainant was he told me he did not know. Sgt. Butorac told me, "You have clouds over your head", and further added that it was embarrassing for me to receive such a notice. I was not embarrassed since there was nothing for me to be embarrassed about. However, learning this news was a death blow to me – a real coup de grâce. Knowing that the complaint was unfounded there was no doubt in my mind that some officers at the Peterborough Detachment had engaged in a methodical campaign of interpersonal destruction, smearing of my name and a creation of a disruptive work environment with the ultimate objective of having me fired from the OPP by all means possible.

Upon receiving the Notice of Internal Complaint I promptly advised the President of the 8th Branch of the OPPA D/Cst. Karen German by email (Exhibit 26a, page 4) but never received a response from her. I further verbally advised OPPA alternative representative Cst. Mitch Anderson and ask him to advise D/Cst. German at the OPPA meeting which he was attending, which he told me he did. Cst. Anderson subsequently spoke with the Peterborough Detachment Commander Ins. Johnston and learned that Ins. Johnston was aware of the complaint. Whoever orchestrated filing the false complaint against me, they filed it contrary to section (1)(a)(vi) 34 of the Police Services Act R.S.O. 1990, c. P.15 Ontario Regulation 123/98 (Exhibit 67). 35

My numerous correspondences to the Ontario Provincial Police Association during the month of October (Exhibit 26b) seeking assistance were never returned and further exacerbated my feelings of being helpless.

On September 23, 2009, I was working a night shift at the Peterborough Detachment. Cst. Nie and myself attended an unwanted person call in which the complainant knew me by my first name. He stated that he knew me from the Nu Bodies fitness facility where I had been a member. I vaguely recalled speaking with him in the past at the club but that was all I remembered. We must have introduced ourselves by first names and that was how he knew my name. Had he not brought it up first, I doubt I would have recognized him at all. At one point during the conversation with us outside of his house, he looked at me and said, "I know, Mike, you are recording everything, right?" (Exhibit 49). I did not take any note of it as it was not the first time I was told by a member of the public that police record conversations. Eventually, the matter was resolved and we departed from the scene.

On September 24, 2009, I was working a night shift at the Peterborough Detachment. Shortly after the beginning of the shift in a face-to-face conversation Cst. Nie accused me of recording our conversations. I was frightened by his accusations and his attitude as I had been doing nothing of the kind. I did carry a personal tape recorder in my duty bag and never made a secret of it. In one instance, Sgt. Flindall even borrowed it from me to record something, but I never secretly recorded any of the conversations with my peers. As a matter of fact, I used it only once with Cst. Filman in an open manner. I also had a cheap portable digital camera with audio recording feature, which did not quite work, that I purchased on eBay in the spring of 2009. However, after showing it to my Platoon 'A' shift co-workers and to Sgt. Flindall I was advised by Cst. D'Amico not to carry it. I followed her advice and never carried it with me since that day. During the conversation, Cst. Nie threatened me, "If I ever find out that you record our conversations, we are done! I have a job, you do not!" I advised Cst. Nie that when the complainant said, "I know, Mike, you are recording everything, right?" he addressed the police and not me as an individual as I did not record anything whatsoever and I was barely familiar with the complainant. Further, in an attempt to clear off Cst. Nie's accusations made in bad faith I asked him to speak with the complainant and see for himself what the complainant had to say about it. I told Cst. Nie, "Go ask him if he addressed me personally or the police when he said I know Mike you are recording everything, right?" (Exhibit 49). Cst. Nie said it was ridiculous and that he was not going to do it. He further added that he had heard from other officers that I recorded conversations. How should one in my position have felt after that? It was very obvious that Cst. Nie like the rest were very negatively biased towards me. They constantly brought up the past to justify the present and even brought up unrelated incidents based on one's sole perception.

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Sometime in September 2009 I was working a day shift at Peterborough Detachment. Cst. Nie and I were dispatched to secure a crime scene of a suspected arson in a cottage country. I was not feeling well that day and had a severe nasal congestion. At the scene, while outside of the cruiser, I blew my nose. I did not have a tissue and did so by turning aside. There were only two of us at the scene at the time. Cst. Nie immediately reprimanded me for doing this by saying in a vexatious manner that "it was disgusting" and lectured me that it was inappropriate what I did. I agreed and apologized; however, I felt humiliated. I was made to feel like a little boy who had misbehaved.

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Response to the Application (HRTO 2010-07633-I) Paragraph 50:

With respect to the "cream puff" nickname, other officers at the Detachment joked with Constable Nie whenever he ate a donut in uniform. When the Applicant ordered the cream puffs, Constable Nie said to the Applicant that he was glad he had someone to support him. When he called him "cream puff" the Applicant laughed out loud. It should also be noted that whenever a rookie comes on to a platoon they end up with a nickname. It is part of the camaraderie and shows a sense of belonging. If the Applicant had not laughed or had indicated that the nickname bothered him, Constable Nie would not have used it again.

Fairness, Courage and Caring (empathy and compassion)

Support colleagues, especially those who may feel vulnerable or at a disadvantage because of their employment status, e.g. new recruits, volunteer, civilian, contract; or background, e.g. race, gender, ethnicity
Exercise humility and self-control/discipline

Be thoughtful about both what I say and "how" I communicate, i.e. sensitive to inadvertent or subtle messages, terms or labels; avoid potentially hurtful rumours and gossip; maintain confidentiality

Being a probationary and a minority and constantly being subjected to comments like I have mentioned earlier, no one can possibly imagine the stress one goes through. One starts to become acutely aware of his every action and comments to the point where one is constantly measuring how he is perceived. As the result of those derogatory comments I became very self-conscious and my self-confidence was further eroded. I was literally being made to feel like I was a puppet on Cst. Nie's string and hence the string of the Ontario Provincial Police and the Ontario Public Service. Yet, shocked as I was to the brazen and bare faced discrimination, I never voiced my objection to Cst. Nie's inappropriate comments because I was concerned that if I had done it would have negatively affected my performance evaluations. 15

On October 7, 2009, I attended a call of suspicious activity in the north-east end of my zone. Also in attendance to this call was Cst. David Stimson. Upon arrival we parked our cruiser on the road and walked towards the house on the property. When we approached the house we caught the distinct odor of freshly cut marihuana and it caused us to look at each other to see if we recognized it. We did and immediately and quietly retreated from the area before our presence was detected. We then directly drove to the Community Police Office in Havelock and I placed a call to the Peterborough Detachment Drug Unit. We completed a general occurrence report (SP09233537) and cleared the call advising that a cursory investigation revealed a possible illegal drug grow in operation at the address and information was passed on to the Drug Unit for further investigation. Nine days later I received an e-mail from our drug unit officer, Cst. Earnie Garbutt (Exhibit 35). The e-mail was addressed to Cst. Stimson, Cst. Jack and our shift supervisor, Sgt. Butorac. It thanked us for the initial investigation and having the prudence of leaving the continued investigation to the Drug Unit. It went on to commend us that as a result of the information received a search warrant was executed and over 2000 large marihuana plants were seized. That was a substantial seizure, approximately two million dollars in street value. Moreover, it was our information that put the Drug Unit onto it. However, I never received any positive documentation from either my shift sergeant, the Detachment Operations Manager or the Detachment Commander. One would have thought that especially during a probationary term it is important to offer positive 233-10s and/or commendations where possible. However, I believe that if one wanted to terminate a new recruit during their probationary period all one had to do was to focus on every action of the recruit, criticize it where possible, concentrate on negative documentations only and generate investigations by the Professional Standards Bureau with any false allegation. The fact that I was never documented positively for conducting the initial investigation that led to a successful seizure of a two million dollar illegal drug grow operation certainly adds credence to my belief that the decision to terminate my employment had already been made and all one needed to do was to build up a file in support of a forced termination of employment.

On October 13, 2009, I was presented with my Month 9 performance evaluation (09 Sep 2009 – 09 Oct 2009) (Exhibit 32) by Sgt. Butorac. The evaluation was prepared by Cst. Nie. There were 13 "Does Not Meet Requirements" ratings. When Sgt. Butorac asked Cst. Nie in my presence why there were 13 "Does Not Meet Requirements" ratings, Cst. Nie replied that he did not find anything else wrong with me to comment in the rest of the sections. By that time I had been under the constant surveillance of my new coach officer (Big Brother) 45

Cst. Nie. Sgt. Butorac advised me that I could submit a rebuttal to the evaluation. While I disagreed with the thoroughly documented negative comments in the evaluation, 4 or 5 out of which were totally false, I did not even bother to dispute them at the time. I knew that if I was going to attempt to dispute them, I would have been targeted even more ruthlessly. I had learned the hard way. I must re-iterate that by that time, my confidence, inspiration, decisive insight and belief in what I was doing were gone. My health was deteriorating (Exhibit 31 and Exhibit 50). I felt that my days with the OPP were numbered and I lived my life in fear and absolutely hated coming to work. Also, due to the Professional Standards Bureau investigation launched against me, I felt I was isolated with no rights.

It is noteworthy to mention that after reviewing my performance evaluations and 233-10s for the months 6, 7, 8 and 9, I observed an attention-drawing trend. First I was accused of answer shopping, then I was accused of not asking questions and after that I was accused of asking questions I knew answers to. What should have I really done to please my evaluators? This compelling trend is more commonly referred to as 'a no-win situation'. I was being led to the slaughter house and there was nothing I could do about it. Note: The value of Decisive Insight is only achieved upon realizing the collective knowledge of the majority where after one is able to make a well-meaning and wise answer.

Exhibit 23b - File 233-10 (Month 7):

On the 2nd of August 2009, PC JACK was spoken to by his coach officer PC S. FILMAN and his Sergeant, R. FLINDALL in regards to complaints received from his peers that PC JACK is constantly "shopping for answers". Complaints were received not only from his platoon mates, but also officers from other shifts. At this time, he was advised to cease and decist and that if advice is given by his coach officer or Sergeant, he is to follow this direction.

Exhibit 27 - PCS-066P (Month 8) (*Personal Accountability* section):

As well PC JACK has complained on a number of occasions that he felt abandoned or didn't have help with calls for service. In a number of instances in which he's complained, it was found that he had not let it be known that he required assistance and did not actively seek out assistance.

Exhibit 32 - PCS-066P (Month 9) (*Personal Accountability* section):

Since that day, it has been daily that something will come up where PC Jack attempts to ask questions that he already knows the answer to. On 19SEP09 he asked his coach how to sign

33 I have to admit that my feelings for Cst. Nie's coaching approach were mixed at the time. I liked the instructional aspect of coaching with which he was providing me. Over the 3 months with Cst. Nie (in
35 comparison to the 3 months with Cst. Filman) I learned a fair amount about the job. On the other hand, Cst. Nie was perpetually unhappy with my performance from day one and had been extremely authoritarian, intolerant, and in many instances plain wrong. He kept me in a permanent state of defense and treated me like I was a little
30 boy. It felt like I had a Big Brother attached to me with an umbilical cord whose presence I utterly feared. I was terrified of coming to work. I could not sleep well. Sometimes I was on the verge of tears (something that was very hard for me to admit to myself, let alone to others). I was the only police officer at the Peterborough Detachment at that time being subjected to this type of treatment. Later on I found out that Cst. Lloyd Tapp, who
A1 was a seasoned veteran officer from Toronto Police, also shared similar feelings during his time at the Peterborough Detachment which saw him initiate proceedings with the Ontario Human Rights Commission (Exhibit 95).

There were other incidents in which Cst. Nie treated me inadequately and at times inappropriately. He frequently belittled me. For example, after I had bought a few cream puffs and éclairs during our stops for coffee

and a doughnut at a local Coffee Time shop, he nicknamed me "cream puff" and advertised my new nickname to other officers on our shift. In the given circumstances it was very belittling and derogatory.

Response to the Application (HRT0 2010-07633-1) Paragraph 50:

With respect to the "cream puff" nickname, other officers at the Detachment joked with Constable Nie whenever he ate a donut in uniform. When the Applicant ordered the cream puffs, Constable Nie said to the Applicant that he was glad he had someone to support him. When he called him "cream puff" the Applicant laughed out loud. It should also be noted that whenever a rookie comes on to a platoon they end up with a nickname. It is part of the camaraderie and shows a sense of belonging. If the Applicant had not laughed or had indicated that the nickname bothered him, Constable Nie would not have used it again.

It is the Respondent's position that the Applicant's coach officers and other officers within the Detachment tried to assist the Applicant but the Applicant failed to heed their advice and guidance. The Applicant was resistant to receiving feedback or constructive criticism and would respond with the silent treatment.

The Promise of the OPP (Exhibit 87):

Fairness, Courage and Caring (empathy and compassion)

Understand consequences for others of when/how I express my personal feelings and opinions; try to understand the underlying feelings of others; try to anticipate others' reactions to my behaviour or comments, e.g. jokes

Treat all others with equality, as I would want my loved ones and myself to be treated; victims and accused (their families and communities), colleagues and staff, regardless of gender, race, ethnicity, ability, age, etc.; enable

Support colleagues, especially those who may feel vulnerable or at a disadvantage because of their employment status, e.g. new recruits, volunteer, civilian, contract; or background, e.g. race, gender, ethnicity

Be thoughtful about both what I say and "how" I communicate, i.e. sensitive to inadvertent or subtle messages, terms or labels; avoid potentially hurtful rumours and gossip; maintain confidentiality

Diversity (in society and my workplace)

I will:

- Seek to understand different perspectives, cultures, lifestyles, creeds and apply that understanding to effect quality policing
- Identify candidates for recruitment to enhance the diversity of the O.P.P. workforce reflective of the communities we serve
- Adjust the way I work (behave and communicate) by appropriately accommodating others' basic human rights
- Respect the individual dignity and strengths of all people

It did not really matter what I did or how I did it. What mattered is it either did not meet his standards or his pattern of thinking was different than mine. He was always "right" like in the old adage that "might is right". It was therefore easier for me to admit "making a mistake", apologize, and move on rather risk making him angry by voicing my objections. My spirit, morale and enthusiasm were at a low point. I felt like a slave and became servile. I feared voicing my points of view or letting anyone know that I did not appreciate the way I was being treated as first, my self-esteem was eroded and second, I did not see any merits to doing that. I was brought down to my knees. It was very humiliating.

17 In reflection later on, I realized that I was experiencing the so called "Boiling Frog Syndrome" (Exhibit 100) in so much that the constant discrimination I was being subjected to reached a point where I literally became oblivious to it and/or no longer cared. I would tend to rely on the later since it became very apparent that my days with the OPP were numbered and no matter what I did the inevitable was not going to change.

20 During the fall of 2009 I frequently came to the detachment on my days off to work on my reports so Cst. Nie and I could spend more time on the road. I would document the dates and work done in my officer's notebook. When Cst. Nie learned about it he forbade me to document my attendance at the detachment and work when I was off duty. I complied and while I continued to work on my days off I did not document it in my notebook anymore.

26 Also, for some reason Cst. Nie accused me of playing mind games with him (he said it to me approximately 2 months into our time together). Yet another point worth mentioning is Cst. Nie's admission to me that when he was a rookie, he was "swimming" throughout the first year on the job. His first posting was in the Highway Safety Division, which meant that he only had to deal with traffic related incidents – no domestics, no break and enters, no thefts from vehicles and from premises, no neighbor disputes, no nuisance and harassing phone calls, no frauds, no walk-in complaints, etc. The first break and enter call he was dispatched to took place on his first shift at the Peterborough Detachment. He was then 3 years on the job. When he was coaching me, he had 9 years on the job while I was still in my first year, a year filled with aggravating factors such as toxic and disruptive workplace environment. I tried to seek his compassion and gain his understanding of my situation. I disclosed everything about myself, e.g. where I came from, how I immigrated to Canada, how I became a police officer, my education, my interests, my aspirations, why I needed this job, the fact that I was the only one in my family living in Canada and even that I needed the job to be able to sponsor my family to come to Canada or at least give me the hope that one day my family and I will re-unite. I literally did not hide anything from him. I hoped that he would understand my perspective, see that I am not an evil person, and realize that my judgment and my performance were severely undermined by the poisoned work environment and by his authoritarian coaching methods. I hoped he would change his dictatorial and intolerant approach to "coaching" and ease up on me. I hoped he would start looking for the positive in me and provide me with support and inspiration. Alas, my efforts were in vain. Cst. Nie remained as cold as a chunk of ice and constantly prided himself on being objective.

Cst. Nie liked to listen to the radio (he was mostly interested in sports transmissions). I normally had the regular radio turned off and listened to the police radio only. Cst. Nie subsequently accused me of being disrespectful to him by having the radio turned off when I was operating a police vehicle. He further used it to accuse me of being unable to multi-task. It is also noteworthy to mention that in a few instances when we were returning to the detachment towards the end of the shift and I was running a moving radar as I drove, Cst. Nie would shut the radar off thus effectively affecting any developmental opportunities for me with respect to radar operations, which I might say are a key component to the OPP's promise of providing effective public safety and service and not to mention an opportunity to improve on my so called 'inability' to multi-task. When I asked Cst. Nie why he did not allow me to run the radar, he replied that our platoon Sergeant would never approve overtime for a traffic stop.

Sometime in October 2009 I learned from some officers at the Peterborough Detachment that Cst. Nie had coached Al Chase (full name: Harry Allen Chase) and that Al Chase had been dismissed from employment with the OPP (Exhibit 48). Al Chase was a visible minority (African-Canadian) with 21 years of service in the Canadian Armed Forces. I subsequently asked Cst. Nie about what happened to Al Chase. Cst. Nie advised me that Al Chase had a learning disability and that he (Cst. Nie) did not know how they did not catch it in the first place. Note: I am sure who "they" were that Cst. Nie referred to – Canadian Armed Forces, Applicant Testing Service, OPP recruitment bureau, Ontario Police College, or Provincial Police Academy. Cst. Nie further advised me that OPP had expended thousands of dollars on Al's tests and had him see psychologists before terminating his employment (Exhibit 62). Ironically I learned much later on in 2010 from Cst. Tapp who was on Sgt. Gerry Smith's shift along with Al Chase that Al was developing into a fine officer. The so called learning disability was his habit of getting the dispatcher to repeat herself that raised the inference that he had a problem with his hearing. Cst. Tapp had worked with Al on some calls on occasions that Al was alone and commented to Cst. Nie that Al was doing a fine job out there. To that Cst. Nie commented that Al must have a learning disability for he keeps getting the dispatcher to repeat herself. Cst. Tapp told him that Al did not have any learning disability and that he (Cst. Tapp) himself often got the dispatcher to repeat herself so then he (Cst. Tapp) must have a learning disability as well. Cst. Tapp also told me of another officer working at the time on Al Chase's shift, Cst. John Dawson who couldn't utter two sentences without stammering and is still employed with the OPP. 28

On October 19, 2009, while off duty, I wrote a memorandum to myself (Exhibit 36). A couple of weeks later I showed it to Sgt. Butorac. After reading it he appeared to be sympathetic yet stated that I could not work on my own and further said to me, "We do not like whiners".

Sometime in late October 2009 I was working a night shift at the Peterborough Detachment. While sitting in the cruiser at the detachment parking lot Cst. Nie mentioned something along the lines, "If things do not work out for you, you will probably be doing something about it". I responded by saying that at the time, I had no such intention. Cst. Nie then advised me that when I asked him about Al Chase it freaked him out. Cst. Nie then added something to the effect that Al Chase's and his family were friends (I think the Church might have been in the picture as well) and that since Al Chase failed to pass his probationary period, he (Cst. Nie) failed as a coach officer too and that was the burden with which he had to live. So when I asked Cst. Nie again what happened, he kind of leaned away from me and said, "Do not even go there". 35 39

Furthermore, around late October 2009, I noticed a significant change in the attitude of the Peterborough Detachment civilian personnel towards me. The civilian female employees became more reserved and less friendly in their interactions with me. I felt I was being ostracized from all directions. Later, I learned from Cst. Tapp that one civilian female employee – front desk secretary Deborah Musclow – had said to him in January 2010 that I could not be trusted, had problems and something to the effect that I was not altogether there, though she and I barely ever worked together and I was no longer with the OPP. One must realize that as an officer one does not have a regular interaction with many of the civilian staff. OPP's yearly business plans stress the need of every officer when starting work to hit the road so to speak as soon as possible and stay in their respective zones and communities. When one considers that regular hours of an OPP officer for days start at 6:00 am for mornings and 6:00 pm for evenings one can see that these commencing hours preclude frequent 42

7 interaction with civilian staff since they normally start at around 8:00 am. Hence the change in their attitudes would have had to be influenced by the rumors concerning me much like the rumors I was hearing concerning visible minority officer Cst. Tapp who has filed 5 complaints with the Ontario Human Rights Commission (Exhibit 95). Furthermore, the change in their attitudes attest to poisoned environment I was working in. Noticing the change in their attitude reinforced my belief that some Peterborough Detachment officers had launched a systematic campaign of interpersonal destruction against me. It was this interpersonal destruction that ultimately ushered in my demise with the OPP.

Sometime in early November 2009 I was working a night shift at the Peterborough Detachment. I was mentally, physiologically and psychologically exhausted from constantly living under stress (Exhibit 50). I approached Cst. Nie in the office where he was writing my Month 10 performance evaluation and asked him if he knew if I was going to be entitled for Employment Insurance benefits should I be dismissed from employment with the OPP. Cst. Nie said he did not know. I said, "Richard, do what you got to do. I am very tired of living a life like that". Cst. Nie, said, "Thank you. I appreciate it".

In November of 2009 I was interviewed at the Peterborough Detachment by the Professional Standards Bureau (PSB) investigators Detective Sergeant (D/Sgt.) Tym Thompson and D/Sgt. Mark Wolfe regarding an allegation that I was associating with undesirables. The President of the 8th Branch of the OPPA D/Cst. Karen German was present during the interview. The interview was audio recorded by the PSB Detectives and by the OPPA Representative. It is noteworthy to mention that I could not sleep on the eve of the interview so by the time it took place (at approximately 3:00 pm) I had been awake for approximately 30 hours straight. When I advised D/Cst. German shortly prior to the interview that I was deprived of sleep, she immediately called the Detectives, who were en route to the detachment, and attempted to re-schedule the interview. However, the Detectives were already nearing the detachment and insisted on proceeding and I also could not wait to get it over with.

The allegation:

In the summer of 2003, I was a member of the GoodLife fitness club located at 1625 Chemong Road in Peterborough. I normally worked out at the Trent University Athletics Complex but in the summer of 2003 decided to change gyms for the summer time only. During that time I developed dozens of acquaintances – the so called gym buddies. At the club, we spotted each other, exchanged pleasantries and jokes and simply talked in between the exercises. I never socialized with any of the gym buddies outside of the club boundaries. There was one male person (Male X) whom I did not particularly like. I knew Male X by his first name only. Male X was apparently of Albanian origin. On two separate occasions I observed Male X cornering a woman and talking to her in an intimate manner. At the time I thought she was his girlfriend. Still, his behavior did not look appropriate to me. Male X was friends with Male Y, who was apparently of Greek origin. I knew Male Y only by his first name only. Male Y seemed like a nice person. There was also Male Z who seemed like a nice person. Male Z was of Canadian origin. I knew Male Z by his first name only. A year or two later, I heard a rumor that Male X had been banned from the GoodLife fitness club on the grounds of sexual harassment. When I heard it, I recalled the "cornering" incidents I had witnessed and it became apparent to me what went on when I saw Male X corner a woman in the club in the summer of 2003.

I have not spoken with Male X since the summer of 2003. I was back working out at the GoodLife fitness club in 2007. One evening at approximately 8:30 pm I observed Male X come into the club as a guest accompanied by his buddy, who was a member of the club. The club operated till 9:00 pm. I walked into a different room without even making eye contact with Male X. Suspecting that Male X was still banned from the club I went upstairs to advise the front desk staff of the situation. I do not remember who I spoke to and what I said. It had been almost four years since the time of the incident and the banning of Male X from the club and the front desk staff changed. I think since the club was already closing for the day, nothing happened. I had not seen or heard of Male X since that day until I became a police officer.

I have not spoken with Male Y since the summer of 2003. I saw Male Y very briefly from a distance in November 2009, in a local coffee shop (which he or his wife apparently owns) when I was on duty accompanied by Cst. Nie. It was the first time since the summer of 2003 that I saw Male Y.

In the spring of 2008 I terminated my membership with the GoodLife fitness club because I signed up with the Gold's Gym fitness facility located at 1154 Chemong Road in Peterborough. As it turned out, Male Z also became a member of the Gold's Gym so I occasionally saw and spoke to him in the GYM only. In July 2008 Male Z told me he was going to the USA to visit his brother and since I could not get the scope mount I wanted in Canada (all the Canadian suppliers I was aware of were temporarily out of stock), I asked him if he could bring one for me from the USA. He said he could. I paid for the scope mount with my credit card and had it shipped to Male Z's brother address in Arizona, which he then brought to me. Male Z knew that I was teaching Computer Science at Trent University but he did not know that I was enroute to becoming a police officer.

Sometime in February 2009 Cst. Filman and I were travelling south bound on Chemong Road. Cst. Filman was operating the police vehicle while I was seated in the front passenger seat. I asked Cst. Filman which territorial division the GoodLife fitness club was situated in, the City of Peterborough or the Peterborough County. Cst. Filman told me that the GoodLife fitness club was located in the Peterborough County just outside the city limits. Note: In some parts, Chemong Road serves as a border between the City of Peterborough and the Peterborough County. I then asked Cst. Filman if he ever heard of Male X. Cst. Filman advised me that he knew of him and that he was a nasty person and that if I wanted to know more about him I should be speaking with D/Cst. Brokley from the Drug Unit. When I got home, excited and naïve, I searched in my photo albums and found a photograph (Exhibit 74, the top one) of me with Male X, Male Y and a three other gym buddies from my summer 2003 training at the GoodLife fitness club. Note: I brought a photo camera to one of my last work outs at the club to take a few photographs to commemorate my summer time at the club. In one of the photographs that were taken, both Male X and Male Y got in. These were people that I on occasion worked out with at the GoodLife fitness facility that I was a member of. I must stress that at no time did I consider any one of these people friends. I brought the photograph to the detachment and showed it to both Cst. Filman and D/Cst. Brokley to verify we were referring to the same people. D/Cst. Brokley advised me that both of these males were trafficking drugs and asked me if they knew I was a police officer. I advised D/Cst. Brokley that they should not have known as I had not been in contact with them since the summer of 2003. That was it.

Approximately a month later I saw and exchanged a few words with Male Z at the Peterborough Courts jail when he was fingerprinted by Cst. Rusaw. Apparently Male Z was kept in custody for a breach of recognizance in a domestic assault along with some other pending charges on him. He was surprised to see me in the police uniform. He first thought that I was volunteering for the OPP. Very little was said. Basically, he looked at me very arrogantly and I told him that I was a full-time police officer. That was the last time I had any contact with Male Z.

Later during the course of my duties I learned that Male X, Male Y, and Male Z were connected and were in the business of trafficking marijuana into the USA. It was a multi-jurisdictional case in which federal, provincial and various municipal police forces were involved. It was certainly out of my realm. Male X was free and his whereabouts was unknown. Male Y was free. Male Z was in custody. That was the end of the story.

Response to the Application (HRTO 2010-07633-1) Paragraph 52:

52. Paragraphs 49 to 52 – The Respondent's position is that a concern had been raised about whether the Applicant was associating with individuals who were involved in criminal activity. The concern having been raised needed to be investigated as such an association would be a significant concern. The investigation was conducted and the concern was found to be unsubstantiated.

On September 11, 2009, it was alleged that I associated with Male X, Male Y and Male Z (Exhibit 39, page 1). It appears that when I had become a police officer the very photograph that I showed to Cst. Filman and D/Cst. Brokley **was introduced 7 months later** in a scheme to maligne, discredit and eventually establish a prima facie case for my dismissal from employment with the OPP. I must reiterate that at no time was I associating with any of the alleged undesirables. So in my case, a simple photograph did not cause them to ask me who those people were and/or what was my connection with them. Someone at the Peterborough Detachment waited for 7 months from the time I advised Cst. Filman and Cst. Brokley that I knew Male X, Male Y, and Male Z to launch a formal investigation by the Professional Standards Bureau of the OPP against me with the allegations of me associating with undesirables. My former colleagues who filed the complaint against me and who are local to the Peterborough area and as I observed had limited exposure to multiculturalism intentionally and maliciously associated me with the above persons two of whom were members of a group identified in the Ontario Human Rights Code. The ensuing PSB investigation was orchestrated timely – towards the end of my probation wherein I would have never been able to resurrect myself into good standing.

At the interview, among other questions, D/Sgt. Thompson asked me about the photograph I had with Male X and Male Y appearing in it. By that time I had figured out who the “Undesirables” I was alleged to associate with might have been and brought the photographs (Exhibit 74) to the interview. I presented the photographs to D/Sgt. Thompson and allowed him to photocopy one of them (Exhibit 74, the top one) for his records. I really had nothing to hide as there had never been any association whatsoever on my part with any of the undesirables. At the conclusion of the interview D/Sgt. Wolfe looked at me with compassion and said, “Things will work out for you. Do you have any vacation coming up? You look like you need a break”.

para 3
Recall: Cst. Payne and Cst. Filman are friends. Cst. Payne and Cst. Brokley are common law spouses. Cst. Payne and Sgt. Flindall are close friends. Sgt. Flindall and Cst. Nie are neighbors. I firmly believe they orchestrated filing the complaint against me to oppress and discredit me as a reprisal action for standing up for my rights. It is noteworthy to point out, that during the fall of 2009 Cst. Brokley never looked me in the eyes. Whenever we happened to be in proximity, he always averted his eyes. Why?

para 4
It is also worth making a note of the fact that Cst. Marc Gravelle and Cst. Ken Rusaw recognized me when I first met and spoke with them at the Peterborough Detachment. It turned out that both of them had been members of the GoodLife fitness club at 1625 Chemong Road in Peterborough and had seen me working out there. Have they ever been accused of associating with undesirables?

para 5
Note: D/Cst. German has promised to burn me a copy of the interview (Exhibit 26a, page 8). Despite reminding and asking D/Cst. German for a copy of the interview 4 times, as of the date of this statement, I still do not have it.

On November 18, 2009, I was presented with my Month 10 performance evaluation (09 Oct 2009 – 09 Nov 2009) (Exhibit 37) by Sgt. Butorac. The evaluation was prepared by my coach officer Cst. Nie. There were 12 “Does Not Meet Requirements” ratings. The requirement for the recommendation to be made to change from probationary to permanent status is that the Probationary Constable has all 28 “Meets Requirements” ratings in the Month 10 performance evaluation. Needless to say, that was the end of my short career as an OPP officer. Cst. Nie mentioned something about extending my probationary period by two months and that he was not giving up on me. Cst. Nie further added that on his days off he was teleconferencing with “white shirts” in OPP Headquarters in Orillia about me. He never told me what they were discussing and I never asked.

On November 19, 2009, during the meeting with Sgt. Butorac and Cst. Nie, in a frank manner I voiced my concerns regarding my Month 10 performance evaluation. I was subsequently negatively rated for doing that in the *Respectful Relations* section in my Month 11 performance evaluation (Exhibit 44). It was further commented in my evaluation that only my interests were at hand in both my Sergeants’ and my coaches’ attempts to help me pass my probationary period. Let’s just get the facts straight: in a meeting with my supervisor and my coach officer I openly and frankly voiced my concerns. Next, I got negatively documented for doing that. Next, I was assured that only my interests were at hand. Pardon me, but this does not make any

sense! Also, at the meeting Sgt. Butorac said that my traffic reports (Exhibit 47d) were the best at the detachment. He then immediately looked at Cst. Nie and said, "Sorry, Richard". Cst. Nie did not respond. I was never commended on the record for having the best traffic reports at the Peterborough Detachment.

On November 19, 2009, I received an email from the D/Sgt. Thompson advising me that the allegation of me associating with undesirables was not substantiated (Exhibit 39, page 3).

Sometime in November 2009 Cst. Nie and I discussed our experiences shooting handguns during the training. I told Cst. Nie that I was a good shot – the best in my class both at the Ontario Police College and at the Provincial Police Academy and that I even had won an award at the Academy in the final shooting competition. Note: I have been a member of the Peterborough Fish and Game Association (that has indoor and outdoor shooting ranges) since 2006. As police officers we were encouraged to practice shooting our firearms. The gun range is located in our then patrol zone (Zone 2). Following our conversation about our shooting experiences and in an attempt to somehow bond with Cst. Nie I decided to take him to the gun range. I had prepared targets at home in advance and carried extra ammunition in my bag waiting for a slow day. On one such slow day in late November 2009 when we were working a day shift and all previous calls had been taken care of I told Cst. Nie I had a surprise for him and then drove us to the gun range. When I drove the cruiser into the range's parking lot, Cst. Nie gave me his notorious Big Brother look and asked, "Why are we here?" Confused, I advised him that it was the surprise I had mentioned to him earlier and that we were there to practice using our firearms. Cst. Nie drilled me with his look again and said, "You know I do not like guns. Further, at this point in your training I cannot afford to waste an hour of your time on shooting guns". I felt very embarrassed and drove us out. It is noteworthy to mention that in November 2009 on two separate occasions Cst. Nie had me drive outside of our patrol zone (to Zone 3) to carpet stores to look for a suitable carpet for his church. It would appear that it was acceptable to Cst. Nie to use OPP's resources and my training time to look for a suitable carpet for his personal use while we were on duty while it was not acceptable to Cst. Nie for us to practice shooting our handguns while staying in our patrol zone. He then also called me at the detachment in a derogatory manner, "A self-proclaimed good shot".

Sometime in November 2009 Cst. Derek Robertson, Cst. Dannel Clark and myself were in the Community Policing office in Havelock. At one point Cst. Clark told me that I had a funny accent. He almost immediately said that he should not have said it, to which I replied that I was not going to hold it against him. To date I hold no grudge against him, but that was yet another indication of the atmosphere I worked in, one filled with narrow-mindedness and biased perceptions.

On November 29, 2009, I was scheduled to work a day shift in Peterborough Detachment. I did not sleep well the night before the shift and upon getting up felt mentally unfocused. I was not physically sick on that day. I simply could not concentrate. I still went to work and advised Cst. Nie of my condition. I asked Cst. Nie if he could drive the cruiser for the first half of the day until I regained my mental alertness. Cst. Nie said that at that point in time I should be the driver and that if I could not drive than I should take a sick day off. When I responded that I did not want to take a sick day off, Cst. Nie said, "It is not like we are taking a car off the road". The point here is that according to Cst. Nie I was not even needed at the detachment. We then advised Sgt. Butorac and I took a sick day off and went home.

In early December 2009 I received a formal memorandum (dated November 25, 2009) (Exhibit 39, page 4) from the Professional Standards Bureau Commander Chief Superintendent Ken C. Smith that the complaint of me associating with undesirables was unsubstantiated on the basis of insufficient evidence and that the file was closed.

On December 2, 2009, I was working a day shift at Peterborough Detachment. At approximately 6:00 am Cst. Nie and I attended a serious motor vehicle collision on Highway 7 just west of Norwood in which a half-ton truck collided head-on with a school bus that had 30-40 high-school students and 3 high-school teachers on board. No one from the bus sustained any serious physical injuries. The driver of the half-ton truck sustained serious physical injuries and was air-lifted to the hospital in Toronto. During the search of the truck, a small

3 quantity of marijuana was discovered. Basically it was a couple of nylon baggies with some remnants of
marijuana. Cst. Nie considered the quantity to be insignificant and told me to dispose of it, which I did not
5 comply with and kept. His comments to me to dispose of the marijuana were total aberration of police orders. It
was discreditable conduct and neglect of duty under the Police Services Act especially in the light of a serious
8 collision. At the detachment I weighed and lodged the marijuana as evidence. It weighed approximately 1.5
9 grams. Later, during the course of the investigation a blood warrant was sought and obtained and it was
discovered that the driver had marijuana in his blood on the morning of the accident. Was I commended for
preserving the evidence? No, I was not! For doing so would have defeated the carefully collaborated scheme to
discredit me and build a file to justify the termination of my employment.

On December 8, 2009, I was working a night shift at Peterborough Detachment. Both Sgt. Butorac and Cst. Nie were off duty that night. Cst. Postma was in charge. At the beginning of the shift, I was dispatched to a motor vehicle collision in which a truck struck a deer (Exhibit 47d, page 30). I had attended and dealt with a dozen of those on my own before. When I asked Cst. Postma what his orders were with respect to handling the call, he spoke with S/Sgt. Flindall, who was at the detachment at the time, and advised me that I was not allowed to attend the accident on my own. Cst. Postma further added he knew I could handle a simple motor vehicle collision "car vs. deer" by myself and that it was embarrassing for me to be accompanied by another officer for such a simple call, but we had to comply with S/Sgt. Flindall's orders. I went to the call with Cst. Neal Read.

40. Paragraph 21(6) – Sergeant Flindall has no recollection of directing another officer to attend with the Applicant. If he did so, the Applicant's race, ancestry, place of origin, citizenship, ethnic origin or association had nothing to do with that decision.

On the evening of December 13, 2009, I was served with a Notice of Proposed Release from Employment (the Notice) (Exhibit 41) along with a copy of the Performance and Conduct Requirements of a Recruit Constable (Exhibit 42) by Acting Detachment Commander S/Sgt. Mike Reynolds. The recommendation that I be released from the employment with the OPP was made based on my failure to meet the requirements of the position of a Probationary Constable based on my unsatisfactory work performance.

The Notice:

You have the opportunity to prepare a written submission or to meet with Chief Superintendent Armstrong at Central Headquarters at 1330 hours on December 15, 2009, before a decision is made. To assist Chief Superintendent Armstrong in his decision relating to your employment status, I will provide him with a copy of this memorandum and attached documentation.

Though the Notice implied that I could have met with Chief Superintendent Armstrong at 1330 hours on December, 15, 2009, to make some submissions before the actual decision to terminate my employment was made it did not appear to be the case.

The Notice itself (Exhibit 41) was dated December 9, 2009, which was a Wednesday. It was my scheduled day off. My next scheduled set of shifts was nights and were Friday the 11th to Sunday the 13th. When I reported for work on Sunday the 13th, I had no idea what was about to befall me. Shortly after I started my shift and was working on some occurrences in the Constables' office, Sgt. Butorac approached me and said, "Let's go for a drive." I was scared all at once. I did not know what to expect. Thoughts of what I was going to be slammed with again were going through my mind. The drive to Lindsay seemed forever and though I cannot recall exactly what we talked about I am sure he must have told me something to the effect that we had to go see the Detachment Commander in Lindsay. When we got there he showed me into S/Sgt. Mike Reynolds'

office. There was no one else in the office. I recall S/Sgt. Reynolds saying something to the effect that he never had to do this before while at the same time handing me a sheet of paper advising me that it was a Notice of Proposed Release from Employment (Exhibit 41). He also handed me a copy of the Performance and Conduct Requirements of a Recruit Constable (Exhibit 42). I took those two documents and glanced over them while my mind was still focused on his words, '*proposed release from employment.*'

After being returned to the Peterborough Detachment I called D/Cst. Karen German and sent out some e-mails to the Ontario Provincial Police Association and to S/Sgt. Colleen Kohen (Exhibit 26a, page 5). I do not think I completed my full shift that night, but went home early. I will never forget how Cst. Nie was looking at me upon returning back to the detachment after I had been served the Notice. He was sitting in front of the computer in the Constables' office finalizing my Month 11 performance evaluation. He was smiling and looked satisfied.

In reflection later on, one of the final pieces of the puzzle in the OPP's plan to terminate my employment became clear. Having been prepared on December 9, 2009, it appears the OPP deliberately left it to the last day of my night shift to have me served. I base this supposition on the following: 12

- Staff Sergeant Mike Reynolds is the operations manager of City of Kawartha Lakes OPP.
- As an Operations Manager or Unit Commander of the City of Kawartha Lakes detachment one's shifts are days Monday to Friday.
- I would hasten to say that S/Sgt. Mike Reynold's worked days on Friday the 11th. Though I cannot confirm this, the corporate respondent would surely be able to do so.
- According to Cst. Tapp, who works there, S/Sgt. Reynolds usually leaves around 4 or 5 pm daily.
- The OPP is very careful about overtime expenditures and hence managers are always critical about approving overtime. If an officer were called back to work or had to attend work as a result of a supervisor's order after a scheduled shift or while on a regular scheduled day off then that officer is entitled to claim six hours of pay at the regular hourly rate. The same is true for Staff Sergeants since they are also members of the association and hence part of the Uniform Collective Agreement with the OPP.
- S/Sgt. Reynolds could have stayed behind a couple of hours on Friday the 11th to take care of serving me with the Notice, whereby I would have had sufficient time to prepare a written submission regarding the Notice. S/Sgt. Reynolds was fully aware of my shift schedule so why not have Sgt. Butorac bring me to him as soon as I started work on Friday rather than on Sunday?
- Then again, if one were going to come in on Sunday to serve this Notice on me why not come in on Saturday evening?
- Is it inconceivable to imagine that if an employer truly wanted to show that it wanted an employee to have enough time to make a written submission or even prepare for a submission, that is to be heard on the 15th before the decision to terminate is made, to ensure that the employee is not served at the last available opportunity?

Yet further, is it inconceivable to imagine that if an employer truly wanted to show that it wanted an employee to have enough time to make a written submission or even prepare for a submission, that is to be heard on the 15th before the decision to terminate is made, to ensure that the service of such a Notice was not done on the last night of night shift whereby, the employee would be reporting off duty on the morning of the 14th and would only have one day, a day that would be ravaged by sleep-deprivation, to do so? 36

Hence that piece of puzzle certainly made it clear that the decision to terminate my employment had already been made and to give me the least amount of time to respond in a submission would be most favorable to the OPP achieving their goal of terminating my employment via a forced resignation.

Please advise Staff Sergeant Colleen Kohen in writing, by 0900hours on December 14, 2009, as to which option, if any, you wish to exercise. If you choose not to make a submission, the final decision will be based on the information in this memorandum and the attached documentation.

Due to the fact that I only had 14 hours between the times I was served with the Notice to the deadline by which I had to advise S/Sgt. Colleen Kohen in writing (Exhibit 41), I requested an extension to the notification (Exhibit 26b, page 5), but was not granted it. Once again it is clear that the decision to terminate me had already been made.

The termination:

On December 15, 2009, I was driven by Sgt. Trevor Banbury to Orillia Headquarters. I was under the genuine belief that I was going to have a discussion with Chief Superintendent Armstrong regarding the Notice of Proposed Release from Employment that I was served with. I also had a dentist appointment that day so when I met the Chief Superintendent I asked him if this meeting could be postponed the following day. He told me that it couldn't and asked me for my phone number. He wrote it down on a sheet of paper and advised me that he had read my performance evaluation reports and the Notice of Proposed Release from Employment and had already made a decision to release me from my employment. As much as I thought that this day was coming in light of what all has been happening in the last few months I never prepared myself for the impact of those words. I felt weak, dizzy and it seemed that my whole chest was caving inward with every exhale of my breath. He told me that I either sign the resignation while pushing the document that he wrote my phone number on towards me or be fired the following day as he placed his hand on another document that was on his desk. I was sitting directly in front of his desk with the Ontario Provincial Police Association Directors Marty MacMarrow and Karen German to my left. I took the document he slid towards me, looked at it and saw that it was a pre-printed letter of resignation on which he had just written my phone number besides the wording, "If you require further information, I can be contacted at" (Exhibit 46):

If you require further information, I can be contacted at (705) 740-5765.

Hence the decision to terminate my employment had already been made prior to me even getting there. None of the Ontario Provincial Police Association members offered any comments or even interceded for me as to how wrong and manipulative this whole process was. I truly felt like I was such an undesirable that the OPP could not wait long enough to just get rid of me. I signed the form after which I surrendered my police identity. I did not freely and voluntarily choose to resign. I was deliberately coerced into signing the resignation. I was basically fired in a callous manipulative way.

Everything about my brief tenure with the OPP at the Peterborough Detachment was so discriminatory. My work environment had been poisoned before I even got there. I had been nick named and referred to as a **crazy man** ("Crazy Ivan") before they even knew me (Exhibit 69 and Exhibit 70).

The Performance and Conduct Requirements of a Recruit Constable as noted below (Exhibit 42),

Your performance and conduct will be assessed and documented by a Coach Officer. Performance evaluations will assess your development and performance as a recruit constable. All of these evaluations will be shared with you and any performance rating in the "Does not meet" category will be brought to your attention. You will be given every opportunity to improve any identified performance deficiencies.

states that all of my evaluations were to be shared with me and any performance ratings in the "Does not meet" category was to be brought to my attention and that I would be given every opportunity to improve any identified performance deficiencies. While the other probationary officers regularly had their respective coach officer's support so that they could have every opportunity to improve themselves, I did not experience the same treatment. I was never given the opportunity to develop as an officer due to the lack of care and literal disgust my supervisors and coach officers had for me. I was also perceived to be a **crazy Russian** ("Crazy Ivan") prior to starting at the Peterborough Detachment in January, 2009 and this perception permeated the whole detachment contrary to the promise of the OPP (Exhibit 87, page 3):

Maintain an open mind, try to be impartial and non-judgmental; be aware of and manage my personal biases or attitudes, e.g. stereotypes

Support colleagues, especially those who may feel vulnerable or at a disadvantage because of their employment status, e.g. new recruits, volunteer, civilian, contract; or background, e.g. race, gender, ethnicity

Be thoughtful about both what I say and "how" I communicate, i.e. sensitive to inadvertent or subtle messages, terms or labels; avoid potentially hurtful rumours and gossip; maintain confidentiality

Furthermore, I was not from the area in so much that I was an outsider, an outsider who was a minority and a minority that spoke with a thick accent that drew attention and embarrassment.

On December 14, 2009, I was presented with my Month 11 performance evaluation (09 Nov 2009 – 09 Dec 2009) (Exhibit 44) by Sgt. Butorac. The evaluation was prepared by Cst. Nie. There were 11 "Does Not Meet Requirements" ratings.

All my officer notebooks along with the rest of the OPP service issued equipment were seized by Sgt. Banbury on the day of my dismissal. I will never forget the way some officers were looking at me on the evening when I was brought to the Peterborough detachment from the OPP HQ to surrender my equipment. A/Sgt. Payne was looking at me from the corner of the Sergeants' office and smirking. Cst. Thompson and Cst. Piette were looking at me in the Constables' office with sympathy. No one approached me to talk.

Shortly after my dismissal, while still at the OPP HQ in Orillia, D/Cst. German told me that I had started at a very bad detachment. While the other 3 recruits that got on with me (Cst. Dan Gay, Cst. Michael Davidson, Cst. Amanda Knier - all local to the Peterborough area) completed their probationary periods successfully and secured permanency with the OPP, I was the only one who was fired. Figuratively speaking, I was brought down onto my knees and then executed. Why? I just wanted to go to work, do my job, help people, and feel fulfilled. My job was not just a paycheck, but an essential component of my sense of identity, self-worth and emotional well-being.

3 I was not dismissed from employment with the OPP because of budget cuts or because there was a shortage of the positions. As a matter of fact, during my time at the Peterborough Detachment, the detachment was understaffed – we were short of 5 police officers! My dismissal from employment was orchestrated by a few officers from the Peterborough Detachment who were biased against me and targeted me with all they had. The majority of them were locals and Roman Catholics with a scope of view limited to their county only. They deliberately turned a blind eye to the potential I had and the benefits I could have brought to the OPP in the long run. What a shame! What a disservice to the very organization they are part of! Or maybe they targeted me because I was more educated than them. After all I was trilingual, had a Master of Science degree, was physically fitter and stronger than anyone of them and was more skilled in the usage of firearms than them. These factors might have caused them to regard me as a threat to their positions of authority. The later would certainly appear to be true for Cst. D'Amico would not have stated, "You should keep quiet when a senior officer speaks. You might come across as knowing too much and it is not good for your career. There was one officer here that was like that and he is not around any longer". The officer she referred to turned out to be Cst. Tapp.

13 In December 2009, I went on two ride-alongs in #4 District of the York Regional Police (Administrative Assistant Monica J. Meech (#5338) of #4 District arranged the ride-alongs).

1. On 2-Dec-09, a day shift ride-along with A/Sgt. Timothy A. Grenier (#515)
2. On 19-Dec-09, a night shift ride-along with A/Sgt. Fred DeWinne (#1278)

It is noteworthy to mention that York Region has a very culturally diverse nature and York Regional Police is committed to ensuring that its police officers are reflective of the communities in which they serve. That being said, first of all, I enjoyed the uplifting welcome I had received from the YRP officers at the #4 District station. Secondly, I was fascinated by the technology and the streamlining of the digitized paperwork process that is utilized by the YRP. Thirdly, during the first ride-along, I vitally applied my linguistic skills in two separate instances.

In the first instance, we attended an industrial accident scene in which the only witness to the accident spoke Russian and Hebrew languages only. Since no YRP Russian/Hebrew speaking officer was readily available to attend the scene at the time, I interviewed the witness informally and established the facts in issue. I relayed the information to the investigating officers at the scene and since a foul play was not suspected, the investigation was expedited until a Russian-speaking officer was available to attend the scene to take a formal witness statement.

In the second instance, I was called upon to assist with a walk-in complaint. An 83 year-old Russian-speaking senior citizen attended the station to report a lost citizenship card. In an attempt to explain what he needed, he produced a small hand written paper note (written by his wife), but it did not work. Being present at the station and having knowledge of Russian language, I was called to the front desk to assist. With my help, the matter was promptly resolved. The gentleman thanked police for the heartwarming reception and assistance and departed extremely satisfied.

The first day with YRP was by far the most satisfying day in my short policing career as I felt needed and valued for my skills. It deserves pointing out that in the 11 months of service with the OPP I had no opportunities to apply my linguistic skills.

On January 13, 2010, I applied to YRP (Exhibit 79) and the very next day received a phone call from the recruiter, Gary Crawford (#419), advising that I was not eligible to apply since I had not completed my probationary period with the OPP, even though I had my Ontario Police College diploma (with 91.6 average and 100% on the Ontario Police Fitness Award) and was not applying as an experienced officer. Gary Crawford further said, "I will be shocked if any other police service hired you". When I heard that I was not eligible to even apply for a position of a Constable, I felt like I was a criminal. I invested a lot of work into getting the job of a police officer, studying at the Ontario Police College, training at the Provincial Police Academy, and working very hard in the 11 months on the road with the OPP (Exhibit 47a, Exhibit 47b, Exhibit 47c, Exhibit 47d) and

after all that I was a tainted meat – one that was not even eligible to apply with other police services. A couple of days later, after I had somewhat recovered from the shock, I contacted Cst. Tapp. With Cst. Tapp's help I have been working on preparing my case and my application to the Human Rights Tribunal of Ontario.

Between January, 2010 and July, 2010 I corresponded with the Ontario Power Generation (Exhibit 82 and Exhibit 78b), Toronto Police Service (Exhibit 78a, Exhibit 80, Exhibit 81, and Exhibit 83), Peel Regional Police Service (Exhibit 84), Durham Regional Police Service and Halton Regional Police Service (Exhibit 85). Though the Ontario Power Generation, Toronto PS and Halton PS allowed me to apply for a position of Nuclear Security Officer and Constable as a new applicant, respectively, they all turned me down in the early stages of the hiring process (Exhibit 80, Exhibit 82, Exhibit 83, and Exhibit 85).

Effect of Discrimination

The discriminatory and the differential treatment that I endured during my probationary period at the Peterborough Detachment surpassed everything negative that I had experienced in my lifetime. I was discriminated against, harassed, bullied, humiliated, belittled, subjected to unreasonable demands and unsubstantiated criticism, oppressed and retaliated against for standing up for my rights or otherwise mistreated at work. All of the above negatively affected my mental and physical health, feelings and self-respect and further resulted in the loss of dignity. I experienced anxiety, loss of concentration, stress, sleeping disorders and muscle pain in a variety of areas (Exhibit 50, Exhibit 51, Exhibit 52), all of which were provoked by the poisoned work environment. The amount of stress I experienced also brought on chronic fatigue syndrome towards the end of my employment with the OPP. It took me over a month after the resignation to merely regain my physical health. 11 19

It was the duty of Ins. Johnston, S/Sgt. Campbell, Sgt. Flindall, Cst. D'Amico, Cst. Filman, Cst. Payne, Cst. Brokley, Cst. Nie and other involved OPP officers to ensure that I worked in a harassment-free environment and to build me up. Instead, they did just the opposite. They breached their duty. Furthermore, their leadership represents the core values and ethics of the Ontario Provincial Police (Exhibit 87, Exhibit 88, and Exhibit 89) and its commitment to the fundamentals and goals of the Ontario Public Service (Exhibit 90a). Yet further, in doing so they did not uphold the Ontario Public Service pledge to provide a workplace environment free of violations under Ontario's Human Rights Code (Exhibit 90b and Exhibit 90c).

To date I have difficulty focusing on tasks. I do not sleep well. My mind is crowded with memories of discrimination, harassment, belittling, and accusations of incompetence and wrongdoing that I was subjected to at the Peterborough Detachment of the OPP. Ever since the day of my forced resignation from the OPP my life has been a silent nightmare and I have been trying to learn how to live with what happened to me. I have been unable to gain related employment because of what was done to me. For me, just knowing that justice will be done, is paramount for my dignity. I know that the only way I will ever be able to move on in my life and have a future is if I can find out why this happened to me. I believe the only way I can ever know why this happened is to have all the truth come out in a public inquiry. I want to bring my private misfortune into the public realm for personal, legal and political resolution. I am convinced that if I am successful in my legal action then my ordeal and my struggle might reduce the possibility of somebody else having to go through what I did. My priority right now is to clear my name, get to the bottom of the case and make sure this does not happen to any other minority within the OPP in the future. A victory for me will be a victory for many.

More Discriminatory Incidents:

13 2 In January 2010 I got in touch with Cst. Tapp and I disclosed my experience at the Peterborough Detachment during the year of 2009. Cst. Tapp told me of his experiences at the Peterborough Detachment and how he was before the Humans Rights Tribunal of Ontario in a hearing stage (Exhibit 95). He told me about another minority officer Al Chase, an African Canadian who had been discriminated against and a fired on the last day of his probationary period. Mr. Chase filed a complaint with the Human Rights Tribunal of Ontario (Exhibit 62) after which the OPP negotiated a settlement prior to the matter being set for a hearing (Exhibit 48). Cst. Chase was coached by Cst. Nie co-incidentally and was on the same shift as Cst. Tapp. Cst. Chase was being criticized for occurrences and lack of documentation of facts. Having been complemented on his own thoroughness and documentation of facts, Cst. Tapp completed one of Cst. Chase's domestic occurrences (SP06146942) on July 30, 2006 (Exhibit 63). Cst. Nie was deliberately not made aware of the actual author since Cst. Tapp typed the occurrence under Cst. Chase's logged in computer in the Constables' office. Interestingly, Cst. Nie criticized this occurrence as well.

14 In mid-August 2010, I accidentally came across an article in the National by Peterborough Examiner newspaper (Exhibit 86). On the front page it discussed the Post Traumatic Stress Disorder (PTSD) as a consequence of an exposure to a psychologically traumatic event such as military combat, sexual assault, disasters, or other horrific events. The article further noted PTSD's symptoms:

- Nightmares
- Severe anxiety
- Flashbacks
- Isolation
- Depression
- Suicidal tendencies
- Aggression and frustration that can impact the person's social, family and work-related interactions

25 I concurred with that article for by August 2010, I suffered from all of those symptoms. Having been turned down by various employers I was unable to find a job. Furthermore, I was alone in Canada; totally lost and hopeless; my goals were shattered; I was blackballed; my name was tainted and I was extremely depressed. Thoughts of various forms of suicide swarmed through my mind while I lay in bed unable to move. Furthermore, despite having a solid knowledge of the adverse effects of alcohol on one's condition, especially its depressant effects on the central nervous system, I started drinking heavily. In reflection I now realize to what extent I had degenerated emotionally and psychologically (Exhibit 51 and Exhibit 52).

On August 28, 2010, at approximately 3:00 am in a heavy state of alcoholic impairment, I purchased online a plane ticket to Israel to escape it all. If I had not, I fear I would not have survived for long in Canada on my own (Exhibit 51 and Exhibit 52).

On October 19, 2010, I accidentally ran into a Peterborough OPP Cst. Kevin Duignan in a Tim Hortons coffee shop in Peterborough. In a brief confidential conversation that followed he disclosed to me that some officers at the Peterborough Detachment after learning that I was Russian and before I even reported to the Peterborough Detachment (while I was still going through the training at the Ontario Police College and the Provincial Police Academy) nicknamed me the "Crazy Ivan" (Exhibit 69). When I asked him if he would be willing to testify about it he said he would. He further stated that there had recently been a management review at the Peterborough Detachment conducted by some S/Sgt. from Orillia and that he told him about the way I was mistreated. Yet another thing he disclosed to me was a rumor about a "mutiny" on Sgt. Robert Flindall's platoon. Apparently the officers revolted against Sgt. Flindall and his "number one" officer Cst. Jennifer Payne because of the way they were being managed. He did not tell me if he knew what the outcome was.

On November 26, 2010, I accidentally run into yet another Peterborough OPP Cst. Paul MacNeil in a Trent University athletics complex weight lifting room. In a conversation that followed he told me that what

happened to me was a "raw deal" and that I should do something about it. He further disclosed to me that there had been another OPP officer who had been coached by Cst. Nie a few years ago, Harry Allen Chase, who was a great guy that had also been let go. He said that every officer who had been coached by Cst. Nie had either been dismissed from employment or transferred to another coach officer. He said that he was sorry about what happened to me because I was just unlucky to get into the wrong hands. When I told him that I had gotten to know Harry Allen Chase and that I had learned his story after my dismissal from employment and that I was pursuing legal action against OPP he said he would be glad to be a witness in my case. Among other things he also mentioned that Sgt. Flindall and Cst. Payne were too close and were favoring each other.

In January, 2012, while assisting Cst. Tapp in preparing my case I received a statement from Sgt. Jason Postma (Constable and Acting Sergeant at the time I was at the detachment) via e-mail. In the statement Sgt. Postma indicated that I had a nick name of "Crazy Ivan" and I was called this by members of the Peterborough Detachment (Exhibit 70):

Mr. Jack had a nickname of Crazy Ivan. He was called this by members. I came to understand the nickname was associated to Mr. Jack because of his large gun collection.

In light of this revelation one might wonder why the Respondents have declared in their response to the application to the Human Rights Tribunal of Ontario that they have no knowledge of me bearing a nick name of "Crazy Ivan".

1. As will be discussed in more detail below, the Respondent denies that it discriminated against, or harassed, the Applicant during his employment with the Ontario Provincial Police (OPP) on the basis of race, ancestry, place of origin, citizenship, ethnic origin or association. The Respondent's decision not to extend an offer of permanent employment to the Applicant was solely based on performance issues which were unrelated to a protected ground under the *Human Rights Code*.
28. Paragraph 14 – The Respondent is not aware of any officers calling the Applicant "Crazy Ivan" and denies that allegation.
31. Paragraph 19 – The Respondent denies that that Applicant was subjected to unwanted comments, jokes and harassment or that his workplace was poisoned.
32. Paragraph 19(1) – As previously noted the Respondent denies that the Applicant was called "Crazy Ivan".
54. Paragraphs 58 to 60 – The Respondent denies that racialized individuals or individuals who were born in countries other the Canada are subjected to differential treatment at the Detachment or within the OPP more broadly.

55. Broadly speaking, the Respondent denies:

- the Applicant's claims that he was subjected to discrimination and harassment;
- the Applicant was subjected to differential and derogatory treatment based on a protected ground;
- it failed to take appropriate action to address any inappropriate conduct on the part of its employees in relation to the Applicant;
- it reprimanded against the Applicant through negative PERs;
- the laying of a charge against the Applicant under the *Highway Traffic Act* was discriminatory or harassing;
- the initiation of a complaint under the *Police Services Act* was discrimination or harassment; and
- there has been any systemic discrimination as set out in paragraphs 58-60 of Schedule A to the Application.

13 It is evident that many have been lying. So much for the integrity and
16 professionalism of some OPP officers!

The coining and behind-the-back usage of the nick name "Crazy Ivan" is a dire violation of the OPP's Promise of Value and Ethics (Exhibit 87):

1
2

"The Promise of the O.P.P." (Values and Ethics)

Lead by example; always try to be a good role model
Be accountable for my own actions and those of my staff

Protect the rights of all people in an equal and consistent manner

Have the courage to confront those who violate democratic, human and civil rights of others

Support colleagues, especially those who may feel vulnerable or at a disadvantage because of their employment status, e.g. new recruits,

Exercise humility and self-control/discipline

Be thoughtful about both what I say and "how" I communicate, i.e. sensitive to inadvertent or subtle messages, terms or labels; avoid potentially hurtful rumours and gossip; maintain confidentiality

Seek to understand different perspectives, cultures, lifestyles, creeds and apply that understanding to effect quality policing

Identify candidates for recruitment to enhance the diversity of the O.P.P. workforce reflective of the communities we serve

Adjust the way I work (behave and communicate) by appropriately accommodating others' basic human rights

Respect the individual dignity and strengths of all people

The coining and the behind-the-back usage of the nick name "Crazy Ivan" is a dire violation of the Ontario Provincial Police Orders (Exhibit 88):

6.10.3: ACCOUNTABILITY

A manager/supervisor is accountable for promoting the highest standards of conduct possible within the OPP by:

- being a leader who creates and maintains a positive working environment free of discrimination and harassment and prevents unacceptable behaviour from occurring;
- ensuring each employee knows that discrimination and harassment are not tolerated;

PROFESSIONALISM IN THE OPP: ACCOUNTABILITY, PAGE 2 OF 26

6.10.4: PREVENTING DISCRIMINATION & HARASSMENT

As an employer, the OPP strives to:

- implement fair and equitable employment practices for everyone's benefit;
- support a positive and respectful workplace that is free from discrimination and harassment;

SWORN IN THE OPP: PREVENTING DISCRIMINATION & HARASSMENT, PAGE 3 OF 26

- prevent, identify and correct actions of one employee towards another that, left unchecked, would result in employment-related discrimination and harassment.

As both a provider of a policing service and as an employer, the OPP is committed to:

- zero tolerance of discrimination and harassment, i.e. appropriate action will be taken to address any incidence of discrimination or harassment;
- appropriate proactive, prevention-oriented and cost-effective service;
- alternate dispute resolution process; and
- resolution of discrimination and harassment, as soon as possible, and in a way that least disrupts ongoing working relationships.

The coining and the behind-the-back usage of the nick name "Crazy Ivan" is a dire violation of the Workplace Discrimination and Harassment Policy of the OPP (Exhibit 89):

<p><u>Prohibited Grounds of <i>Human Rights Code</i> and WDHP policy</u></p> <p><i>Place of origin</i> refers to citizenship from any country <i>Race</i> refers to the descendants of a common ancestor believed to belong to the same stock, lineage or breed <i>Record of offences</i> refers to convictions in which a pardon has been received under a federal law (e.g. <i>Criminal Code</i>) or for a conviction under provincial law (e.g. <i>Highway Traffic Act</i>) <i>Same-sex partnership status</i> refers to the status of living with a person of the same sex in a conjugal relationship outside of marriage <i>Sex</i> refers to a person's gender (includes pregnancy) <i>Sexual orientation</i> refers to a person's sexual attraction to persons of another gender and/or one's own gender</p>	<p><u>Prohibited Grounds of <i>Human Rights Code</i> and WDHP policy</u></p> <p><i>Age</i> refers to employees at least 18 years of age and under 65 years <i>Ancestry</i> refers to from whom you are descended <i>Colour</i> refers to skin colour <i>Citizenship</i> refers to citizenship from any country <i>Creed</i> refers to religion or a professed system and confession of faith, including both beliefs and observances or worship <i>Ethnic origin</i> refers to the cultural origins of a person's ancestors <i>Family status</i> refers to being in a parent and child relationship <i>Handicap</i> (disability) refers to whether a person has or had, or is believed to have or have had, a disability or handicap <i>Marital status</i> refers to the status of a person relative to a person of the opposite sex (single, married, separated, divorced or living in a conjugal relationship outside of marriage)</p> <p style="text-align: right;">13</p>
<p><u>The WDHP policy covers</u></p> <p>discrimination harassment, including sexual harassment poisoned work environment failure to accommodate (any ground) condoning threats, retaliation or reprisal interference or intimidation malicious or bad faith complaints</p>	<p><u>Employment-related discrimination and harassment</u></p> <p>based on the Ontario <i>Human Rights Code</i> prohibited grounds occurring at or outside of the workplace in any aspect of employment because of association with people perceived to be identified by prohibited grounds</p>
<p><u>Poisoned Work Environment is</u></p> <p>comments, behaviour or work environment that ridicules, belittles people or groups identified by prohibited grounds</p> <p>can also result from a single, serious event, remark or action, and</p> <p>need not be directed at a particular individual</p>	<p><u>Threats, Retaliation or Reprisal are</u></p> <p>against an employee for exercising a right under the policy or</p> <p>against any other person performing a legitimate role under the policy</p>
<p><u>Harassment is</u></p> <p>a course of comment or conduct based on the prohibited grounds, and</p> <p>is known or ought to reasonably be known to be unwelcome or offensive</p>	<p><u>Discrimination is</u></p> <p>unequal treatment based on the prohibited grounds</p> <p>can be intentional or unintentional, direct indirect</p>

The coining and the behind-the-back usage of the nick name “Crazy Ivan” is a dire violation of the Ontario Human Rights Code (Exhibit 90a and Exhibit 90b):

<p>ONTARIO'S HUMAN RIGHTS CODE</p> <p>The Ontario <i>Human Rights Code</i> (the “Code”) provides for equal rights and opportunities, and freedom from discrimination. The <i>Code</i> recognizes the dignity and worth of every person in Ontario. It applies to the areas of employment, housing, facilities and services, contracts, and membership in unions, trade or professional associations.</p> <p>Under the <i>Code</i>, every person has the right to be free from racial discrimination and harassment. You should not be treated differently because of your race or other related grounds, such as your ancestry, ethnicity, religion or place of origin, in areas covered by the <i>Code</i> such as while you are at work, at school, trying to rent an apartment, or eating a meal in a restaurant.</p>	<p>RACISM AND RACIAL DISCRIMINATION</p> <p>Canada, its provinces and territories have strong human rights laws and systems in place to address discrimination. At the same time, we also have a legacy of racism – particularly towards Aboriginal persons, but to other groups as well including African, Chinese, Japanese, South Asian, Jewish and Muslim Canadians – a legacy that profoundly permeates our systems and structures to this day, affecting the lives of not only racialized persons, but also all people in Canada.</p> <p>The Ontario Human Rights Commission describes communities facing racism as “racialized.” This is because society artificially constructs the idea of “race” based on geographic, historical, political, economic, social and cultural factors, as well as physical traits, that have no justification for notions of racial superiority or racial prejudice.</p>
<p>Racism is a broader experience and practice than racial discrimination. It is an ideology that either directly or indirectly asserts that one group is inherently superior to others. Racism can be openly displayed in racial jokes and slurs or hate crimes, but can also be more deeply rooted in attitudes, values and stereotypical beliefs. In some cases, these are unconsciously held and have evolved over time, becoming embedded in systems and institutions, and also associated with the dominant group’s power and privilege.</p> <p>Racial discrimination is a legally prohibited expression of racism. It is any action based on a person’s race, intentional or not, that imposes burdens on a person or group and not on others, or that withholds or limits access to benefits available to other members of society in areas covered by the <i>Code</i>. Race only needs to be one factor in a situation for racial discrimination to have occurred.</p>	<p>Racial harassment is a form of discrimination. It includes comments, jokes, name-calling, display of pictures or behaviour that insults you, offends you or puts you down because of your race and other related grounds.</p> <p>Racial discrimination can often be very subtle, such as being assigned to less desirable jobs, or being denied mentoring and development opportunities. It might also mean being subjected to different management standards than other workers, being denied an apartment because you appear to have Aboriginal ancestry, or facing unfair scrutiny by police while driving or by security staff at a shopping mall.</p>

WHAT DOES "RACIAL HARASSMENT" MEAN?

"Racial harassment" means that someone is bothering you, threatening you or treating you unfairly because of your:

- race
- colour
- ancestry

Racial harassment may also be connected to where you were born, where you lived before moving to Ontario, your religious belief, your ethnic background, citizenship, or even your language.

It is against the law for anyone to harass you, insult you, or treat you unfairly for any of these reasons.

The Ontario *Human Rights Code* (the "Code") protects you from racial harassment or discrimination. Your rights are protected where you work, live, or get a service. These services include places such as apartments, restaurants, hotels, hospitals and schools. The *Code* also protects you from discrimination when you sign a contract or join a union, trade or vocational association.

WHEN IS IT HARASSMENT?

Racial harassment can happen when someone:

- makes racial slurs or jokes
- ridicules or insults you because of your racial identity
- puts up cartoons or pictures that degrade persons of a particular racial group
- calls you names because of your race, colour, citizenship, place of origin, ancestry, ethnic background or creed

These kinds of behaviour are wrong even when they are not directed towards you, because they hurt people and make them feel uncomfortable. They can make living and working together very difficult.

Racial harassment can have a bad effect on, or "poison", the places where you live, work or receive services. Even if the harassment is not directed at you, it can still poison the environment for you and others.

How do you know if the environment is poisoned? One way is to look at the effect of negative comments or actions. For instance, if certain racial slurs or actions make you or others feel uncomfortable in the workplace or fearful of returning to work, this could indicate that the work environment is poisoned.

Furthermore, Sgt. Postma's revelation of how the nick name became associated with me caused me to recall my first day in policing at the Peterborough Detachment. It was a night shift and when Cst. Filman and I had been on the road for a short while he made a comment that I found odd. He commented while driving, "I had my gun out only six times in six years on the job". Though I thought the comment was odd at that time I now realize why he made such a comment. It was because of my nick name "Crazy Ivan" that I had been given prior to reporting to the Peterborough Detachment. As a former soldier in the Israeli Navy and accustomed to carrying my personal firearm (M-16 full-automatic rifle) daily to the point that it seemed to be a part of my anatomy (like a third arm) (Exhibit 73) I was perplexed as to why he told me that. I now realize that he must have thought I was a gun toting, trigger happy individual and it was his way of conveying to me that one must not be too hasty to draw their firearm.

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In 11 months on the job, I never resorted to the usage of any of my use of force equipment. Cst. Filman on the other hand, found it a point to remind me on day one of my job that he had his gun out only six times in his entire six years on the job. He said this while driving. His right hand was flexed at the elbow with the index finger pointing straight. I suppose using a firearm and drawing a firearm can be separated into two distinct categories. Surely Cst. Filman was not referring to the usage of one's gun as in putting an animal out of its misery which is so common for almost every OPP officer working in rural areas such as Peterborough County. Being that the case, it is only reasonable to expect that he was not referring to the usage of lethal force since one can be expected to go through their entire career in policing without having to use their gun. Hence, he was strictly referring to the drawing of his firearm. In that case, an officer would only draw his forearm and not use it, if the imminent danger to life was present or in the case of putting an animal out of its misery, the animal died before having to use the gun or in the absence of any other method there was a need to sound an alarm call.

The following incident appears to be an example of what the circumstances in those six times could have been:

RM09061734 OPP Breach of
probation

2009/05/27
12:21

Clr other: Beyond control of
dept - 2435 LANSLOWNE ST
W between ROTHESAY AVE
W and MAPLE GROVE RD
W, CAVAN-MONAGHAN
TWP ON (Area: 1050, Duty
locn: 1106, ESZ: 81023) Arrest
for Breach of Conditional
Sentence Order /// See report
for details

On May 27, 2009, Cst. Filman and I were dispatched to assist the Drug Unit in the execution of one of their search warrants. A suspect having not been detected in the search of the residence had fled. We attended in separate cruisers from Bridgenorth. Cst. Filman told me he was going in pursuit after the suspect and left hastily in his cruiser. While he was completely familiar of the surrounding area (patrol Zone 2) I was not. Feeling it urgent that I attend aside from it being a basic responsibility of me to attend as well I felt left out by his actions. I tried to catch up to him following in the direction he left, but he drove too fast. I kept calling on the radio for him but I was not getting a response. I also called him on his cell a few times, but I do not think he ever answered. Finally, he responded on the radio that he had one in custody. Upon returning to the detachment and doing the report work on the computer he told me how he apprehended him. I had asked him how he got the suspect to which he stated rather proudly that while he was running after the suspect through a field (I could see the evidence of earth and dried grass strands clinging to his pants below the knees) he drew his gun and yelled at him, "Stop or I'll shoot". The suspect immediately stopped and he was able to apprehend him. I mused it over in my mind while he said this considering how it actually attested to the lack of maturity, self-control and decisive insight he possessed. Drawing a gun on an unarmed person who was running away from him and whose identity and residence address had already been known to Cst. Filman at the time was a dire contravention of the Ontario Use of Force Model (Exhibit 94). I asked him if he had filled out a Use of Force report (as I had been taught at the Provincial Police Academy). To which he responded, "Ah, I guess I should do it." It makes one wonder as to who was a gun totting, trigger happy individual.

Sometime in fall of 2009, the Special Investigations Unit was conducting an investigation into a severe physical assault of a citizen by an officer. Cst. Brokley had beaten an unarmed man with his baton and the Operations Manager S/Sgt. Ron Campbell had put out a detachment wide e-mail requesting all members offer their support to Cst. Brokley. I pondered at the time that though there may have been some justification to the beating of the individual to gain control, but to beat him to the point that he had to be hospitalized was something that seemed extreme.

Conclusion:

OPP's policies dictate that OPP deeply embraces the principle that a diverse population is best served by a similar diversity of police officers and that it seeks to hire as police constables people representative of the cultural and racial diversity of the province they serve.

OPP further states that each OPP employee and volunteer appreciates the vital role he/she plays in protecting the fundamental rights of all people in Ontario. As such, each commits to always put the interests of the public and the OPP's Vision and Mission before any personal and private interests, and to demonstrate pride in his/her profession and the OPP through personal conduct that reflects a belief in OPP values and ethics (Exhibit 87 - The Promise of the OPP).

Furthermore, the Ontario's Human Rights Code (Exhibit 90b and Exhibit 90c) stipulates:

Racism is a broader experience and practice than racial discrimination. It is an ideology that either directly or indirectly asserts that one group is inherently superior to others. Racism can be openly displayed in racial jokes and slurs or hate crimes, but can also be more deeply rooted in attitudes, values and stereotypical beliefs. In some cases, these are unconsciously held and have evolved over time, becoming embedded in systems and institutions, and also associated with the dominant group's power and privilege.

Racial discrimination is a legally prohibited expression of racism. It is any action based on a person's race, intentional or not, that imposes burdens on a person or group and not on others, or that withholds or limits access to benefits available to other members of society in areas covered by the Code. Race only needs to be one factor in a situation for racial discrimination to have occurred.

Racial discrimination can often be very subtle, such as being assigned to less desirable jobs, or being denied mentoring and development opportunities. It might also mean being subjected to different management standards than other workers.

Racial harassment is a form of discrimination. It includes comments, jokes, name-calling, display of pictures or behaviour that insults you, offends you or puts you down because of your race and other related grounds.

Racial harassment can happen when someone: makes racial slurs or jokes, ridicules or insults you because of your racial identity, calls you names because of your race, colour, citizenship, place of origin, ancestry, ethnic background or creed.

Racial harassment means that someone is bothering you, threatening you or treating you unfairly because of your race, colour, ancestry.

Racial harassment may also be connected to where you were born, where you lived before moving to Ontario, your religious belief, your ethnic background, citizenship, or even your language.

It is against the law for anyone to harass you, insult you, or treat you unfairly for any of these reasons.

The Ontario Human Rights Code (the "Code") protects you from racial harassment or discrimination.

Your rights are protected where you work, live, or get a service. The Code also protects you from discrimination when you sign a contract or join a union, trade or vocational association.

These kinds of behaviour are wrong even when they are not directed towards you, because they hurt people and make them feel uncomfortable. They can make living and working together very difficult.

Racial harassment can have a bad effect on, or "poison", the places where you live, work or receive services. Even if the harassment is not directed at you, it can still poison the environment for you and others.

How do you know if the environment is poisoned? One way is to look at the effect of negative comments or actions. For instance, if certain racial slurs or actions make you or others feel uncomfortable in the workplace or fearful of returning to work, this could indicate that the work environment is poisoned.

The person who is harassing you could be: your employer or co-worker.

- The word **Ivan** is slang for a **Russian** and the word **Crazy** is self-explanatory. In nick naming me "Crazy Ivan" prior to arriving at the detachment the OPP was actually telling the detachment that a Crazy Russian was arriving. Consequently that nick name ignited a flame of Racism whereby detachment members were referencing me as a Crazy Russian thereby poisoning my work environment.
- This Racism permeated the whole of Peterborough OPP Detachment to the point of officers feeling comfortable to falsely accuse me without the fear of reprisals.
- This Racism culminated to the point whereby my performance evaluations were deliberately manipulated to portray negativity so that my Employment would be in jeopardy and I would be forced into signing a resignation.
- This Racism that I was subjected to negatively affected my abilities to seek similar employment from other Police Services since I was constantly advised that I had never successfully completed my probationary period with the Ontario Provincial Police.
- This Racism that I was subjected shattered my goal of sponsoring my family from Israel.
- This Racism I was subjected to ruined me physically, mentally, emotionally, psychologically and financially.
- As a result of the overall Racism that I experienced at the OPP I left Canada and returned to Israel.

Dear reader, given the entire statement above, was I treated fairly by the OPP? Was the OPP in line with their policies and guidelines? If other officers were not subjected to similar treatment that I was, can I be mistaken or faulted for having the perception that I, a highly-educated and hard-working minority and a member of a marginalized group, have been singled out and harshly targeted by some officers at the Peterborough Detachment?

Please take a minute to visit the OPP's website pages at:

<http://www.opp.ca> and <http://www.opp.ca/ecms/index.php?id=19>

Do you see the cultural and racial diversity of police officers the OPP so much prides itself on having? Alas, the reality appears to be different.

Further to this, are you familiar with a Stanford Prison Experiment? If not, I encourage you to visit the www.prisonexp.org website and take an hour or so to educate yourself about how normal people's psychology and behavior can be altered in a matter of only a few short days. I, on the other hand, had to live and work for a period of almost a year in a workplace environment where I was discriminated against, harassed, bullied, humiliated, belittled, subjected to unreasonable demands and unsubstantiated criticism, being made to feel like a marionette and oppressed and retaliated against for standing up for my rights. No wonder at one point I asked Cst. Nie for permission to go to the washroom.

In anticipation of giving evidence,

Michael Jack

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