

HUMAN RIGHTS TRIBUNAL OF ONTARIO

BETWEEN:

MICHAEL JACK

Applicant

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE
MINISTER OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES AND
OPERATING AS THE ONTARIO PROVINCIAL POLICE**

Respondent

WITNESS LIST AND SUMMARIES

April 5, 2012

Ministry of Community Safety and
Correctional Services
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Applicant

WITNESS LIST

1. Ron Campbell
2. Marc Gravelle
3. John Pollock

4. Robert Flindall
5. Shaun Filman
6. Peter Butorac
7. Richard Nie
8. Melynda Moran
9. Mary D'Amico
10. Jennifer Payne
11. Paul MacNeil
12. Jason Potsma
13. Jamie Brockley
14. Daniel Clark
15. Derek Robertson
16. Michael Johnston
17. Bruce Hanna
18. Karen German
19. Amy Ramsay
20. Collen Kohen
21. Mike Armstrong

WITNESS SUMMARY: RON CAMPBELL

Ron Campbell has been employed by the Ontario Provincial Police ("OPP") for approximately 28 years. He is currently Staff Sergeant (S/Sgt.) at the OPP's West Parry Sound Detachment as Detachment Commander. Mr. Campbell was posted to the Peterborough County OPP Detachment ("Detachment") from October 2007 to November 2009 where he was the S/Sgt., Operations Manager. He was the Acting Detachment Commander in the absence of Inspector Johnson, from October 2009 to November 2009. At the end of November 2009, S/Sgt. Campbell left the Detachment.

S/Sgt. Campbell will testify that both as S/Sgt., Operations Manager and as Acting Detachment Commander, he was responsible for overseeing the day-to-day operations of the Detachment including reviewing performance evaluations. S/Sgt. Campbell will describe the different platoons at the Detachment and the chain of command.

S/Sgt. Campbell will identify the concerns about Mr. Jack's skills and performance that S/Sgt. Campbell was made aware of prior to Mr. Jack's arrival at the Detachment. He will indicate that he raised these concerns with Mr. Jack's coach officer.

S/Sgt. Campbell will testify that he neither heard the term "Crazy Ivan" used to refer to Mr. Jack nor used the term himself.

S/Sgt. Campbell will describe his role in reviewing Mr. Jack's performance evaluations and work improvement plans.

S/Sgt. Campbell will address the efforts that were put in place to assist Mr. Jack in successfully completing his probationary term with the OPP, including a mentor being assigned to him and additional driving courses.

S/Sgt. Campbell will identify concerns about Mr. Jack that he was made aware of through other Detachment members. S/Sgt. Campbell will indicate that he had a discussion with P.C. Payne about her concerns about Mr. Jack's conduct. He will also indicate that he had concerns about Mr. Jack's use of a recording device amongst staff and the public.

S/Sgt. Campbell will address his involvement with respect to the charges that were laid against Mr. Jack by Sgt. Flindall under the *Highway Traffic Act*.

S/Sgt. Campbell will describe the reasons for and the general process that resulted in Mr. Jack's transfer from Platoon A to Platoon D. He will describe a meeting that occurred on August 19, 2009. It was Insp. Borton's decision to move Mr. Jack to a different platoon. S/Sgt. Campbell had concerns about Sgt. Flindall's supervision of Mr. Jack and was of the view that the OPP could be at risk of a human rights complaint.

S/Sgt. Campbell will address his role with respect to the Professional Standards Bureau Investigation that was conducted into allegations that were made about Mr. Jack associating with individuals in organized crime.

S/Sgt. Campbell was a participant in the decision-making process that ultimately led to Mr. Jack's resignation from employment. Based on Mr. Jack's performance, and information provided, S/Sgt. Campbell made the recommendation with Human Resources to Command Staff. No prohibited ground of discrimination was a factor in the decision-making process.

S/Sgt. Campbell will testify that Mr. Jack's race, ancestry, ethnic origin, place of origin, citizenship, or association did not in any way factor into his treatment, interaction, or assessment of Mr. Jack.

S/Sgt. Campbell will generally address the issues raised in Mr. Jack's will-say that relate to S/Sgt. Campbell, including, but not limited to the following:

- S/Sgt. Campbell has no specific recollection of reporting concerns arising from Mr. Jack's ride-alongs to Inspt. Johnston, but if there was a safety concern, he would have done so.
- S/Sgt. Campbell issued the 233-10 against Mr. Jack on the direction of the Collision Conduct Committee for the motor vehicle collision on January 30, 2009. This was an at-fault collision by the member. S/Sgt. Campbell believes the other party and senior officer should have received a 233-10 for his poor decision-making as well and does not know why he did not get one.
- S/Sgt. Campbell will describe his involvement in and the issues that arose from the criminal harassment case that Mr. Jack handled on July 23, 2009.
- S/Sgt. Campbell will indicate that Sgt. Flindall reported to him that he was issuing the ticket against Mr. Jack and provided his reasons for doing so.
- S/Sgt. Campbell will describe the August 19, 2009, meeting about Mr. Jack's transfer to Platoon D.
- S/Sgt. Campbell will address Mr. Jack's month 8 evaluation and indicate, amongst other things, that where there is no information for a specific category, the process is to use the same rating as the previous month. He will also clarify that it was Insp. Johnston that signed this Performance Evaluation on his behalf.
- S/Sgt. Campbell will describe the recommendation process for permanency as an employee with the OPP.

WITNESS SUMMARY: MARC GRAVELLE

Provincial Constable ("P.C.") Marc Gravelle has been an employee of the Ontario Provincial Police ("OPP") since August 2005. In 2009, he was a P.C. at the OPP's Peterborough Detachment ("Detachment") and worked on Platoon C.

P.C. Gravelle met Mr. Jack when Mr. Jack came to the Detachment at some point prior to his start at the Detachment. Mr. Jack informed Mr. Gravelle that he was going to be starting as a probationary constable at the Detachment. The idea of a ride-along for Mr. Jack was discussed.

Two weeks later, P.C. Gravelle took Mr. Jack on a ride-along during which P.C. Gravelle conducted regular duties and engaged in conversation with Mr. Jack. At some point during the ride-along, Mr. Jack invited P.C. Gravelle back to his residence to see Mr. Jack's firearm collection. P.C. Gravelle also observed photos of Mr. Jack with a M-16. They left the residence and attended a call for service on an island. On the way to the island, Mr. Jack asked P.C. Gravelle if there were bullets in his firearm. After the ride-along, P.C. Gravelle and Mr. Jack returned to the Detachment. P.C. Pollock was at the detachment at the time and volunteered to take Mr. Jack on a ride-along as well.

P.C. Gravelle had concerns about Mr. Jack because:

- He observed some photos of Mr. Jack;
- He observed Mr. Jack locking each of his doors which P.C. Gravelle had not observed anyone else do before;
- He had never met anyone who would show their gun collection to someone they had known for such a short period of time; and
- He had inquired if there were bullets in P.C. Gravelle's OPP firearm.

At some point after Mr. Jack's ride-along with P.C. Pollock, P.C. Gravelle and P.C. Pollock discussed their respective ride-alongs with Mr. Jack with each other.

At some point after his conversation with P.C. Pollock, P.C. Gravelle addressed his concerns about Mr. Jack with Sgt. Rathbun including, amongst other things, his firearm collection; posing in pictures with guns and knives in his mouth; and asking about the bullet in the chamber.

P.C. Gravelle did report Mr. Jack to Sgt. Flindall in relation to an incident involving radio communications.

P.C. Gravelle never heard or used the term "Crazy Ivan".

P.C. Gravelle will say that Mr. Jack's ethnic origin, place of origin, ancestry, citizenship, race, or association did not factor into P.C. Gravelle's interactions with Mr. Jack.

P.C. Gravelle will generally respond to allegations made about him in Mr. Jack's will-say including but not limited to the following:

- Mr. Jack did not confront P.C. Gravelle about the ride-along.
- P.C. Gravelle remembers the conversation between P.C. Payne and Mr. Jack about notebooks, but understood the conversation to be a teaching point.
- P.C. Gravelle doesn't remember the specifics of the conversation.
- P.C. Gravelle would not have reprimanded Mr. Jack as it was not his responsibility to do.

P.C. Gravelle will generally respond to allegations made about him in Mr. Greco's will-say including but not limited to the following:

- P.C. Gravelle was aware that Mr. Jack received a Provincial Offences Notice but was not aware of the charges or that Mr. Greco represented Mr. Jack.
- P.C. Gravelle does not recall describing Mr. Jack as "crazy" or a "loose cannon" or advising Mr. Greco to distance himself from Mr. Jack.

WITNESS SUMMARY: JOHN POLLOCK

Provincial Constable ("P.C.") John Pollock has been an officer for 7 years with the Ontario Provincial Police ("OPP"). He is currently employed with the OPP out of the Peterborough County Detachment (Detachment). In 2009 he was on D Platoon which was supervised by Sgt. Butorac.

P.C. Pollock met Mr. Jack at the conclusion of a ride-along that Mr. Jack had gone on with P.C. Gravelle. This was sometime in 2008, prior to Mr. Jack starting at the Detachment. P.C. Pollock offered to take Mr. Jack on a ride-along with him.

A few weeks later, Mr. Jack went on a ride-along with P.C. Pollock. This ride-along was 2.5 hours long. Arrangements were made to pick up Mr. Jack at his residence. Mr. Jack invited P.C. Pollock into his home at the conclusion of the ride-along. Mr. Jack showed P.C. Pollock his firearm collection.

Upon returning to the Detachment, P.C. Pollock was called into a meeting with S/Sgt. Rathbun. P.C. Pollock was asked about the details of the ride-along and was asked to review an email about Mr. Jack that S/Sgt. Rathbun was sending to Human Resources about Mr. Jack. P.C. Pollock indicated that he thought it was odd that Mr. Jack would bring someone into his home after spending only 2.5 hours together and show him the firearm collection.

Sometime in 2009 Mr. Jack was working as a probationary constable on D Platoon's shift. Mr. Jack asked to speak with P.C. Pollock in private and asked whether or not he had lodged a complaint about him after the ride-along. P.C. Pollock advised Mr. Jack that he was asked about the ride-along and gave honest feedback surrounding the ride-along.

P.C. Pollock did not hear or use the name "Crazy Ivan" at the Detachment.

P.C. Pollock will say that Mr. Jack's ethnic origin, place of origin, ancestry, citizenship, race, or association did not factor into P.C. Pollock's interactions with Mr. Jack.

WITNESS SUMMARY: ROBERT FLINDALL

Sergeant ("Sgt.") Robert Flindall has been employed by the Ontario Provincial Police ("OPP") for approximately 14 years. He was transferred to the OPP Peterborough Detachment ("Detachment") in 2008, at which time he was promoted to the rank of Sergeant. Sgt. Flindall previously held the rank of provincial constable at the Almaguin Highlands Detachment, and, after 2006, held the rank of Acting Sergeant. In 2009, he held the position of A Platoon Sergeant at the Detachment. In October of 2009, Sgt. Flindall assumed the position of Acting Staff Sergeant at the Detachment for three months. He is currently a Sergeant with the Detachment.

Sgt. Flindall will testify as to his role and responsibilities as Sergeant. Although the coach officer is directly responsible for supervising a probationary constable, the supervising sergeant is ultimately responsible for the probationary constable.

Sgt. Flindall will testify that he had limited knowledge of Mr. Jack prior to his arrival at the Detachment. Sgt. Flindall will testify that he was looking forward to having an officer at the Detachment that was fluent in both Russian and Hebrew. Officers from diverse backgrounds are valued and considered an asset at the Detachment.

Sgt. Flindall will deny that he and P.C. Nie are close friends. They are neighbours. They work on opposite schedules and therefore rarely see each other at work and don't generally socialize outside of work.

Sgt. Flindall will testify that he heard the term "Crazy Ivan" used in reference to Mr. Jack before Mr. Jack's arrival at the Detachment. Sgt. Flindall addressed the use of this name at a shift briefing prior to Mr. Jack arriving at the Detachment and indicated that Mr. Jack was to be given a fair chance as a probationary constable. Sgt. Flindall asked that this nickname not be used in the workplace. Sgt. Flindall will testify that he never used the term "Crazy Ivan" to refer to Mr. Jack.

Sgt. Flindall will describe his role and responsibilities with respect to completing performance evaluations and work improvement plans. He will identify the concerns he had about Mr. Jack's performance as a probationary constable based on the performance evaluations and work improvements plans. Sgt. Flindall will testify that he reviewed each and every performance evaluation prepared by Coach Officer Filman before it was sent to the staff sergeant for review and disclosed to Mr. Jack. He will acknowledge that there were reviews that were late and that it is not uncommon in his experience for these reviews to be late. Sgt. Flindall will also indicate that probationary constables receive feedback informally throughout their probationary term. Mr. Jack's decision to seek assistance from the Ontario Provincial Police Association did not impact on Sgt. Flindall's review of the performance evaluations or any guidance offered to Mr. Jack. Sgt. Flindall will also provide evidence about a number of concerns about Mr. Jack that were brought to his attention by other officers.

Sgt. Flindall will indicate that he did not make the decision to issue the 233-10 against Mr. Jack as a result of an incident that occurred on January 30, 2009, but he did provide Mr. Jack with the 233-10 at the direction of the Collision Conduct Committee ("the Committee"). Sgt. Flindall was expected to have a non-disciplinary discussion with Mr. Jack per the direction of the Committee. Sgt. Flindall will indicate that he also spoke to P.C. Gilliam about this incident.

Sgt. Flindall approached P.C. Payne in May 2009 to inquire if she would be willing to mentor Mr. Jack. In July 2009, P.C. Payne was assigned to assist Mr. Jack as a mentor. Sgt. Flindall will address the reasons why he thought it was necessary to assign a mentor to Mr. Jack in addition to Mr. Jack's coach officer. P.C. Payne did later raise concerns about Mr. Jack's conduct towards her with respect to a potential workplace harassment and discrimination issue and this will be addressed by Sgt. Flindall.

Sgt. Flindall has no recollection of a conversation in May 2009 with Mr. Jack approaching him about derogatory comments made by P.C. D'Amico or about concerns relating to his coaching. He did not describe P.C. D'Amico as a "bossy woman". Sgt. Flindall will confirm that he was never approached by Mr. Jack to address allegations of discrimination or harassment.

Sgt. Flindall will describe a criminal harassment case and his follow-up with Mr. Jack about the case as instructions were provided to Mr. Jack on or about July 23, 2009, which were not followed by Mr. Jack.

Sgt. Flindall will describe an incident that occurred on August 6, 2009, in which Mr. Jack was involved. Sgt. Flindall commended all officers in respect of the incident that occurred on August 6, 2009. He will explain that the Applicant received negative documentation in relation to a specific aspect of his involvement in this incident relating to "answer shopping."

Sgt. Flindall will provide evidence that the decision to charge Mr. Jack under the *Highway Traffic Act* was his decision alone. The laying of these charges was in no way inappropriately motivated. As a supervising officer, Sgt. Flindall must hold officers accountable including with respect to the safe operation of police vehicles. Sgt. Flindall will testify that Mr. Jack was not the first officer that he laid charges against under the *Highway Traffic Act*.

Sgt. Flindall did not ask the officers at the Detachment to keep Mr. Jack under "surveillance" and report back to him. The coaching of a new recruit does not occur in isolation from other officers. Sgt. Flindall did ask for his platoon's assistance in identifying performance issues with Mr. Jack so that the issues could be addressed and corrected in a timely manner.

Sgt. Flindall will describe his role in the transition of Mr. Jack from Platoon A to Platoon D.

Sgt. Flindall will deny that at the August 19, 2009, meeting he said he was in favour of the transfer on the basis that Mr. Jack had alienated the majority of officers on his shift.

Sgt. Flindall will indicate that on August 20, 2009, he did provide Mr. Jack with his Month 6 and 7 performance evaluation and two 233-10's. The provision of these two 233-10's was unrelated to Mr. Jack seeking assistance from the OPPA with respect to his *Highway Traffic Act* charges.

Sgt Flindall will testify that it was not his decision to transfer Mr. Jack from Platoon A to Platoon D. Sgt. Flindall will describe his role at a meeting held on August 19, 2009, in which Mr. Jack was advised he was being transferred to Platoon D. Sgt Flindall will testify that he understood the reason for the transfer was to give Mr. Jack a fresh start with a new coach officer.

Sgt. Flindall will describe his role in the Professional Standards Bureau Investigation of Mr. Jack. As a sergeant, a concern about associating with undesirables is a significant concern. Sgt. Flindall will indicate that in raising the concern and responding to the investigation, there was no intention to poison Mr. Jack's workplace, malign his reputation, or build up a file to terminate him from the OPP. There was no inappropriate motivation for raising the concern.

Sgt. Flindall was a participant in the decision-making process that ultimately concluded in the recommendation to release Mr. Jack from employment and Mr. Jack's resignation from the OPP.

Sgt. Flindall has no recollection of directing another officer to attend the "car v. deer" incident that occurred on December 8, 2009, and that if he did, Mr. Jack's race, ancestry, ethnic origin, place of origin, citizenship, or association was not a factor in that decision. When Mr. Jack was on Platoon D, he was not allowed to go to calls for service by himself because as a probationary constable who was experiencing performance issues, he was to be doubled-up to ensure that support was available to him. This is typical for probationary constables that are experiencing performance issues.

Sgt. Flindall will state that it is very common for probationary constables to work more shifts and take less vacation time than other officers. He will describe the Detachment's complement of probationary constables for the year 2009. Sgt. Flindall will describe Mr. Jack's caseload. Sgt. Flindall will confirm that Mr. Jack was not the only probationary constable not originally from Peterborough. Sgt. Flindall will confirm that Mr. Jack was able to claim over-time and claimed approximately 235.5 hours of overtime. Sgt. Flindall will indicate that officers are informed that when calls for service come in towards the end of shift these calls may be held for the next shift in order to minimize overtime. This is a practice Sgt. Flindall uses to ensure fiscal responsibility. While on Platoon A, Mr. Jack was allowed to work paid duties. Sgt. Flindall has some recollection that there was an issue about Mr. Jack's ability to work paid duties during the time of Mr. Jack's transition to a different Platoon.

Sgt. Flindall will testify that at no time did Mr. Jack's race, ancestry, place of origin, citizenship, ethnic origin, or association factor into his treatment, supervision, assessment, or performance management of Mr. Jack.

Sgt. Flindall will respond generally to the statements made in relation to him in Mr. Jack's will-say, including but not limited to the information set out below.

Sgt. Flindall will deny stating that Shaun Filman was assigned as coach officer to Mr. Jack as a result of "the mismanagement of human resources." P.C. Payne was assigned as a mentor to Mr. Jack because Sgt. Flindall had concerns about Mr. Jack's answer shopping

Sgt. Flindall will indicate that Mr. Jack would not have been scheduled to work alone in a zone.

Sgt. Flindall will indicate that the information provided by Mr. Jack in paragraph 2 of page 13 of Mr. Jack's will-say is not accurate. Moreover, P.C. Payne and P.C. Filman worked 9 and 7 days less than Mr. Jack during the period of June 1, 2009 to August 20, 2009

Sgt. Flindall will indicate that he did not advise Mr. Jack that, due to a lack of personnel, no support would be provided to Mr. Jack.

Sgt. Flindall will indicate that at the August 3, 2009, meeting with Mr. Jack and P.C. Filman, Mr. Jack was reprimanded for his involvement in the criminal harassment investigation. He will deny certain allegations made by Mr. Jack regarding this meeting. Sgt. Flindall will indicate that he would have had the same type of conversation with any officer if they had handled the investigation in the same manner.

Sgt. Flindall's evidence will be that the platoon as a whole was commended for their work on the investigation in relation to the August 6, 2009, incident. He will state that Mr. Jack was held accountable for his conduct after the date of the occurrence in relation to his attempts to answer shop without providing officers full information. Sgt. Flindall did not provide positive documentation for any officers in relation to this incident.

Sgt. Flindall will deny that there was any plan between himself and P.C. Nie to "target" Mr. Jack after he was transferred to Platoon D.

Sgt. Flindall will indicate he did sign Mr. Jack's PER for month 8 on September 11, 2009, and that the date of a supervisor's signature does not always match the date that an officer signs.

Sgt. Flindall has no recollection of borrowing an audio recorder from Mr. Jack. Sgt. Flindall will describe issues relating to Mr. Jack's use of a digital pen camera that was used to record another officer.

WITNESS SUMMARY: SHAUN FILMAN

Shaun Filman has been employed by the Ontario Provincial Police ("OPP") for more than 9 years. He is currently posted to the OPP Peterborough Detachment ("Detachment") and holds the rank of Detective Constable (D/Cst.). D/Cst. Filman has been at the Detachment since 2004. Prior to 2004, he was posted to the City of Kawartha Lakes OPP Detachment. D/Cst. Filman was Mr. Jack's coach officer while he was assigned to A Platoon. During the relevant time period, D/Cst. Filman held the rank of Provincial Constable and in November 2009 worked in the Detachment Crime Unit. In December 2009 D/Cst. Filman went on Parental leave.

D/Cst. Filman will testify that he has been trained as a coach officer with the OPP and has coached probationary constables since 2005. D/Cst. Filman will testify as to his role and responsibilities as a coach officer. He has successfully coached three recruits in addition to having coached Mr. Jack.

D/Cst. Filman was not aware of the term "Crazy Ivan" being used as a nickname for Mr. Jack. He did not call Mr. Jack by that term.

Prior to Mr. Jack arriving at the Detachment, D/Cst. Filman was informed by S/Sgt. Campbell of concerns identified at the OPP Academy regarding Mr. Jack.

D/Cst. Filman will indicate that when Mr. Jack arrived at the Detachment, Mr. Jack informed D/Cst. Filman that he was glad that D/Cst. Filman was his coach because he thought that it might be a conflict if P.C. Payne was his coach because she was good looking.

D/Cst. Filman was coaching Mr. Jack during a particularly busy time period. D/Cst. Filman was coaching another probationary constable when Mr. Jack was assigned to him to coach as a probationary constable. There was approximately three months of overlap in coaching and D/Cst. Filman was expecting his first child in March 2009. In addition, D/Cst. Filman was a fairly senior member of the Platoon. D/Cst. Filman was not disinterested in coaching Mr. Jack.

D/Cst. Filman will describe his role and responsibilities in completing performance evaluations reports and work improvement plans for Mr. Jack for months one to eight of Mr. Jack's probationary period. He will review the evaluations and identify the performance issues arising from Mr. Jack's performance as a probationary constable.

D/Cst. Filman will identify incidents that gave rise to concerns about Mr. Jack's performance as a probationary constable.

D/Cst. Filman will testify that, in his experience and based on his training, monthly meetings are not routinely held with a probationary constable, his/her coach officer, and his/her supervising sergeant.

D/Cst. Filman was never approached by Mr. Jack about derogatory or discriminatory comments made to Mr. Jack. Mr. Jack did indicate that he felt he had a strong accent and was considering a speech therapist. D/Cst. Filman indicated that the OPPA or OPP benefits might be able to assist him if he wanted to pursue this.

D/Cst. Filman will describe the August 3, 2009, meeting between himself, Sgt. Flindall and Mr. Jack. D/Cst. Filman will testify that he attended the August 3, 2009, meeting in his capacity as coach officer.

D/Cst. Filman will testify that at no time did Mr. Jack's race, ethnic origin, place or origin, ancestry, citizenship, or association impact on his interactions, treatment, supervision, or assessment of Mr. Jack.

D/Cst. Filman will respond to the statements made in Mr. Jack's will-say, including but not limited to the information set out below.

D/Cst. Filman explained to Mr. Jack that given the additional paperwork required to be completed by him as a coach, D/Cst. Filman's shift would start earlier.

D/Cst. Filman will describe an incident that occurred on January 22, 2009, and indicate that Mr. Jack obtained the appropriate information.

D/Cst. Filman does not recall uttering "It's not my coaching" in response to the January 30, 2009, incident.

D/Cst. Filman will describe an incident that occurred on February 19, 2009. He didn't order Mr. Jack to do anything. Mr. Jack at the time did not question the charge or indicate he felt it did not apply. As far as D/Cst. Filman is aware, the Crown did not say the charge should not have been laid or recommend that the landlord be charged. He understood that the Crown withdrew the charges on the basis of no reasonable prospect of conviction. D/Cst. Filman likely did write the general occurrence report under Mr. Jack's name as he was a probationary constable and this was a learning opportunity for him.

D/Cst. Filman will address the traffic complaint that occurred in February 2009. It was his opinion that at this time Mr. Jack had sufficient practical experience to intercept an impaired driver.

D/Cst. Filman will indicate that he did ask Mr. Jack if he was prepared to patrol alone.

D/Cst. Filman will address a fraudulent credit card transaction that Mr. Jack was involved in and how there were issues relating to Mr. Jack's handling of this incident.

D/Cst. Filman will state that the advice referred to in April 2009 is taken out of context.

D/Cst. Filman attended a meeting on August 3, 2009, as a coach officer with Mr. Jack and Sgt. Flindall regarding Mr. Jack's handling of a criminal harassment case. D/Cst. Filman did not know the complainants in the criminal harassment case.

D/Cst. Filman will state that Sgt. Flindall did advise him that he was going to provide Mr. Jack with a provincial offences notice but did not advise when. D/Cst. Filman provided some guidance to Mr. Jack by phone about the charges under the *Highway Traffic Act*.

D/Cst. Filman will indicate that he asked Mr. Jack to not always reduce speeding tickets.

D/Cst. Filman was not aware of the OPP orders to attend the Provincial Command Center ("PCC"). He had not sent any of his previous probationary constables to attend the PCC either.

After Mr. Jack's transfer to Platoon D, D/Cst. Filman rarely saw Mr. Jack but didn't intentionally ignore him.

D/Cst. Filman does not recall an incident in February 2009 in which there was a conversation about a Goodlife fitness club amongst other things. D/Cst. Filman was unaware of the Professional Standards Bureau Investigation of Mr. Jack.

WITNESS SUMMARY: PETER BUTORAC

Sergeant ("Sgt.") Peter Butorac has been employed by the Ontario Provincial Police ("OPP") for more than 25 years and has been a sergeant for the last 16 years. He is currently posted to the Peterborough County Detachment ("Detachment") and occupies the position of Administrative Sergeant. He held the position of Sergeant on Platoon D at the Detachment in 2009. In the fall of 2009 Sgt. Butorac was on leave for a period of time but returned to the Detachment on September 9, 2009.

Sgt. Butorac will testify that he never heard Mr. Jack referred to as "Crazy Ivan" nor did he refer to Mr. Jack as "Crazy Ivan".

Sgt. Butorac will describe his role and responsibilities with respect to supervising Platoon D, including his role with respect to coach officers and probationary constables. Sgt. Butorac will describe his role and responsibilities in completing performance evaluation reports and work improvement plans for Mr. Jack, in particular for months nine to eleven of Mr. Jack's probationary period.

In September 2009 Sgt. Butorac and P.C. Nie met with Mr. Jack and reviewed the deficiencies that needed to be corrected in relation to Mr. Jack's performance.

Sgt. Butorac made the decision that Mr. Jack was not to work on his own because of a number of identified deficiencies. Working alone would not allow him to obtain the support and guidance needed to address these deficiencies. Mr. Jack was permitted to work over-time. Sgt. Butorac does not recall any direction being made about Mr. Jack not being able to work paid duties.

On September 19, 2009, Sgt. Butorac met with P.C. Nie and Mr. Jack to address Mr. Jack's performance issues.

On September 23, 2009, Sgt. Butorac served Mr. Jack with his notice of internal complaint.

On September 24, 2009, Sgt. Butorac met with Mr. Jack and P.C. Nie about his last evaluation. Mr. Jack indicated that he was going to draft a rebuttal and this was forwarded to S/Sgt. Campbell.

Sgt. Butorac had a conversation with Mr. Jack on or about October 19, 2009. Sgt. Butorac recalls Mr. Jack raising issues that he felt were discriminatory but Mr. Jack explicitly stated that he did not want to do anything now and just wanted to know his options. Sgt. Butorac did discuss performance and career-related issues as well with Mr. Jack and will clarify that any discussion about complaints or whining would have been in relation to performance issues, not discrimination. Sgt. Butorac does not specifically remember using the term "whiners" but may have used a similar term.

Sgt. Butorac attended a meeting on November 19 2009, regarding Mr. Jack's month 10 evaluation.

On November 29, 2009, P.C. Nie and Mr. Jack spoke with Sgt. Butorac, at which time Mr. Jack indicated he wasn't feeling mentally prepared for work and that he had a premonition something bad was going to happen. Sgt. Butorac advised Mr. Jack he should go home.

Sgt Butorac will describe his role in the review process that ultimately resulted in the decision to release Mr. Jack from employment with the OPP.

On December 13, 2009, Sgt. Butorac drove Mr. Jack to the OPP City of Kawartha Lakes Detachment to be served with a notice of release from employment.

Sgt Butorac will testify that Mr. Jack's race, ancestry, ethnic origin, place of origin, citizenship, or association did not in any way factor into his treatment, interaction, supervision, or assessment of Mr. Jack.

Sgt. Butorac will respond to the statements made about him in Mr. Jack's will-say, including but not limited to the information set out below.

Sgt. Butorac will state that attending a probationary constable's graduation is not mandatory.

Sgt. Butorac presented Mr. Jack with a performance evaluation on September 14, 2009.

Sgt. Butorac does not recall the email from E. Garbutt regarding the work done by Mr. Jack in relation to an investigation of a grow-op on October 7, 2009.

Sgt. Butorac does not recall saying that Mr. Jack had "clouds over his head" on September 23, 2009.

Sgt. Butorac was surprised at how little progress was being made when he provided Mr. Jack with his performance evaluation on October 13, 2009. He did give Mr. Jack an opportunity to attach a letter to his evaluation.

Sgt. Butorac will indicate that all meetings with Mr. Jack about his performance were intended to assist him.

Sgt. Butorac did compliment Mr. Jack's traffic reports as being good. Sgt. Butorac does not recall saying "Sorry Richard."

Sgt. Butorac presented Mr. Jack with an evaluation on December 14, 2009.

WITNESS SUMMARY: RICHARD NIE

Provincial Constable ("P.C.") Richard Nie has been employed by the Ontario Provincial Police ("OPP") since September 13, 2000. He is currently posted to the Peterborough County Detachment ("Detachment"). P.C. Nie was Mr. Jack's coach officer on Platoon D from September to December 2009. P.C. Nie will testify that he has been trained as a coach officer with the OPP and has been a guest speaker at the coach officer course offered by the OPP to train new coaches. P.C. Nie will generally explain his role and responsibilities as a coach officer. Since 2004, P.C. Nie has coached seven probationary constables including Mr. Jack. Four of these seven probationary constables became permanent OPP officers and one was a First Nations Constable who went on to become a permanent constable with a First Nations Reserve.

P.C. Nie will state that he and Sgt. Flindall are neighbours but do not socialize much outside of work as they are on opposite platoons. P.C. Nie will deny that his relationship with Sgt. Flindall in any way impacted on his assessment, treatment, or supervision of Mr. Jack.

P.C. Nie will testify that he never heard the term "Crazy Ivan" used to refer to Mr. Jack and that he never used this term in respect of Mr. Jack.

P.C. Nie will describe his role as a coach officer during the transition of Mr. Jack from Platoon A to Platoon D, including what information was provided to Mr. Nie as coach officer.

P.C. Nie will address his responsibilities in coaching Mr. Jack. P.C. Nie will describe how, as a coach, he carefully documented Mr. Jack both positively and negatively in his performance evaluations. P.C. Nie will describe the performance evaluations, work improvement plans, and concerns arising from Mr. Jack's performance while on Platoon D.

P.C. Nie will explain why he called Mr. Jack "cream puff" and how this was part of the camaraderie at the Detachment showing a sense of belonging. When P.C. Nie did call Mr. Jack "cream puff", Mr. Jack laughed out loud.

P.C. Nie will describe his role in the decision-making process that ultimately resulted in the OPP's decision to release Mr. Jack from employment and his ultimate resignation.

P.C. Nie will testify that Mr. Jack's race, ancestry, ethnic origin, place of origin, citizenship, or association did not in any way factor into P.C. Nie's treatment, interaction, supervision, or assessment of Mr. Jack.

P.C. Nie will respond to statements relevant to him in Mr. Jack's will-say, including but not limited to the information set out below.

P.C. Nie did document Mr. Jack carefully as this was part of his job as a coach officer. There was no plan for P.C. Nie to terminate Mr. Jack's employment nor did P.C. Nie target him.

P.C. Nie was not informed by P.C. Jack that, on September 9, 2009, P.C. Jack had made an initial call to the complainant in a pending threats call and there was no answer. He will indicate that he prioritized the call for Mr. Jack and gave him direction. P.C. Nie will describe the basis for his rating of Mr. Jack in relation to this incident.

P.C. Nie, in response to Mr. Jack's request to meet for coffee, does not do police work on his days off as that time is dedicated to family matters.

P.C. Nie will describe an issue relating to Mr. Jack's completion of a vehicle record search that occurred on September 10, 2009. At this time, he did tell Mr. Jack to stop playing games with him.

P.C. Nie will clarify that in response to Mr. Jack's request to use the washroom P.C. Nie said "Michael, you don't have to ask me to go to the bathroom, don't ever ask me that question again okay?" P.C. Nie will explain what he tells all recruits with respect to the use of the washroom and hunger.

P.C. Nie will describe an incident relating to the Niche system and assistance in entering an address. This incident was later accurately reflected in Mr. Jack's evaluation.

P.C. Nie will describe an incident in which Mr. Jack told P.C. Nie that Mr. Jack did not know how to fill in a township or where to sign a provincial offences ticket. P.C. Nie did tell Mr. Jack to stop playing games as, after eight months on the job, Mr. Jack should have known the answers to the questions being asked.

P.C. Nie will address an incident that occurred with respect to an unwanted persons call in which it appeared that Mr. Jack and the complainant knew each other. P.C. Nie will describe a discussion he had with Mr. Jack about recording conversations, which conversation arose because of the incident the night before.

P.C. Nie will address the nose-blowing incident with Mr. Jack and indicate his concerns about the contamination of a crime scene.

P.C. will deny that he had an authoritarian, intolerant approach to coaching Mr. Jack. P.C. Nie will deny that he kept Mr. Jack in a permanent state of defence or treated him like a little boy.

P.C. Nie did not order Mr. Jack to not use his notebook on his days off. P.C. Nie informed Mr. Jack that his notebook was for work and not for his days off.

P.C. Nie will indicate that he did not coach Mr. Jack any differently than he coached other probationary constables.

P.C. Nie would at times turn on the radio to break up the silence if there was no discussion between himself and Mr. Jack. Mr. Jack and P.C. Nie did have a discussion about the radio affecting Mr. Jack's ability to multi-task. It is P.C. Nie's practice to turn the radar unit off around the last half hour of the shift.

P.C. Nie did have a conversation with Mr. Jack about what would happen if things did not work out for Mr. Jack with the OPP. This conversation was prompted because P.C. Nie was told that Mr. Jack was asking questions about P.C. Nie behind his back about prior recruits that P.C. Nie had coached. P.C. Nie will describe this conversation.

P.C. Nie will indicate that Mr. Jack did ask him about employment insurance benefits and P.C. Nie responded that he didn't know the answer. He will describe this conversation.

P.C. Nie was not involved in the internal complaint against Mr. Jack that resulted in an investigation by the Professional Standards Bureau.

P.C. Nie did indicate to Mr. Jack that if he did not meet the requirements at the 10 month evaluation, the normal procedure was to extend the probationary period to 12 months. P.C. Nie did say that he was not giving up on Mr. Jack and would continue to coach him. P.C. Nie was involved with the telephone conference calls with human resources in Orillia regarding Mr. Jack's performance.

P.C. Nie will explain why Mr. Jack was rated negatively in relation to respectful relations for the November 19, 2009, meeting.

P.C. Nie will say that Mr. Jack did attempt to bring him to the gun club but that P.C. Nie refused. He will describe the conversation that occurred between himself and Mr. Jack in relation to this incident. P.C. Nie will indicate that he did go to the carpet store while on duty but it would have been for a few minutes and would have been time that he was entitled to as per a one hour lunch.

P.C. Nie will describe the incident that occurred on November 29, 2009, in which Mr. Jack asked if he could be an observer for the day. P.C. Nie did inform Mr. Jack that it was okay to call in sick and suggested that Mr. Jack speak with the Sergeant.

P.C. Nie will describe the occurrence numbered SP09278848. He will indicate that what was seized by Mr. Jack was not marijuana but two plastic bags of marijuana bud residue. This was insignificant to the investigation. The amount that was kept and lodged weighed 2.3 grams. The amount of marijuana found in the driver's blood was insignificant and not a contributing factor towards any impairment or cause of the accident.

P.C. Nie was not aware of the conversation that had occurred on December 15, 2009, prior to Mr. Jack entering the office. P.C. Nie will explain that it is not a good feeling as a coach officer when a probationary constable is not recommended for permanency.

WITNESS SUMMARY: MELYNDA MORAN

Provincial Constable ("P.C.") Melynda Moran has been an employee with the Ontario Provincial Police ("OPP") for approximately 10 years. Prior to working at the OPP Peterborough Detachment ("Detachment") she worked at the Brockville Detachment. She was on Platoon A in 2009.

Prior to the application being filed against the OPP, P.C. Moran did not hear the term "Crazy Ivan" being used at the Detachment or use this term herself.

P.C. Moran did not at any time ask Mr. Jack to speak with a Canadian accent during the course of his employment with the OPP. P.C. Moran had difficulty understanding Mr. Jack over the radio because of the radio quality and because of his accent. As a result she probably asked him to clarify his communications over the radio.

P.C. Moran was recorded by Mr. Jack on a recording device while at the work place. P.C. Moran later learned from Mr. Jack that he had recorded her and then downloaded the video-recording to his computer and put it on his phone. Mr. Jack indicated that he used the recording device because he couldn't understand people. P.C. Moran will address why she considered the use of this pen/recording-device in this way as inappropriate conduct in the work place.

P.C. Moran went to see Sgt. Flindall twice about concerns she had about Mr. Jack. One incident involved Mr. Jack following her too closely and dangerously while en-route to an incident on August 15, 2009. The second time she went to see Sgt. Flindall was to advise him of her concerns about Mr. Jack videotaping her in the work place.

P.C. Moran will indicate that none of the prohibited grounds of discrimination impacted on her interactions with or treatment of Mr. Jack.

WITNESS SUMMARY: MARIA D'AMICO

Provincial Constable (P.C.) Maria D'Amico has been an employee with the Ontario Provincial Police ("OPP") for approximately 19 years. She has been employed at the OPP Peterborough Detachment ("Detachment") for 19 years. P.C. D'Amico was on Platoon A in 2009.

P.C. D'Amico heard the term "Crazy Ivan" used at the detachment in 2009. She never used the term or called Mr. Jack by that name. She recalls attending a briefing during which Sgt. Flindall addressed the use of that name within the Detachment.

At no time during Mr. Jack's employment did P.C. D'Amico comment on his accent or background.

P.C. D'Amico had limited interactions with Mr. Jack including attempting to assist him on an incident.

P.C. D'Amico provided advice to Mr. Jack in April 2009 as she would provide advice to any other probationary constable. Her intention in providing advice to Mr. Jack was to help him as a probationary constable complete his probationary term successfully.

P.C. D'Amico had concerns about Mr. Jack's driving. She will describe an incident that occurred on August 15, 2009, where she thought an accident was going to result from Mr. Jack's driving.

P.C. D'Amico was approached by members of the Detachment because they were concerned about a recording device that was being used by Mr. Jack within the Detachment. The members were concerned about the use of this device because it had already been used to record another OPP officer, Melynda Moran. P.C. D'Amico spoke with P.C. Filman and Sgt. Flindall about how to address this issue with Mr. Jack and it was agreed that peer-to-peer advice was appropriate. P.C. D'Amico discussed the use of the recording device with Mr. Jack, emphasizing the need for trust among colleagues. She encouraged him to use his notebooks.

P.C. D'Amico will say that no prohibited ground of discrimination impacted on her treatment of or interactions with Mr. Jack.

P.C. D'Amico will respond generally to Mr. Jack's will-say as well as to a number of statements involving her, including but not limited to the following:

- P.C. D'Amico has no recollection of telling Mr. Jack to "keep quiet when a senior officer was talking".
- P.C. D'Amico denies taking cheap shots at Mr. Jack.
- P.C. D'Amico will indicate that Mr. Jack was invited to her house for a social event and that she did tell him to look up her address in the address book. This comment was not made on the basis of any prohibited grounds of discrimination.

- P.C. D'Amico will confirm that she only received a verbal commendation regarding the Young's Point break and enter incident. She did not receive any positive documentation.

WITNESS SUMMARY: JENNIFER PAYNE

Provincial Constable ("P.C.") Jennifer Payne has been employed with the Ontario Provincial Police ("OPP") as a provincial constable for 14 years. From May 1999 to October 2002 P.C. Payne worked at the Grey County Detachment before transferring to the Peterborough County Detachment ("Detachment"). In 2009, P.C. Payne was a provincial constable at the Detachment. Although initially assigned to be Mr. Jack's coach officer, she took a secondment to work in the Detachment's Crime Unit from January 2009 until May 2009. From October 2009 to December 2009 she was Acting Sergeant (A/Sgt.) of Platoon A.

P.C. Payne was assigned to be Mr. Jack's coach officer in the fall of 2008. However, prior to Mr. Jack's arrival at the Detachment, P.C. Payne was seconded to another unit. P.C. Filman was assigned to be Mr. Jack's coach officer.

P.C. Payne first met Mr. Jack in January 2009 while at Block Training. She informed Mr. Jack that P.C. Filman would be an excellent coach.

P.C. Payne was aware that Mr. Jack had the nickname "Crazy Ivan" prior his arrival at the Detachment. P.C. Payne believed that the nickname resulted from two ride-alongs that he had been on and the fact that he had an extensive gun collection. P.C. Payne never referred to Mr. Jack as "Crazy Ivan".

In May 2009 Sgt. Flindall asked P.C. Payne to act as a mentor to Mr. Jack upon her return from the Crime Unit in June 2009. P.C. Payne was assigned to this role at the request of Sgt. Flindall. Sgt. Flindall felt that Mr. Jack required additional support. P.C. Payne will give evidence as to her role as a mentor generally and provide examples of the numerous times she assisted Mr. Jack. P.C. Payne will indicate that Mr. Jack was not receptive to feedback and that he would avoid communication with her. As Mr. Jack's mentor, she provided feedback to P.C. Filman on Mr. Jack's performance based on the calls for service she worked directly on with Mr. Jack.

On July 1, 2009, P.C. Payne did interact with Mr. Jack. Mr. Jack had attended an incident that P.C. Payne had also attended in relation to stolen property. At the scene and at the Detachment Mr. Jack kept asking P.C. Payne for her notes. P.C. Payne provided him with her dash-pad with times and names but this was not sufficient as Mr. Jack kept asking for her notebook. At the Detachment she advised him that her notes were not completed yet and that he should be making his own notes. Mr. Jack took offence to this feedback: he approached her, changed the tone of his voice, and stated he could just take her notes or anyone's from their diary slot at any time. P.C. Payne then asked why he wanted her notes so badly and he indicated that he wanted to see someone else's notes because he was having difficulty with the culture and language barrier. She advised Jack that she would give him a copy of her notes after she completed and faxed them. After providing her notes to Mr. Jack, he briefly reviewed a few pages and then put them back in the diary slot. P.C. Payne then confronted Mr. Jack. She was upset because he had insisted on getting her notes but then didn't use them. Mr. Jack then stated he was finding it difficult to do the job with his language barrier and accent and that he wasn't being coached

properly. P.C. Payne thought he was using a "language barrier" as a crutch because she had seen his reports and they were clear and concise in the English language and she told him this. She provided him with constructive feedback. P.C. Payne does not recall saying "do not interrupt me because I am senior to you" though she may have said "don't interrupt me". While she was offering Mr. Jack advice, he interrupted her, signalling that he was not interested in hearing feedback. She did not say "he sucked".

P.C. Payne will describe three incidents involving Mr. Jack which ultimately led to her speaking to Mr. Jack in private on July 18, 2009, in relation to his conduct towards her. She will also describe the constructive feedback she provided to Mr. Jack at this meeting in her role as mentor. P.C. Payne spoke with her supervisors about her concerns about Mr. Jack's conduct towards her but decided not to pursue anything formally.

Although P.C. Payne did witness Mr. Jack make an unsafe driving manoeuvre on August 15, 2009, P.C. Payne played no role in the decision to charge Mr. Jack under the *Highway Traffic Act*.

P.C. Payne brought Mr. Jack's involvement as a security guard in a 2005 theft incident to Sgt. Flindall's attention because she felt it could relate to Mr. Jack's performance issues.

P.C. Payne will indicate that the fact that Mr. Jack sought assistance from the Ontario Provincial Police Association did not factor into her treatment or mentoring of Mr. Jack and had no bearing on his performance evaluation.

P.C. Payne will indicate that at no time did Mr. Jack's race, ethnic origin, place of origin, ancestry, citizenship, or association impact on her treatment, interaction, supervision, or assessment of Mr. Jack.

P.C. Payne will respond to the allegations made against her in Mr. Jack's will-say, including but not limited to the information set out below.

P.C. Payne will state that the only time Mr. Jack opened up to her was with respect to his accent. Mr. Jack felt his accent was thick and was considering hiring a speech/language professional to assist him with his accent. She indicated that his accent was thick at times but that when he spoke slowly on the air he was understood. She did not think it was necessary for him to get a language professional and told him this.

P.C. Payne does not recall a confidential conversation with Mr. Jack in which he indicated he felt like a nuisance.

P.C. Payne will indicate that she informed Mr. Jack on or about July 23, 2009, to seek assistance from P.C. Brockley with respect to a criminal harassment case. She will indicate that she then followed up with Sgt. Flindall about concerns she had about Mr. Jack's actions on the criminal harassment file.

P.C. Payne had no involvement in the Professional Standards Bureau Investigation of Mr. Jack.

P.C. Payne did not smirk at Mr. Jack upon his return to the office after he was released from employment. She felt badly for Mr. Jack.

WITNESS SUMMARY: PAUL MACNEIL

Provincial Constable ("P.C.") Paul MacNeil has been employed by the Ontario Provincial Police ("OPP") for 15 years. He began his career at the Campbellford Detachment and has worked at the Peterborough Detachment ("Detachment") for approximately 13 years.

In 2009 P.C. MacNeil was part of Platoon B. P.C. MacNeil did not work regularly with Mr. Jack.

P.C. MacNeil will respond to the allegations made by Mr. Jack in his will-say, including but not limited to the information set out below.

P.C. MacNeil did have a brief conversation with Mr. Jack after Mr. Jack was no longer an employee of the OPP. P.C. MacNeil did not tell Mr. Jack that he had gotten a "raw deal"; however, he did say that what had happened was unfortunate. This comment was not based on any knowledge P.C. MacNeil had of Mr. Jack's performance but because P.C. MacNeil had not had any issues with Mr. Jack. P.C. MacNeil will deny that he stated Mr. Jack should "do something about it." P.C. MacNeil's comments about Mr. Chase were not based on any knowledge of Mr. Chase's performance as a probationary constable but based on P.C. MacNeil's knowledge of Mr. Chase as a person. P.C. MacNeil will deny making the statement that every officer that P.C. Nie had coached was either dismissed from employment or transferred to another coach. P.C. MacNeil thinks P.C. Nie is a good coach officer. P.C. MacNeil will deny that he stated that Mr. Jack "got into the wrong hands." P.C. MacNeil will deny stating that he would gladly be a witness for Mr. Jack. P.C. Nie will deny stating that Sgt. Flindall and P.C. Payne were too close and favouring each other.

WITNESS SUMMARY: JASON POSTMA

Provincial Constable ("P.C.") Jason Postma has been employed with the Ontario Provincial Police ("OPP") for approximately 22 years. P.C. Postma has worked out of the OPP Peterborough Detachment ("Detachment") for the last seven and a half years. Prior to joining the Detachment, P.C. Postma worked at other OPP detachments. There was a period of time in 2009 during which P.C. Postma worked in the capacity of Acting Sergeant on Platoon D.

As Acting Sergeant, P.C. Postma was involved in human resources meetings regarding Mr. Jack's transfer from Platoon A to Platoon D. P.C. Postma's role as Acting Sergeant concluded when Sgt. Butorac returned to his position on September 9, 2009. P.C. Postma was kept apprised of developments relating to Mr. Jack in case there was a need for him to resume a leadership role again.

P.C. Postma had little involvement with Mr. Jack before the transfer took place.

Prior to the platoon transfer, P.C. Postma was aware that Mr. Jack had performance issues and that Mr. Jack was not progressing along the same timeline as other probationary constables. P.C. Postma was also made aware, through word of mouth, of Mr. Jack's extensive gun collection.

P.C. Postma participated in a teleconference regarding Mr. Jack's transfer from Platoon A to Platoon D on August 31, 2009. Other participants included Sgt. Flindall and P.C. Nie. P.C. Postma will address what was discussed at this transition meeting including concerns about deceit, lying, accountability, driving, and Mr. Jack's work improvement plan.

P.C. Postma will respond to the statements involving him in Mr. Jack's will-say, including but not limited to the following information set out below.

P.C. Postma was aware that Mr. Jack had the nickname of "Crazy Ivan" at the Detachment. P.C. Postma believed that it related to Mr. Jack's gun collection. P.C. Postma will also give evidence indicating that he did not hear anyone refer to Mr. Jack as "Crazy Ivan" directly.

P.C. Postma will give evidence confirming that he was aware of a collision that occurred on December 8, 2009, when he was acting as the second in command. Sgt. Flindall was acting staff sergeant on December 8, 2009. P.C. Postma will state that it was his understanding that Mr. Jack's charge under the *Highway Traffic Act* prevented him from driving by himself to attend the call. P.C. Postma will state that the comments attributed to him in Mr. Jack's will-say were not in regards to Mr. Jack's ability to handle the investigation, but rather his ability to drive himself to the accident scene. P.C. Postma

does not recall saying that it was "embarrassing" that Mr. Jack required another officer to drive him to the scene of the collision to conduct the investigation.

WITNESS SUMMARY: JAMIE BROCKLEY

Detective Constable ("D/Cst.") Jamie Brockley has been an officer with the Ontario Provincial Police (OPP) for 12 years. He has been with the OPP Peterborough Detachment since September 2000. From 2004 to 2009 he worked on the Drug Unit as a provincial constable.

D/Cst. Brockley will generally respond to the statements involving him in Mr. Jack's will-say including, but not limited to, the information set out below.

D/Cst. Brockley met Mr. Jack on January 26, 2009, through P.C. Filman. Mr. Jack appeared interested in D/Cst. Brockley's work. Mr. Jack mentioned that he knew of someone who was arrested in a drug bust. Later, two individuals' names were brought up in conversation. These two individuals were known to D/Cst. Brockley as high level drug dealers. Mr. Jack indicated that he worked out with these individuals, but didn't know anything about their illegal activity. The next day, Mr. Jack brought in a photo of himself with these two individuals and other individuals as well. Mr. Jack indicated that the photo was a few years old. D/Cst. Brockley did not have any specific concerns at that time about Mr. Jack's association with those two individuals.

In March 2009, D/Cst. Brockley thought he heard Mr. Jack run a plate used in undercover operations by the OPP. This caused some concern for D/Cst. Brockley as a member of the Drug Unit since Mr. Jack knew these two high level drug dealers. D/Cst. Brockley did not approach anyone formally at this time about his concerns.

On October 24, 2009, Sgt. Flindall requested that D/Cst. Brockley provide him with information pertaining to Mr. Jack's association with the two high level drug dealers.

D/Cst. Brockley's participation in the Professional Standards Bureau Investigation was in response to inquiries from an investigator. In responding to the investigation, there was no intention to poison Mr. Jack's workplace, malign his reputation, or build up a file to terminate him from the OPP.

D/Cst. Brockley provided assistance to Mr. Jack with respect to a criminal harassment case on or about July 23, 2009. P.C. Payne requested that D/Cst. Brockley provide Mr. Jack with assistance preparing a brief. At around midnight, Mr. Jack approached D/Cst. Brockley for assistance with the brief. Mr. Jack asked D/Cst. Brockley to draft the crown brief synopsis, which D/Cst. Brockley refused to do as it was not his case and he had no knowledge of the investigation or the events that had taken place. D/Cst. Brockley did provide assistance and direction to Mr. Jack. D/Cst. Brockley was not advised of Sgt. Flindall's orders to Mr. Jack. Mr. Jack indicated he was tired and therefore D/Cst. Brockley suggested that he speak with S/Sgt. Campbell. Mr. Jack did speak to S/Sgt. Campbell who approved Mr. Jack going home and returning the next day in the morning to continue working.

D/Cst. Brockley will confirm that no prohibited ground of discrimination impacted on his interactions with or treatment of Mr. Jack.

WITNESS SUMMARY: DANIEL CLARK

Provincial Constable ("P.C.") Daniel Clark has been employed with the Ontario Provincial Police ("OPP") since January 2007. P.C. Clark has been employed at the Peterborough Detachment since 2007. In 2009, he was part of Platoon D.

P.C. Clark will respond to statements made about him in Mr. Jack's will-say, including but not limited to the information set out below.

P.C. Clark does not recall telling Mr. Jack that he "had a funny accent" at any time. P.C. Clark had very few conversations with Mr. Jack as they worked in different areas. P.C. Clark will confirm he attended Havelock on one occasion during the month of November and that on this occasion P.C. Robertson was not working in Havelock.

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WITNESS SUMMARY: DEREK ROBERTSON

Provincial Constable (“P.C.”) Derek Robertson has been a Constable with the Ontario Provincial Police (“OPP) since January 2003. He has worked out of the OPP Peterborough Detachment for the entirety of his nine years of employment. P.C. Robertson was working on Platoon D with Mr. Jack in November 2009.

P.C. Robertson will respond to statements made in the will-say of Mr. Jack, including but not limited to the information set out below.

P.C. Robertson has no recollection of a conversation between Mr. Jack and P.C. Clark where P.C. Clark told Mr. Jack that he “had a funny accent”. While P.C. Robertson regularly patrols the Havelock area, P.C. Clark works in a different zone and rarely travels to Havelock, where this conversation is alleged to have taken place.

WITNESS SUMMARY: MICHAEL P. JOHNSTON

Inspector Michael P. Johnston has been an employee with the Ontario Provincial Police ("OPP") for 30 years. He was at the OPP Peterborough Detachment ("Detachment") for approximately 2 years until October 12, 2009, in the position of Detachment Commander. Insp. Johnston will describe his role and responsibilities as Detachment Commander.

As Detachment Commander, Insp. Johnston was contacted by the Regional Command Director and it was recommended that Mr. Jack be more closely monitored during his probationary term as a result of issues arising from his training prior to being posted at the Detachment.

Insp. Johnston was provided with information through the chain of command regarding Mr. Jack showing some officers his extensive firearm collection. The officers were of the opinion that Mr. Jack was pre-occupied with his firearm collection. As Mr. Jack was going to be starting at the detachment as a probationary constable, Insp. Johnston thought it was prudent to advise Central Region Command Staff. Insp. Johnston will address the follow-up on this issue.

Insp. Johnston was aware of Mr. Jack's performance issues as a probationary constable which will be described generally. These issues were addressed through different means including changing Mr. Jack's coach officer; his platoon; and additional driver training. Insp. Johnston will describe his role in the transfer of Mr. Jack from Platoon A to Platoon D. There were also human resources meetings initiated by Detachment Command staff to ensure Mr. Jack's performance issues were identified and addressed.

Insp. Johnston was aware of an internal complaint filed against Mr. Jack and will describe how this was addressed. He will indicate that the allegations were serious, especially in light of Mr. Jack's probationary status.

Insp. Johnston will indicate that prohibited grounds of discrimination were not a factor in Insp. Johnston's dealings with Mr. Jack as a probationary constable.

Insp. Johnston will respond to allegations made in Mr. Jack's will-say, including but not limited to the information set out below.

Insp. Johnston sent an email to the whole team commending their efforts in relation to the August 6, 2009, incident. It was Insp. Johnston's habit as Detachment Commander to send out emails praising officers for work well done. Insp. Johnston did not "target" Mr. Jack in anyway nor did Insp. Johnston purposefully fail to recognize Mr. Jack for his work.

WITNESS SUMMARY: BRUCE HANNA

Provincial Constable ("P.C.") Hanna has been employed with the Ontario Provincial Police ("OPP") since 2001. P.C. Hanna has worked at the OPP Peterborough Detachment ("Detachment") since 2002.

P.C. Hanna will respond to statements made in Mr. Jack's will-say, including but not limited to the information set out below.

P.C. Hanna was the Officer in Charge on the night shift of July 23, 2009. P.C. Hanna will give evidence that he was advised by Sgt. Flindall that Mr. Jack was working on a criminal harassment matter and that he would require assistance from P.C. Hanna's shift to make an arrest in connection thereof. P.C. Hanna was not advised by Sgt. Findall to find the suspect in Mr. Jack's investigation or to make an arrest. P.C. Hanna will indicate that he discussed the case with Mr. Jack, advising him how best to proceed. P.C. Hanna will explain that he was advised by Mr. Jack on the evening of July 23, 2009, that Mr. Jack did not believe that charges would be laid in the matter and that, therefore, Mr. Jack would not require assistance from the night shift in making the arrest.

P.C. Hanna received a phone call from Mr. Jack in the early hours of July 24, 2009, at which time Mr. Jack indicated that he now wished to arrest the suspect in the criminal harassment matter. P.C. Hanna told Mr. Jack that he should have made this decision earlier in the evening of July 23, 2009. P.C. Hanna does recall telling Mr. Jack that this was "bullshit". P.C. Hanna advised Mr. Jack to proceed with the investigation by asking the suspect to turn himself in. P.C. Hanna was unavailable as he was attending another call. P.C. Hanna reiterated his instructions to proceed with the investigation by asking the suspect to turn himself in.

**WITNESS SUMMARY: KAREN GERMAN
KAREN GERMAN IS UNDER SUMMONS TO ATTEND HEARING**

Karen German is an employee of the Ontario Provincial Police (“OPP”) and a representative with the Ontario Provincial Police Association (“OPPA”).

She had specific communications with Mr. Jack during his term as a probationary constable with the OPP. She will address her involvement as an OPPA officer assisting Mr. Jack.

At no time during their communications did Mr. Jack ever raise any issues relating to human rights violations, discrimination, harassment, or a poisoned work environment. Mr. Jack sought her assistance in respect of performance management issues, including an investigation into a Professional Standards Bureau incident.

Ms. German, on behalf of the OPPA, did not conduct an investigation into Mr. Jack’s treatment as a probationary constable at the Peterborough Detachment. Ms. German, on behalf of the OPPA, did not conclude that Mr. Jack was being targeted by staff at the OPP Peterborough Detachment, including Sgt. Flindall. Ms. German did not advise Mr. Jack that Sgt. Flindall was keeping surveillance on him. She did not advise Mr. Jack that Sgt. Flindall had asked staff to report to him about performance issues. Ms. German did not advise Mr. Jack that his transfer to another Platoon was the result of her investigation. She did not say that the Peterborough Detachment was a “very bad detachment”.

WITNESS SUMMARY: AMY RAMSAY

Amy Ramsay is currently employed as a Sergeant ("Sgt.") with the Ontario Provincial Police ("OPP"). She is a senior Policy Writer with the Policy and Procedures Section, Operational Policy and Strategic Planning Bureau.

Sgt. Ramsay will address some of the OPP's orders with respect to professionalism in the OPP including reference to the *Human Rights Code* and the Workplace Discrimination and Harassment Prevention Policy.

She will describe OPP order 6.4.8 which addresses a number of issues including but not limited to:

- The release of a probationary constable when the constable fails to meet the requirements of their position during the probationary period;
- When Probationary constables can work alone; and
- Responsibilities of the detachment commander, supervisor, and coach officer.

Sgt. Ramsay will indicate that officers are not required to know all of the OPP orders in detail.

Sgt. Ramsay will address OPP order 2.51.1 including the performance management program specifically in relation to probationary constables.

Sgt. Ramsay will address OPP orders with respect to:

- Radio communications;
- Use of OPP vehicles;
- The complaints process; and
- The Professional Standards Bureau.

Sgt. Ramsay will respond to statements made in Sgt. Pachecho's witness summary as provided by the Applicant:

- She will indicate that coach officers and immediate supervisors do have first-hand knowledge about probationary constables; however, probationary constables can be released from employment if they do not meet performance standards.
- This process of release involves contact with OPP General Headquarters.

- She will indicate that there is no policy that a coach officer must always strive to attend a probationary constable's graduation. Attendance at a graduation may be encouraged at local detachments but it is discretionary and will depend on the coach's availability, work load, etc.
- Sgt. Ramsay will review OPP orders in respect of monthly evaluations. There is no OPP policy that specifically states not to humiliate any officer especially a probationary officer. This is a matter of common sense, courtesy, and professionalism. She will state that there is no OPP order or policy that directs that a probationer's evaluation is never a copy of the previous evaluation.

WITNESS SUMMARY: COLLEEN KOHEN

Colleen Kohen is the Acting Executive Officer, Provincial Commander. Ms. Kohen has been with the Ontario Provincial Police ("OPP") for approximately 25 years. She was the Staffing Advisor for the OPP's Career Development Bureau from October 2006 until January 2012. During 2004/2005 she was the Executive Lead for the Coach Officer Review Program. She has held the portfolio of the Provincial Coordinator of Probationary Constables since January 2006.

Ms. Kohen will provide an overview of her role and responsibilities as Provincial Coordinator of Probationary Constables. She provides assistance and support to the various OPP detachments and Regions when probationary constables arrive at the detachment. She will indicate that the OPP values the addition of officers from different backgrounds and origins who speak different languages as this is viewed as an asset.

She will describe the standard evaluation process for OPP probationary constables including, amongst other things, the rating process and development of work improvement plans. She will indicate that when there is "No Basis for Rating", the process is to carry over the rating from the last performance evaluation.

She will confirm the schedule for the evaluations that would have applied to Mr. Jack's class of probationary constable, including Mr. Jack.

She will review Mr. Jack's employment history with the OPP and confirm and describe the following:

- Mr. Jack was offered a position of 5th Class Recruit Constable with the OPP.
- Mr. Jack was sent a memo dated August 25, 2008, setting out the "Performance and Conduct Requirements of a Recruit Constable".
- Mr. Jack signed an acknowledgement that he read and understood the contents of the August 25, 2008, memo.
- Mr. Jack resigned from the OPP on December 15, 2009.

Ms. Kohen will indicate that Mr. Jack did complete his training at the Ontario Police College and the OPP Academy though he did initially fail the police vehicle operation requirement. Mr. Jack ultimately passed the police vehicle operations component of training.

She will provide a general overview of Mr. Jack's performance evaluations and indicate that Mr. Jack's performance began to decline with only very moderate improvements.

Ms. Kohen will describe how and when she became involved in the process of evaluating Mr. Jack.

Ms. Kohen was contacted by Mr. Jack on August 4, 2009. He was seeking assistance in relation to concerns he had about his performance and as such she advised him to contact the Ontario Provincial Police Association. Her role is to assist OPP officers who are involved in the supervision of probationary constables, not to assist probationary constables. Mr. Jack did not advise her of any concerns relating to discrimination, harassment, or a poisoned environment.

She will also describe her participation in the decision-making process that ultimately led to Mr. Jack's resignation from employment with the OPP.

Ms. Kohen will confirm that Mr. Jack's race, ethnic origin, place of origin, ancestry, citizenship, or association had no impact on his performance management or the decision of the OPP to terminate Mr. Jack. The decision to release Mr. Jack from employment was based on his performance. Ms. Kohen will describe the process for the release of a probationary constable from employment.

Ms. Kohen will respond to the statements that relate to her in Mr. Jack's will say, including but not limited to the information set out below.

As already described above, she was contacted by Mr. Jack on August 4, 2009.

She received an email from Mr. Jack after his December 15, 2009, meeting with respect to his release from employment.

WITNESS SUMMARY: MIKE ARMSTRONG

Chief Superintendent (“C/Supt.”) Mike Armstrong has been with the Ontario Provincial Police (OPP) for 28 years. In 2009, he was the Chief Superintendent for Central Region. He was the Commander responsible for 14 detachments including the OPP’s Peterborough Detachment. As Commander he was responsible for, amongst other things, ensuring police services were provided to the municipalities across that area.

C/Supt. Armstrong will indicate that the OPP’s human resources staff did review Mr. Jack’s file and that C/Supt. Armstrong had reviewed Mr. Jack’s performance evaluations. Further, a decision was made to release him from employment.

C/Supt. Armstrong has participated in meetings involving decisions about the future careers of probationary constables with the OPP and will describe his general practice with respect to these meetings. For example, C/Supt. Armstrong does not use the term “fired”; rather, he uses the term “dismissed.” This practice was used in the case of Mr. Jack.

C/Supt. Armstrong was present at a meeting on December 15, 2009. At this meeting he explained to Mr. Jack that the purpose of the probationary period is to determine if the OPP wants to offer the candidate a position for the next 30 years and he then advised Mr. Jack that he had failed to meet the required standard. C/Supt. Armstrong will indicate that he did give Mr. Jack an opportunity to make a response. C/Supt. Armstrong will state that he did not coerce Mr. Jack but rather provided him with the option of either resigning or being dismissed. Mr. Jack indicated right away that he wanted to resign.

C/Supt. Armstrong will indicate that he did not speak with Mr. Jack in advance of this meeting and does not have notations about a request to postpone the meeting. In response to a request from Mr. Jack, C/Supt. Armstrong provided information to Mr. Jack about the nature of information that would be provided if he applied to another police force.