Schedule 'E'

Background

The Counsel has drafted a rather substantive document in support of her application. The Applicant will attempt to address each of the Counsel's points in her document with respect to the item's purpose, relevance and/or reason for each of the points and will include where necessary applicable supportive documents.

Facts Relating to Procedural Issues

Document Disclosure:

The Applicant has actually disclosed a total of 122 exhibits (includes additional disclosure of arguably relevant documents). The Respondent has disclosed 7 volumes of documents initially and followed up with 7 additional disclosures pursuant to the deadline obligations of January 16, 2012.

Witnesses:

The Applicant concurs that he will be calling 15 to 20 witnesses. The Counsel for the Respondent has also indicated the possibility of a number of witnesses.

OPP Documents:

The Counsel's assertion that these OPP documents are the property of the Respondent is completely false. Through the course of my brief employment I was entitled to and was given copies of all of my performance evaluation reports, but only some of my work improvement plan reports.

With respect to the following specific documents that the Counsel is concerned about, I will comment of them individually:

Exhibit 22:

Contents: Exhibit 22 is the Crown Brief Synopsis of Regina vs. Ian Etherington. It should be pointed out that the Counsel is fully aware that this is not an actual OPP Crown Brief Synopsis document. It is a copy of the original OPP Crown Brief Synopsis that has been copied onto a word document.

Purpose: This was done by me while I was experiencing the racial discrimination that has been alleged in my Application. At that time I knew what was happening to me was wrong and so I started to keep a file of copies of documents that I felt might assist me later.

In my statement to my application I have commented about how I was chastised for allegedly not having enough detail in my Crown Brief Synopses. This is an example of a Crown Brief Synopsis that I did at the same time that I was being chastised.

Relevance: Its inclusion is relevant to rebuttal evidence should the Respondent attempt to assert during the hearing that I lacked the necessary skills that ought to have been present in any recruit with equivalent time as me.

Exhibit 26C:

Contents: Exhibit 26c consists of a copy of my notebook entries from August 14, 2009, to August 20, 2009.

Purpose: It documents in detail my investigation on a Break and Enter occurrence, Sgt. Flindall advising me that I would be getting a ticket for violation under the Highway Traffic Act and more importantly Sgt. Flindall serving me with my Month 5 and my Month 6 & 7 PERs and negative 233-10 documents.

Though I knew it was important for me to keep a copy of these dates of my notebook since it documents my reaction to being served with the false charge under the HTA and with fabricated Month 6 & 7 PER I am now glad that I did. The Counsel delivered further disclosure that arrived at my representative's house on April 3, 2012. In the cover letter from the Counsel for the Respondent she indicates that is further disclosure to the Counsel's arguably relevant documents and my request for a transcription of an officer's notes. The Counsel also commented in the cover letter that further to my request for compliance with section 18 of my application that she has screened my note books for my time with the OPP and had copied what she felt was relevant to my application and the matters before the Tribunal.

I suggest that it is highly inappropriate for the Counsel to do this. I feel that all of my notebooks should have been provided and I or my representative had the opportunity to review them and photocopy sections that we feel are relevant. As such I am still devoid of copies of numerous dates that I feel are relevant to my application. The fact that the Counsel is objecting to this exhibit which contains documentation of my severe nose bleed subsequent to the stress of having been charged with an offence under the Highway Traffic Act and Sgt. Flindall depriving me of adequate time to review and properly

respond to my Month 6 & 7 PER is indicative of the reality that I never would have got a copy of the notes for this date had I trusted on the Respondent providing them to the Counsel.

Furthermore, the Counsel has made it very clear in her cover letter regarding the disclosure I received on April 3, 2012 (Exhibit 1), that the Respondent will not be complying with the rest of section 18 of my application – all of my e-mails for my time with the OPP. The Counsel's position is (to quote her), ***'the request is overboard and amounts to a fishing expedition.'*** The Counsel is viewing my reminder letter to her dated February 2, 2012 which was in response to her letter requesting that I remove certain documents and in which I mentioned the requirements of section 18 of my application, as an initial request. The Counsel is fully aware of the fact that when her colleague, Marnie Corbold had carriage of the file Mrs. Corbold was shared a copy of the application in December 2010 by my then counsel, Kimberley Wolfe. The Counsel would have then familiarized herself with the contents of section 18 of my application. The Counsel was later formally shared a copy of the application by the HRTO.

Hence the Counsel and the Respondent has had full knowledge of my formal request under section 18 of the application. The Counsel has had in excess of fifteen months to comply with that formal request. Yet the Counsel has the gall to mock this Tribunal and its administrative process by citing that to comply with my request would be too time consuming and actually amounts to a fishing expedition. If, in the Counsel's own disclosure I have discovered numerous inculpatory e-mails with respect to the allegations in my application, how much more can I expect to have in the form of corroboration of assertions in my statement from the many e-mails that I have addressed? I am being deprived of further evidence that would be afforded should the Counsel have complied with the authority of section 18 of my application. The Counsel's refusal is forcing me to file a Form 10 application.

Relevance: It is evidence and corroboration to that which I have already elaborated in my Will-say.

Exhibit 28:

Contents: General Occurrence Report re threats call

Purpose: PC Nie rated me negatively in the *Flexibility* section in my Month 9 PER (Exhibit 32) with respect to handling this call. In light of the Respondent's disclosure, I have furnished a thorough analysis of the timing and the nature of the call in my Analysis of the Respondent's disclosure (16 - September 2009) and provided further documentation all of which was disclosed to the tribunal and the Counsel for the Respondent on March 26, 2012.

Relevance: Its inclusion is evidence to support my assertions in my Will-say that PC Nie fabricated the negative rating in the *Flexibility* section in my Month 9 PER (Exhibit 32) with respect to my handling of that call.

Exhibit 34a:

Contents: Re Break and Enter investigation at Young's Point Public School (Crown Brief Synopsis)

Purpose: Exhibit 34a shows the quality of my report and attests to the fact that I was the investigating officer of the case and is also evidence to my assertion in my Will-say that Sgt. Flindall assigned me as the investigating officer. I later found out from an e-mail (Volume 1, I-74) that PC D'Amico's name was passed to the Command Staff as an investigating officer when the only work she had done was to assist with filling out the prisoner release papers.

Relevance: Its inclusion is evidence to support my assertions in my Will-say.

Exhibit 34b:

Contents: Re Break and Enter investigation at Young's Point Public School (correspondence with Crown Attorney Kelly Eberhard)

Purpose: Exhibit 34b was included to show that what I said in my Will-say (about there not being enough substantive information to substantiate the charges) was correct. The correspondence from the Crown Attorney Kelly Eberhard as provided by the Counsel for the Respondent confirmed this and because there was no property stolen, Extra Judicial Measures were being considered.

Furthermore, the Counsel may find it pertinent to know that the Counsel disclosed the last name of one young person (Vollick) in the index of Volume 1 (Volume 1, I-43):

43. October 6, 2009 - email from R. Flindall to P. Butorac Re: R. v. Vollick sp09178964

Relevance: Its inclusion is evidence to support my assertions in my Will-say.

Exhibit 40:

Contents: Investigation re Credit card fraud

Purpose: Aside from just my word that I was assigned a complex investigation this serves as a piece of documentary evidence to corroborate that which I have already stated in my Will-say. It attests to the complexity of the multi-jurisdictional credit card fraud investigation that was delegated to a front line rookie (me) to do during the busiest time of the year and for which I was negatively rated by my accountable supervisor, Sgt. Flindall in my PERs. It corroborates S/Sgt. Ron Campbell's assertion in his e-mail to Insp. Mike Johnston on August 18, 2009, that I was left on my own to fully investigate matters beyond my experience (Volume 3, W-3):

Mike both you and I discussed this and it appears this officer is being left on his own to fully investigate matters beyond his experience level. When Sgt Flindall came to me this was addressed as he knew it was an issue. Sgt Flindall insists he was given proper direction and fully understood the directions he just did not complete.

Relevance: Its inclusion is evidence to support my assertions in my Will-say.

Exhibit 47:

Contents: A printout summary of all my reportable and non-reportable calls of service for the year 2009. It should be noted that as a summary there are only identifying names of the caller and the name of the person or address the caller is complaining about. Surname and badge number of the officer the call has been assigned to appear at the bottom of the text of each call.

Purpose: Exhibit 47 is a Niche Records Management System print out of my reportable and non-reportable calls for service. It is essentially a combination of Exhibit 47a – Calls for service (non-reportable) and Exhibit 47b – Calls for service (reportable). Exhibit 47 was disclosed to the Tribunal and to the Counsel for the Respondent via e-mail on or about January 14, 2012, and a further higher quality copy was disclosed to the Tribunal and to the Counsel for the Respondent on March 26, 2012.

The Counsel is objecting to sensitive issues with respect to privacy. Yet in the index of the Counsel's own disclosure on January 16, 2012, the Counsel disclosed first and last names of numerous persons. While the names were blackened out in the e-mails, the index on the disclosure reveals all the names thus totally defeating the purpose of blackening out the names in the context of the e-mails.

Relevance: Its inclusion is relevant to rebuttal evidence should the Respondent attempt to assert during the hearing that I fabricated calls for service, dates or officer names.

Furthermore, it is evidence of my statistical numbers with respect to my calls for service with the exception of numerous calls for service that are missing from this personal audit of mine. The numerous calls for service that appear to have grown legs would all be contained in my notebooks should the Counsel have chosen to comply with the authority imposed on the Respondent in section 18 of my application.

Exhibit 47a:

Contents: Exhibit 47a is my non-reportable calls for service and it is a subset of Exhibit 47.

Exhibit 47b:

Contents: Exhibit 47b is my reportable calls for service and it is a subset of Exhibit 47.

Exhibit 47c:

Contents: Reports re calls for service

Purpose: It shows the quality of my reports, the dates I attended certain calls and it corroborates my Will-say and my Analysis of the Respondent's disclosure, which was disclosed to the Tribunal and the Counsel for the Respondent on March 26, 2012.

Relevance: Its inclusion is relevant to rebuttal evidence should the Respondent attempt to assert during the hearing that I fabricated calls for service and that I lacked adequate written communication skills.

Exhibit 47d:

Contents: Traffic reports re Motor Vehicle Collisions

Purpose: It shows the quality of my Motor Vehicle Collision (MVC) reports, the dates I attended the MVC incidents, proves in a number of instances that some officers lied about my work and dates of certain events and corroborates my analysis of the Respondent's disclosure, which was disclosed to the Tribunal and the Counsel for the Respondent on March 26, 2012.

Relevance: Its inclusion is relevant to rebuttal evidence should the Respondent attempt to assert during the hearing that I fabricated calls for service and that I lacked investigation and/or adequate written communication skills. It is also proof of calls that I attended that are missing from the list that is in Exhibit 47.

Exhibit 63:

Contents: General Occurrence Report written by Cst. Lloyd Tapp for Cst. Harry Allen Chase re Domestic occurrence. As one can note it does not identify any names or addresses and has been edited in similar fashion as occurrences disclosed to me by the Counsel.

Purpose: Mr. Chase's evidence is crucial to show similar treatment by the same coach officer, PC Nie. Though he filed an application with the commission it was withdrawn with his consent and hence was never adjudicated on. Mr. Chase's statement alleges that he was constantly criticized for the poor quality of his occurrence reports. Hence, Mr. Tapp who worked with him did this occurrence for him under Mr. Chase's badge number and it too according to Mr. Chase was criticized by PC Nie as being poorly written.

Relevance: PC Nie was Mr. Chase's coach officer as well as my coach officer. Mr. Chase and I are both minorities. We were both terminated during our probationary period while the other recruits during Mr. Chase's time and my time at the Peterborough County OPP Detachment, all of whom were white Canadians successfully passed their probationary periods. The inference is clear and does not need to be pointed out.

Exhibit 64:

Contents: R. vs. Stillman Crown Brief Synopsis and Cst. Lloyd Tapp's examination of the R. vs. Stillman's case.

Purpose: Exhibit 64 was included to show that though I did not feel comfortable with arresting and charging Mr. Stillman I had to do so under direction from a senior officer who was also my coach officer. I did not know it at the time why I was uncomfortable, but upon it being explained to me by Cst. Tapp I fully understood that the offence should have been Forcible Detainer under the Criminal Code of Canada. My coach officer ought to have known the same information and imparted it to me, but he did not.

Relevance: Its inclusion is relevant to show that my coach officer lacked interest and the necessary skills to properly coach me. The fact that it is knowledge that was imparted to me 9 months before I had an application filed with the Tribunal is no different from knowledge imparted to me by any other officer. I gleaned a lot of knowledge about policing from many individuals, for example all the instructors at the Ontario Police College. Does that mean that the information they imparted to me that became my knowledge should be excluded from any part of this hearing? The answer is no. So the only difference here is that the information that the information I gleaned from Mr. Tapp that in turn became my knowledge is harmful to the Counsel's position in defense to my application.

Exhibit 65:

Contents: Peterborough County OPP Detachment telephone directory

Purpose: Apart from showing that Sgt. Flindall and PC Richard Nie were next-door neighbors in year 2009 it also, from a simple glance over the names, reveals the lack of minority officers at the Peterborough County OPP Detachment.

Relevance: Its inclusion is evidence to item 58 of my application which reveals systemic discrimination and states:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

58. It is noteworthy that, as previously mentioned, the majority of the officers at the Detachment are individuals who were born and raised in the Peterborough area.

Exhibit 66:

Contents: Exhibit 66 is the Peterborough County OPP Detachment Duty Schedule for the year 2009.

Purpose: It contains extremely important information to my application, and is therefore referenced extensively throughout my Will-say to the Application. I saved this document while I was experiencing the racial discrimination that has been alleged in my Application. At that time I knew what was happening to me was very wrong and plain evil and so I started to keep a file of copies of documents that I felt might assist me later.

- It shows how much I worked and how much time I had off duty.
- It identifies the dates I worked.
- It shows how fewer shifts my former colleagues on Sgt. Flindall's Platoon 'A' shift worked compared to me during the busiest time of the year in the summer 2009 during which period I was rated negatively in my PERs for my inadequate performance, i.e. inability to multitask, poor time management skills, etc.
- It shows Sgt. Robert Flindall's Block Training (BT) dates in April 27 – 30, 2009, and his e-mail to PC Jennifer Payne suggesting to her to re-schedule her BT dates to attend the BT with him. Given the closeness of their relation the suggestion raises concerns over Sgt. Flindall and PC Payne code of conduct. This fact is critical because PC Payne falsely accused me of winking at her while at the same time Sgt. Flindall and PC Payne were exchanging smiley/happy face and wink emoticons in their e-mail correspondence. Sgt. Flindall was married and PC Payne was in a common-law relationship with PC Jamie Brockley.
- It proves that the respondents lied about, but not limited to, the following facts:
    - PC Shaun Filman's fraternity leave, which did not commence until December 15, 2009.
    - PC Shaun Filman's assertions in the point form chronology (Volume, BB) that he discussed certain things with me on certain dates when both of us clearly were off duty and hence it could not have happened.
- It substantiates my Will-say and my analysis of the Respondent's disclosure, which was disclosed to the Tribunal and to the Counsel for the Respondent on March 26, 2012, with respect to many dates and officer names who were participants in certain events.

Relevance: Its inclusion is relevant to rebuttal evidence should the Respondent attempt to assert during the hearing that I fabricated dates or officer names.

Facts Relating to Substantive Issues

Mr. Jack's Will-say

They are my allegations that I have a right to provide evidence to at the hearing. In fact all of my application is nothing, but allegations which is why there is a hearing.

Breach of Settlement Terms

Lloyd Tapp: Nowhere in those pages does one read of any details of the incidents that occurred at the Peterborough County OPP Detachment. As was explained by Mr. Tapp's Counsel at those proceedings he could not disclosure the amount of the settlement and neither could he disclose details that would for the purpose of re-mitigating his allegations. Mr. Tapp is not restrained from talking about what happened to him to any friend or neighbor or member of the public. Furthermore, Mr. Tapp is not testifying at my hearing and neither is his statement included in the disclosure provided to the Counsel by way of the obligations under the January 16, 2012, deadline. Though at the time of the disclosure to the Counsel for the Respondent Mr. Tapp forgot to edit the monetary sum contained in the documents he did catch his mistake and apologized to the Counsel and edited that portion of the document so that the Tribunal had an edited version.

Relevance: The exhibit's inclusion is conclusive documentary evidence that other minorities have filed complaints before the Ontario Human Rights Commission against the Ontario Provincial Police.

Harry Allen Chase's Will-say: Mr. Chase's evidence is crucial to show similar treatment by the same coach officer, PC Nie. Though Mr. Chase filed an application with the commission it was withdrawn with his consent and hence was never adjudicated on. Mr. Chase's statement alleges that he was constantly criticized for the poor quality of his occurrence reports. He also alleges that the respondent accused him of having a learning disability.

PC Nie was Mr. Chase's coach officer as well as my coach officer. Mr. Chase and I are both minorities. We were both terminated during our probationary period while the other recruits during Mr. Chase's time and my time at the Peterborough County OPP Detachment, all of whom were white Canadians successfully passed their probationary periods.

Furthermore, and according to his anticipated evidence we have got the Canadian Armed Forces, Applicant Testing Services, Ontario Provincial Police recruitment bureau, Ontario Police College, Provincial Police Academy and the Ontario Power Generation (Mr. Chase's current employer) saying that he has been and still is a competent person with no learning disabilities and on the other hand we have the Respondent alleging that he had a learning disability which was also instrumental in justifying his termination. Mr. Chase will also testify that during his time at Peterborough County OPP Detachment there was another

officer that came on around the time he did or maybe shortly before him, but could not speak a complete sentence with stuttering profusely. Mr. Chase will also testify that upon his termination and to the best of his knowledge that officer was still employed with the Respondent.

The inference to be drawn from what I have stated is clear and needs no mentioning.

Correspondence Requesting Applicant's representative to remove Exhibit 95 and Exhibit 48:

The Counsel's issues with these exhibits have already been addressed and the Applicant and his Representative are of the firm opinion that both exhibits are extremely relevant to the application and future proceedings.

Exhibit 95:

Contents: HRTO Cst. Tapp vs. OPP - Terms of Settlement

Purpose: Nowhere in those pages does one read of any details of the incidents that occurred at the Peterborough County OPP Detachment. As was explained by Mr. Tapp's Counsel at those proceedings he could not disclosure the amount of the settlement and neither could he disclose details that would for the purpose of re-mitigating his allegations. Mr. Tapp is not restrained from talking about what happened to him to any friend or neighbor or member of the public. Furthermore, Mr. Tapp is not testifying at my hearing and neither is his statement included in the disclosure provided to the Counsel by way of the obligations under the January 16, 2012, deadline. Though at the time of the disclosure to the Counsel for the Respondent Mr. Tapp forgot to edit the monetary sum contained in the documents he did catch his mistake and apologized to the Counsel and edited that portion of the document so that the Tribunal had an edited version.

Relevance: The exhibit's inclusion is conclusive documentary evidence that other minorities have filed complaints before the Ontario Human Rights Commission/Tribunal against the Ontario Provincial Police.

Harry Allen chase's Will-say – Abuse of Process:

Aside from what has already been mentioned in my address regarding the removal of Mr. Chase's Will-say I stress that it is not the intention of Mr. Chase to re-litigate his Human Rights complaint. Though Mr. Chase filed a complaint with the Ontario Human Rights Commission it was never adjudicated on and or litigated. It was withdrawn upon a settlement offered by the Respondent. The sum of the settlement was never disclosed. The terms of his settlement precluded Mr. Chase from attempting to litigate his allegations at any future proceeding by him.

Hence, it is the position of the Applicant and his representative that this hearing is not about Mr. Chase's complaint/application, but my complaint/application. I have a right to call evidence from another party who has experienced similar discrimination at the same location and by the same Respondent. Hence, I object to the Counsel's use of the term 're-litigate' when there never was litigation in the first place. On the other hand the Counsel would be correct in saying that, if Mr. Tapp were to testify then he would be in essence re-litigating his complaints because his hearing were slated for 5 days and on the 3rd day a settlement was reached.

Issues to be addressed at Case Management Conference

A. Procedural

Request for Additional Hearing Days: The Applicant and his Representative concur with the Counsel's reasons for requesting additional hearing days. The only thing the Applicant and his Representative request is to take into consideration that the Applicant currently lives in Israel and politely requests to have a block of time scheduled in an attempt to alleviate the financial burden as well as the stress to his witnesses. To this end the Applicant is even content with re-scheduling the hearing to a future date that would allow an uninterrupted block of time.

Request for Anticipated Length of Time of Examination and Cross-Examination: The Counsel's request here is fair and the Applicant points out that the Counsel has the names of all of the witnesses for the Applicant including their anticipated evidence. Just reviewing the anticipated evidence of the witnesses for the Applicant can give a flavor of the amount of time it would take to introduce their said anticipated evidence. However, the Applicant is not aware of all of the witnesses the Counsel for the Respondent wishes to call. To that end the Applicant will wait for direction from this Tribunal.

OPP documents: The Applicant did obtain these documents during the course of his employment and shortly thereafter. It is the position of the Representative that regarding how the Applicant came to be in possession of these documents is not relevant to the purpose of this hearing and would breach an implied right to confidentiality between the Applicant and his Representative. The OPP documents referred to by the Counsel are the Performance Evaluations of the Applicant, Occurrence Summaries of the Applicant and officers on his shift with respect to only some officers as personal respondents. The inclusions of these documents are relevant to substantiating assertions made by the Applicant in his statement and his application.

More interesting is the fact that it was the Counsel for the Respondent who breached the protection provisions of the Youth Criminal Justice Act in providing the name of one of the Young Offenders in the Counsel's disclosure in the index of Volume 1 (Volume 1, I-43):

43. October 6, 2009 - email from R. Flindall to P. Butorac Re: R. v. Vollick sp09178964

Furthermore, in the index of the Counsel's own disclosure on January 16, 2012, the Counsel disclosed first and last names of numerous persons. While the names were blackened out in the e-mails, the index on the disclosure reveals all the names thus totally defeating the purpose of blackening out the names in the context of the e-mails.

Third- Party Information: The Applicant and his Representative concur with the Counsel's request in this point. However, the Applicant wishes to have input as to what should be redacted since according to the Counsel for the Respondent the Counsel wishes to have all of Mr. Chase's Will-say redacted.

B. Substantive

No findings can be made about malicious prosecution, negligence, or negligence under the Police Services Act: It is not the position of the Applicant to hold the Respondent accountable for malicious prosecution, negligence and negligence under the Police Services Act. All information as contained in the application and the Applicant's statement was already scrutinized by the Applicant's former Counsel, Kimberley Wolfe, especially the application. Information in the application and the Applicant's statement implying such contraventions are clearly supported by either documentary evidence – Transcript of Proceedings Re: HTA charge (Exhibit 20b) and/or the Respondent's disclosure of the disposition of the allegation of the Applicant associating with the "Undesirables" (Exhibit 39).

Scope of Hearing: The Counsel is correct on this point as well except that it is the position of the Applicant that in order to understand the nature of the discrimination and provide evidence of systemic discrimination and show the Tribunal the systemic discrimination alleged it is crucial that Mr. Chase's statement, Sgt. Pacheco's statement and other statements being objected to by the Counsel for the Respondent be allowed.

Allegations of Systemic Discrimination: The fact that these paragraphs in the application may be offensive to the Respondent does not mean that they ought to be excluded. As stated earlier my application was drafted by an experienced lawyer, Kimberley Wolfe and surely her inclusion of such paragraphs are capable of being substantiated based on my statement and the statements of others. The application is truthful in its contents and the hearing will reveal it. Hence, the Applicant is opposed to its exclusion.

Evidence Relating to Settlements with Mr. Tapp and Mr. Chase is Irrelevant and Confidential: As stated earlier the inclusion of Mr. Tapp's HRTO documents regarding the settlement and Mr. Chase's statement are not for the purpose of re-litigating their individual complaints as the Counsel for the Respondent is alleging. As stressed previously, it is the position of the Applicant that Mr. Tapp's complaints and Mr. Chase's complaint were never litigated as the Respondent seems to allege. Were that the case then Mr. Tapp's case would be on the Canadian Law Institute website as a decision or interim decision of the Tribunal. What is confidential is the amount of the settlement. Mr. Tapp and Mr. Chase are certainly well with their right to talk about what they experienced in the scope of providing similar fact evidence at this hearing and it is the Counsel's right to object during the course of the hearing.

As such the Applicant opposes the Counsel's request to have these documents excluded.

Documents to be excluded

Exhibit 30:

Contents: Syntactical and grammatical analysis of my Probationary Performance Evaluation reports

Purpose: PC Filman treated me like a leper so this analysis at the very least shows PC Filman's lack of care to do a spell check of my performance evaluation reports and to coach me properly as many of the entries are not only misspelled, but are also repetitive through a number of my PERs.

Relevance: Its inclusion is relevant to rebuttal evidence should the Respondent attempt to assert during the hearing that I was coached properly by PC Filman and was just an incompetent recruit who failed to heed to my coach officer guidance. Its inclusion also shows a stark comparison to the quality of my work performance as documented on occurrences and reports and the quality of my coach officer. Not to say that the quality of my coach officer' performance is a question here, but its inclusion is for the sole purpose of having rebuttal evidence should the need arise in the hearing.

It is the Applicant s position that this documented should not be excluded and that the Counsel for the Respondent can raise an objection during the hearing should there be a need to introduce it by the Applicant.

Exhibit 34a:

Contents: Re Break and Enter investigation at Young's Point Public School (Crown Brief Synopsis)

Purpose: Exhibit 34a shows the quality of my report and attests to the fact that I was the investigating officer of the case and is also evidence to my assertion in my Will-say that Sgt. Flindall assigned me as the investigating officer. I later found out from an e-mail (Volume 1, I-74) that PC D'Amico's name was passed to the Command Staff as an investigating officer when the only work she had done was to assist with filling out the prisoner release papers.

Relevance: Its inclusion is evidence to support my assertions in my Will-say. The Applicant asserts that it was the Counsel for the Respondent who actually violated the protection provisions of the YCJA in identifying one of the Young Offenders by name in the Index of the Respondent's disclosure.

43. October 6, 2009 - email from R. Flindall to P. Butorac Re: R. v. Vollick sp09178964

Hence, rather than omit the document in entirety the Applicant is quite content with redacting the name of the Young Offender. Hence, the Applicant is opposed to the exclusion of this document.

Exhibit 34b:

Contents: Re Break and Enter investigation at Young's Point Public School (correspondence with Crown Attorney Kelly Eberhard)

Purpose: Exhibit 34b was included to show that what I said in my Will-say (about there not being enough substantive information to substantiate the charges) was correct. The correspondence from the Crown Attorney Kelly Eberhard as provided by the Counsel for the Respondent confirmed this and because there was no property stolen, Extra Judicial Measures were being considered.

Furthermore, the Counsel may find it pertinent to know that the Counsel disclosed the last name of one young person (Vollick) in the index of Volume 1 (Volume 1, I-43):

43. October 6, 2009 - email from R. Flindall to P. Butorac Re: R. v. Vollick sp09178964

Relevance: Its inclusion is evidence to support my assertions in my Will-say. Though the Applicant had a copy of this e-mail in his possession and included it in his disclosure without editing it the Counsel for the Respondent provided an exact copy of this e-mail with the name edited. Hence, the Applicant is quite content on excluding his version of the e-mail from Crown Attorney Kelly Eberhard on October 6, 2009, but using the Respondent's version of the same e-mail.

The Applicant is opposed to the total exclusion of these emails.

Exhibit 48:

Contents: Anticipated evidence of Mr. Harry Allen Chase

Purpose: It shows that Mr. Chase experienced very similar negative treatment as I at the Peterborough County OPP Detachment at the hands of the same officer, PC Richard Nie.

Relevance: On the contrary, for the reasons mentioned earlier and further re-iterated below by the Applicant, this exhibit should be included since it shows similar allegations in the past involving the same coach officer, same location and same Respondent.

Aside from what has already been mentioned in my address regarding the removal of Mr. Chase's Will-say I stress that it is not the intention of Mr. Chase to re-litigate his Human Rights complaint. Though Mr. Chase filed a complaint with the Ontario Human Rights Commission it was never adjudicated on and or litigated. It was withdrawn upon a settlement offered by the Respondent. The sum of the settlement was never disclosed. The terms of his settlement precluded Mr. Chase from attempting to litigate his allegations at any future proceeding by him.

Hence, it is the position of the Applicant and his representative that this hearing is not about Mr. Chase's complaint/application, but my complaint/application. I have a right to call evidence from another party who has experienced similar discrimination at the same location and by the same Respondent. Hence, I object to the Counsel's use of the term 're-litigate' when there never was litigation in the first place. On the other hand the Counsel would be correct in saying that, if Mr. Tapp were to testify then he would be in essence re-litigating his complaints because his hearing were slated for 5 days and on the 3rd day a settlement was reached.

Mr. Chase's evidence is crucial to show similar treatment by the same coach officer, PC Nie. Though Mr. Chase filed an application with the commission it was withdrawn with his consent and hence was never adjudicated on. Mr. Chase's statement alleges that he was constantly criticized for the poor quality of his occurrence reports. He also alleges that the respondent accused him of having a learning disability.

PC Nie was Mr. Chase's coach officer as well as my coach officer. Mr. Chase and I are both minorities. We were both terminated during our probationary period while the other recruits during Mr. Chase's time and my time at the Peterborough County OPP Detachment, all of whom were white Canadians successfully passed their probationary periods.

Furthermore, and according to his anticipated evidence we have got the Canadian Armed Forces, Applicant Testing Services, Ontario Provincial Police recruitment bureau, Ontario Police College, Provincial Police Academy and the Ontario Power Generation (Mr. Chase's current employer) saying that he has been and still is a competent person with no learning disabilities and on the other hand we have the Respondent alleging that he had a learning disability which was also instrumental in justifying his termination. Mr. Chase will also testify that during his time at Peterborough County OPP Detachment there was another officer that came on around the time he did or maybe shortly before him, but could not speak a complete sentence with stuttering profusely. Mr. Chase will also testify that upon his termination and to the best of his knowledge that officer was still employed with the Respondent.

The inference to be drawn from what I have stated is clear and needs no mentioning.

Exhibit 49:

Contents: Anticipated evidence of Mr. Steve Ryan

Purpose: It shows that PC Nie's accusation of me audio recording conversations was made in bad faith. It further shows PC Nie disdain towards me as was observed by Mr. Steve Ryan at the scene of the call.

Relevance: It is the Applicant's position that there is a big nexus between this exhibit and the statement of the Applicant. The Counsel for the Respondent has provided documentation with respect to comments made by personal respondents to the Applicant involving the recording pen incident. The Applicant has maintained that he never used it to record any interaction with the officers surreptitiously. The three times he used it was in the context of a demonstration to PC Shaun Filman, PC Melynda Moran and Sgt. Robert

Flindall. PC Nie firmly believed that the Applicant had used this recording pen based on this witness's comment to the Applicant, 'I know Mike you are recording everything, right?' Hence, this document clarifies what the witness meant in light of the accusation by the Respondent that I was recording conversations.

Exhibit 62:

Contents: Mr. Harry Allen Chase's complaint to OHRC

Purpose: Mr. Chase does not intend to re-litigate his matter. Nothing prohibits Mr. Chase from talking about his experiences at the Peterborough County OPP Detachment. Furthermore, he clearly explained in his Will-say why he does that.

Relevance: It shows that there have been other complaints from minorities from the Peterborough County OPP Detachment.

Exhibit 63:

Contents: General Occurrence Report written by Cst. Lloyd Tapp for Cst. Harry Allen Chase re Domestic occurrence. As one can note it does not identify any names or addresses and has been edited in similar fashion as occurrences disclosed to me by the Counsel.

Purpose: Mr. Chase's evidence is crucial to show similar treatment by the same coach officer, PC Nie. Though he filed an application with the commission it was withdrawn with his consent and hence was never adjudicated on. Mr. Chase's statement alleges that he was constantly criticized for the poor quality of his occurrence reports. Hence, Mr. Tapp who worked with him did this occurrence for him under Mr. Chase's badge number and it too according to Mr. Chase was criticized by PC Nie as being poorly written.

Relevance: PC Nie was Mr. Chase's coach officer as well as my coach officer. Mr. Chase and I are both minorities. We were both terminated during our probationary period while the other recruits during Mr. Chase's time and my time at the Peterborough County OPP Detachment, all of whom were white Canadians successfully passed their probationary periods. The inference is clear and does not need to be pointed out.

Exhibit 64:

Contents: R. vs. Stillman Crown Brief Synopsis and Cst. Lloyd Tapp's examination of the R. vs. Stillman's case.

Purpose: Exhibit 64 was included to show that though I did not feel comfortable with arresting and charging Mr. Stillman I had to do so under direction from a senior officer who was also my coach officer. I did not know it at the time why I was uncomfortable, but upon it being explained to me by Cst. Tapp I fully understood that the offence should have been Forcible Detainer under the Criminal Code of Canada. My coach officer ought to have known the same information and imparted it to me, but he did not.

Relevance: Its inclusion is relevant to show that my coach officer lacked interest and the necessary skills to properly coach me. The fact that it is knowledge that was imparted to me 9 months before I had an application filed with the Tribunal is no different from knowledge imparted to me by any other officer. I gleaned a lot of knowledge about policing from many individuals, for example all the instructors at the Ontario Police College. Does that mean that the information they imparted to me that became my knowledge should be excluded from any part of this hearing? The answer is no. So the only difference here is that the information that the information I gleaned from Mr. Tapp that in turn became my knowledge is harmful to the Counsel's position in defense to my application.

The Tribunal should know that when PC Lloyd Tapp provided his examination he was not representing me. However, since my earlier version of Will-say contained his examination, I preserved it in my Will-say disclosed on January 13, 2012. The purpose of the examination was dual. First, it showed PC Filman's lack of knowledge of Federal Statues. Second, it showed PC Tapp's good knowledge of Federal Statues. I brought the incident up to PC Tapp's attention sometime in March 2010 because what was done to Mr. Stillman on February 19, 2009, appeared very wrong to me. Hence, I learned that Mr. Stillman indeed was illegally arrested and charged by PC Filman and me. Since PC Tapp is representing me now I agree that the inclusion of PC Tapp's examination might undermine the principle of the independence of a witness providing opinion evidence which is why his statement was excluded from my disclosure as per January 16, 2012, deadline.

Exhibit 71a:

Contents: Anticipated Evidence of Mark Greco.

Purpose: Mr. Greco is a paralegal whom I have known for a few years. I used his services with respect to the affidavit in my application. Much later after my termination from employment Mr. Greco disclosed many details that actually supported my speculations and conclusions in my application and statement.

Relevance: The inclusion of his statement is relevant to corroborating some of my speculations and conclusions that are being denied to this date by the Counsel for the Respondent.

Exhibit 71b:

Contents: Anticipated Evidence of Rui Pacheco.

Purpose: Mr. Pacheco is still employed as an officer with the OPP and is a supervisor with the rank of a sergeant. Though he was not privy to and did not witness any of the discrimination that I have alleged in my application he is being called as a witness to testify to the total violation of policies of the Ontario Provincial Police and the Ontario Public Service. Further, because he is a supervisor with the OPP and the OPP is familiar with his credentials, his testimony to OPP Orders and policies and the Ontario Public service polies is crucial. I cannot get this from any other person since all of my police witnesses are hostile with respect to loyalty to the employer and their fear of reprisals. Sgt. Pacheco on the other hand currently has an application before the Tribunal that is scheduled for a hearing on July 9 and 10, 2012. Sgt. Pacheco is also a minority who has allegations of discrimination against the Respondent as well. The Counsel's objection can only be seen as his evidence if included would be damaging to the Counsel's position of defense.

Relevance: Sgt. Pacheco's evidence is extremely crucial in showing that the treatment that I have been subjected to as alleged in my application was a total aberration of OPP's Police Orders and the Ontario Public Service policies on Valuing Diversity.

Exhibit 92:

Contents: Toronto Sun article about CHRT decision

Purpose: It was included in the Applicant's disclosure prior to me gaining possession of the actual case. Hence, I concur with the Counsel's objection to this exhibit and it can be removed as we have included the decision in the Applicant's relevant case law.

Relevance: It is no longer relevant.

Exhibit 93:

Contents: Maclean's article about intimidation of employees

Purpose: It was included in the Applicant's disclosure prior to me gaining possession of the actual case. Hence, I concur with the Counsel's objection to this exhibit and it can be removed as we have included the decision in the Applicant's relevant case law.

Relevance: It is no longer relevant.

Exhibit 95:

Contents: HRTO Cst. Tapp vs. OPP – Terms of Settlement

Purpose: Nowhere in those pages does one read of any details of the incidents that occurred at the Peterborough County OPP Detachment. As was explained by Mr. Tapp's Counsel at those proceedings he could not disclosure the amount of the settlement and neither could he disclose details that would for the purpose of re-mitigating his allegations. Mr. Tapp is not restrained from talking about what happened to him to any friend or neighbor or member of the public. Furthermore, Mr. Tapp is not testifying at my hearing and neither is his statement included in the disclosure provided to the Counsel by way of the obligations under the January 16, 2012, deadline. Though at the time of the disclosure to the Counsel for the Respondent Mr. Tapp forgot to edit the monetary sum contained in the documents he did catch his mistake and apologized to the Counsel and edited that portion of the document so that the Tribunal had an edited version.

Relevance: The exhibit's inclusion is conclusive documentary evidence that other minorities have filed complaints before the Ontario Human Rights Commission against the Ontario Provincial Police.

Excluding Portions of Michael Jack's Will-say

Upon reviewing the material that the Counsel is objecting to I see that the bulk of her objections are categorized by being comments that are speculation and comments that are conclusions. With the exception of PC Lloyd Tapp's statement that was provided in the Applicant's disclosure prior to him representing me I assert that the objections of the Counsel for the Respondent are pre-mature and tantamount to vain attempt to drain the application of the essence of the discrimination that has been purported to have occurred.

The speculations and conclusion that I have made throughout my application are based on my experiences with the OPP and at times corroborated by the expressed views of others within the OPP. For this reason the Supreme Court of Canada, with respect to one's constitutional right under section 2(b) of the Charter of Rights and Freedoms ruled in its August 27, 1992, Earnest Zundel case that:

Expression can include words, acts, gestures, and pictures. Section 2(b) of the charter, a guarantee of freedom of expression, protects all communications which convey or attempt to convey meaning including, it appears, violent meaning. But when the physical form by which the communication is made is violent, it is not protected by section 2(b). For instance, advocating violence against Country X in a newspaper article would be protected. But throwing a rock through the window of Country X's embassy would not be protected. Both actions convey similar meaning, but the actual form of the second communication is violent.

A law will be found to violate the freedom of expression where the law either has the purpose or effect of violating the right.

A law will be found to restrict expression if it has the effect of frustrating "the pursuit of truth, participation in the community, or individual self-fulfillment and human flourishing".

In the law, **testimony** is a form of evidence that is obtained from a witness who makes a solemn statement or declaration of fact. Testimony may be oral or written, and it is usually made by oath or affirmation under penalty of perjury. Unless a witness is testifying as an expert witness, testimony in the form of opinions or inferences is generally limited to those opinions or inferences that are rationally based on the perceptions of the witness and are helpful to a clear understanding of the witness' testimony.

In my case the overall effects of the discrimination I was subjected to over the course of my time with the Ontario Provincial Police revealed certain facts that became truths to me and these truths will not be readily seen by anyone else because the truths are conclusions based on experiences. The speculations are nothing more than predictable conclusions based on the same experiences that offered the original conclusions. To frustrate a Tribunal with an application for the exclusion of such truths would be to strip one's application of the essence of the discrimination alleged and alluded to in any said application. The restriction of such forms of expression would thereby be unconstitutional.

The overall evidence to be presented in my hearing will be by *VIVA VOCE* EVIDENCE. It is the best evidence rule and the so called speculations and conclusions as referenced by Counsel that are in my statement will be shown to be credible and factual.

The Counsel should also be aware that many allegations under the Code regarding discrimination are perceptions of the Applicant. Being that the case then speculations and conclusions are all the more relevant. Though the majority of mainstream culture might not view the term “Crazy Ivan” as derogatory, the fact that a Russian, who knows the history of such a term and is offended by such a term makes the use of such a term racially derogatory. Now if the recipient of the comment was a white Canadian it would not make it racially derogatory. Being that I am a minority and from Russia is what makes it racially derogatory. Such observations of speculation and conclusion actually go toward establishing the credibility of allegations.

1. (Page 3-4) (Line No.) These pages contain irrelevant personal information. Reference to Richard Nie as (Big Brother) is frivolous and vexatious.

Pages 3-4 contain very relevant information.

- First, it points out to how many police officers at the Peterborough County OPP Detachment are local to Peterborough.
- Second, it points out to how many of them are related, i.e. blood relatives, etc.
- Third, it shows that the Peterborough County OPP Detachment was run by locals.
- Fourth, just by considering the officers' names one can see an absence of minorities amongst them.

There is nothing 'vexatious' about the reference to PC Richard Nie as a Big Brother as some of the definitions for a term 'Big Brother' are:

- A person or organization exercising total control over people's lives.
- An authoritarian leader and invader of privacy.
- An older member assigned to assist and mentor a new member in his transition to the fraternity.

- First, PC Richard Nie was assigned to mentor me towards the end of my probationary period.
- Second, PC Richard Nie was very authoritarian towards me.
- Third, PC Richard Nie exercised control over my life as it was up to him to decide whether I was suitable to become a permanent police officer or not, the decision which had a direct and total impact on my entire life.

As for the 'frivolous' about the reference to PC Richard Nie as a Big Brother then please note that in the 11 months of my probationary period PC Richard Nie was in charge of only 3 months of my probationary period, yet as is clearly evident from the point form chronology (Volume 3, BB) PC Richard Nie made nearly half the entries regarding my "unsatisfactory" performance.

# of months at the Peterborough Detachment	Names of officers who made entries in the point form chronology (Volume 3, BB)	Number of pages in the point form chronology (Volume 3, BB)
11	S/Sgt. Ron Campbell Sgt. Robert Flindall PC Jennifer Payne PC Shaun Filman PC Richard Nie	46
8	S/Sgt. Ron Campbell Sgt. Robert Flindall PC Jennifer Payne PC Shaun Filman	24.5
3	PC Richard Nie	21.5

As is clearly evident from the above simple mathematical analysis PC Richard Nie's entries in the point form chronology account for 47% (nearly half) of all the entries made in the point form chronology, yet PC Richard Nie's time with me accounted for only 27% (roughly a quarter) of my time at the Peterborough Detachment.

Hence, at roughly a quarter of my time at the Peterborough County OPP Detachment, PC Richard Nie's entries of my "unsatisfactory" performance account for roughly a half of all the entries in the point form chronology. How is that for not being a Big Brother?

2. (Page 5) (Line No. 13) The comment 'They lied to me' is a conclusion.

My assertion that Sgt. Joanne Whitney lied to me over the phone about the real reason why my background investigation was re-initiated and why my personal references we re-interviewed was based on Sgt. Whitney's verbal disclosure to me over the phone sometime in early August 2008 that the so called follow-up on my background investigation had no relation to PC Marc Gravelle and PC John Pollock visiting my place of living. I was naïve at the time and I believed her. However, the verbal disclosure to me by the OPP's civilian psychologist/psychiatrist Dr. Lapalme on August 25, 2009, and the stack of e-mails which Dr. Lapalme had on the table in reference to their concerns over me, which he called a 'tempest in a teapot', contradicted Sgt. Whitney's assertion to me. Since I got to look in Dr. Lapalme's eyes when we spoke, I believed him. Since the two individuals made two totally contradictory statements about the same matter I concluded that Sgt. Whitney (a police officer) lied to me over the phone and Dr. Lapalme (a civilian) told me the truth. Furthermore, from the Respondent's disclosure (Volume 6: 37, 38, 39, 40) it is clearly evident that Dr. Lapalme told me the truth. Hence, I was right in my conclusion that Sgt. Whitney lied to me about the real reason of the so called follow-up on my background investigation. The real reason was that of PC Marc Gravelle reporting on me as being a "Gun Happy" person with a mouthful of lies to Sgt. Rathbun and PC John Pollock going along.

I remember so vividly how I ran into Marc Gravelle in the Gold's GYM in Peterborough shortly prior to the commencement of my training at the Provincial Police Academy sometime in mid-August 2008 and asked him straight forward if he had reported anything about my firearms to anyone, to which he replied without a blink of an eye, 'No, I did not say anything'. I told him about my references being re-interviewed and about me calling Orillia to find out what was going on and asked him again to ensure there was no misunderstanding about what I was asking about. PC Marc Gravelle denied any involvement whatsoever. I remember the exact place in the gym, the station we were standing by and our relative positions and his emotionless facial expression. At the time I was naïve to believe that if a police officer said something then it must be the truth. After my conversation with Dr. Lapalme I doubted that PC Marc Gravelle told me the truth, but still thought that it might have been PC John Pollock. Hence, months later I asked John Pollock about it when we changing in the change room in the Peterborough County OPP Detachment. Aside: PC John Pollock was a coach officer of PC Amanda Knier, who was in my class. I shared with Amanda my story about the so called follow-up on my background investigation and about what Dr. Lapalme told me. We

discussed it during one of the workouts in the Ontario Police College weight-lifting room. I asked Amanda to keep it confidential, but she did not. Hence, when I asked John Pollock he immediately started telling me that it was not him, and that Amanda asked him not to tell me that she had told him, and that he felt very uncomfortable that I thought it was him who reported me as being a "gun-happy" person as he did not. John went on and on how it was not him and how he felt uncomfortable with me thinking it was him and was just waiting for the right moment to discuss it with me. John said a few times how he trusted some officers at the detachment more than he trusted others. Retrospectively, I think he meant not to trust Marc Gravelle. Hence, I made the following assertion in my statement.

Anticipated evidence of Mr. Michael Jack (Schedule A):

> 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

It is clearly evident from the Respondent's disclosure (Volume 6, 38) that I was right in my assertion.

Here is some hearsay. Please note that I abstained from making the following assertion in both my Will-say (Anticipated Evidence of Mr. Michael Jack (Schedule A)) and in the Analysis of the Respondent's disclosure. However, since the Counsel kindly asked me to exclude my assertion ***'They lied to me'***, which was based on facts, I no longer feel obligated and/or guilty of saying what I believe is true, which is based on my personal observations and on hearsay. Hence, I am making the following statement:

PC Marc Gravelle is a hypocrite. PC Marc Gravelle prides himself on arresting many people. PC Marc Gravelle's shift mates say that PC Marc Gravelle gets by with his reports yet knows how to sniff stuff around. PC Marc Gravelle wanted to be a detective. Rumor had it that PC Marc Gravelle lied even to his own brother PC Mike Gravelle about an application to an Emergence Response Team. There were a limited number of ERT positions and Marc told his brother Mike that he was not going to apply to give Mike a higher chance of succeeding. Yet Marc applied secretly and when it became known the brothers did not speak for a long time.

3. (Page 5) (Line No. 26-31) Double hearsay evidence from the representative of the Applicant.

This bit of information is crucial since it shows that it was normal for officers to attend their rookies' graduation ceremonies in order to establish rapport and to make them feel welcome.

4. (Page 6) (Line No. 20-22) The conclusion that the nickname ignited a flame of hatred is opinion evidence and a conclusion.

The Counsel for the Respondent first denied any knowledge of the existence and the usage of the racially derogatory nickname "Crazy Ivan" in their Response to the Application on May 13, 2011.

Later when the Counsel received a copy of the Applicant's disclosure and saw proof of the existence and usage of the nickname, Counsel decided to have any inferences that were drawn on the existence of such a nickname excluded. Counsel is fully aware that when A/Sgt. Potsma was advised that Mr. Jack would be coming to his platoon, A/Sgt. Potsma sent an e-mail to S/Sgt. Campbell that their platoon was the laughing stock of the detachment because of Mr. Jack's transfer to their platoon (Volume 2, L-12):

- ***'D platoon is the laughing stock of this office because of these developments.'***
- ***'Our shift is not happy,…'***

It is the position of the Applicant that the nickname and its widespread usage did ignite a flame of racial hatred. This flame was actually lit when (according to Sgt. Rathbun's e-mail to S/Sgt. Campbell on August 5, 2008 (Volume 6, 38)) PC Marc Gravelle lied to Sgt. Rathbun that Mr. Jack bragged about the many people he had killed (shot) during his time in the Army. It were those lies along with the nickname of "Crazy Ivan" (which actually meant crazy Russian) along with the concerns identified from an Emergency Response Team sergeant (Sgt. Rathbun) that caused the OPP to re-initiate Mr. Jack's background investigation, re-interview Mr. Jack's personal references and have him examined by the OPP's civilian psychologist/psychiatrist Dr. Lapalme on August 25, 2008, the knowledge of which spread through the detachment. The combined knowledge of all of this occurring and the spreading of the nickname "Crazy Ivan" did indeed ignite a flame of racial contempt and hatred towards Mr. Jack. This hatred was already been shown through the utter disdain and contempt the personal respondents and many other officers had of Mr. Jack.

5. (Page 8) (Line No. 6-8) The conclusion that the comments were made in a particular location so as to create a poisoned work environment is a conclusion.

I agree that PC Filman might not have made those comments for other officers to hear with the purpose to poison my work environment. Yet, making those comments in the Constables' office for other officers to hear was if not deliberate then at the very least unprofessional, which did serve to subtly poison my work environment. PC Filman by his own admission wrote 5 cruisers off during his two years on the job. I guess if it was his coaching then I should have damaged the cruiser to such a degree so as for it to be written off as well.

6. (Page 8) (Lines No. 14-19) The sentence commencing with "In reflection, I conclude…" is a conclusion. The remaining lines are speculation.

My conclusions are the result of my own investigation for it was me, not the Counsel for the Respondent, nor anyone else for that sake who had gone through the 11 months of the so called probationary period which in essence was discriminatory, harassing, bulling, humiliating, derogatory, oppressing and retaliating period at the Peterborough County OPP Detachment. My reflections are neither conclusions nor they are speculations. They are realities that I experienced and realities that left me convinced beyond a shadow of a doubt.

7. (Page 8) (Line No. 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.

The Tribunal should know that when PC Lloyd Tapp provided his examination he was not representing me. However, since my earlier version of Will-say contained his examination, I preserved it in my Will-say disclosed on January 13, 2012. The purpose of the examination was dual. First, it showed PC Filman's lack of knowledge of Federal Statues. Second, it showed PC Tapp's good knowledge of Federal Statues. I brought the incident up to PC Tapp's attention sometime in March 2010 because what was done to Mr. Stillman on February 19, 2009, appeared very wrong to me. Hence, I learned that Mr. Stillman indeed was illegally arrested and charged by PC Filman and me. Since PC Tapp is representing me now I agree that the inclusion of PC Tapp's examination might undermine the principle of the independence of a witness providing opinion evidence which is why his statement was excluded from my disclosure as per January 16, 2012, deadline.

8. (Page 9) (Line No. 6-8) The sentence commencing with "I believe it is incumbent" is a conclusion.

Whether it is regarded as a conclusion or not it is my belief. My firm belief that in the given circumstances any coach officer should be utilizing spare time to discus with his rookie an approach is only rational and logical. Perhaps the Counsel could argue that treating a rookie like a leper by his coach officer aims at having the rookie "mature" more quickly or something to that effect.

9. (Page 10) (Line No. 13 & 17) "vexatious and tantamount to explicit harassment" are conclusions.

It was not the Counsel who was subjected to those comments. It was me who was subjected to PC D'Amico's comments. It was me who experienced the humiliation. Hence, it is only me who can conclude what I felt. At the same time I am glad to see that the Counsel is defining what is vexatious and tantamount to explicit harassment. The comments that I experienced were all vexatious. They were also clear and explicit harassment. Some of the comments were (and not limited to) the following:

- *'Crazy Ivan'*
- PC Richard Nie: *'Cream Puff',*
- PC Richard Nie: *'A self-proclaimed good shot.'*
- PC Melynda Moran: *'Can you speak with a Canadian accent?'*
- PC Melynda Moran: *'his apparent dislike of women.'*
- PC Shaun Filman: *'PC Jack is aware that he has a thick accent.'*
- PC Shaun Filman on that I should remain quite during the first year on the job.
- PC Mary D'Amico: *'You should keep quite when a senior constable speaks. You might come across as knowing too much and it is not good for your career.'*
- PC Mary D'Amico on looking up her home address in a phone book.
- PC Jennifer Payne: *'Do not interrupt me because I am senior to you.'*
- Sgt. Robert Flindall: *'I have never had such an incompetent recruit yet.'*
- Sgt. Robert Flindall on that my employment with the OPP was in serious jeopardy.
- PC Shaun Filman and PC Jamie Brockley on that I must have been on steroids based upon my physique in a photograph.
- PC Daniel Clark on my funny accent.
- PC Marry D'Amico and Sgt. Flindall on their concerns over my mental state.

10. (Page 10) (Line No. 22-24) This paragraph is irrelevant.

This paragraph is very relevant. It shows that when I got to know PC Lloyd Tapp better I realized that he was a very knowledgeable and experienced police officer. His level of knowledge superseded that of many officers at the Peterborough Detachment. I do speculate that it might have been PC Tapp who PC D'Amico referred to. The speculation is apparent from the way it is worded, ***"might have been"***. By the way, the Tribunal should know that after the period of 26 months of my friendship with PC Lloyd Tapp I conclude that PC Tapp is a good-hearted and honest person.

11. (Page 11-13) (Line No. 30-4) (of p. 13) The information in these paragraphs is irrelevant.

How could the information about the staffing and the respective workload on the platoon I was on be irrelevant? The so called "irrelevant" data shows that I was the one who had the least amount of time off the road of Platoon 'A' during the busiest period. Not only was I a front line rookie performing my Constable's duties at the detachment which was filled with racial prejudice and disdain towards me, but with an exception of two sick days, I was not given any time off the road. I booked two days off in either July or August, but then I was denied them due to the shift shortage. None of those facts seemed to be taken into consideration when Sgt. Flindall and PC Payne fraudulently prepared my Month 6 & 7 PER, in which, among other things, I was accused and rated negatively for being unable to multitask and poor time management skills.

Furthermore, as is clearly evident from the Respondent's disclosure on January 16, 2012, I performed my own analysis of my case workload in the summer 2009 when I was still an OPP Constable.

Counsel's disclosure (January 16, 2012) (Volume 6, 20):

I have been working on my own since April 2009. During the busy summer months, there have been a number of occasions when I worked alone in my zone throughout the entire day. Also, during my evaluation period (09 June 2009 to 09 August 2009) 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 (09 June 2009 to 09 August 2009) my zone partners, which were my coach officer, Cst. Filman, and my "go-to" person, Cst. Payne, had a total of **37** reportable calls for service together, 20 and 17, respectively; and 35 non-reportable, 10 and 25, respectively.

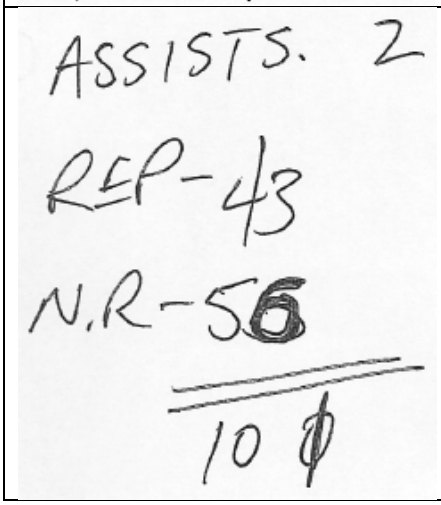
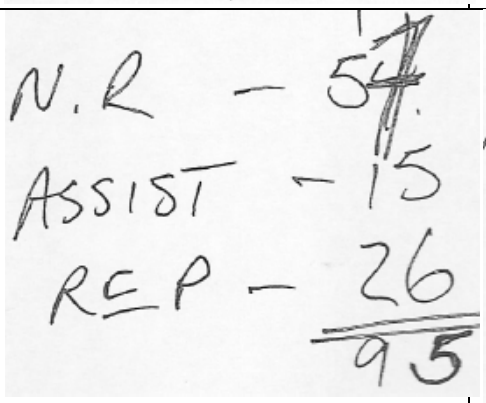
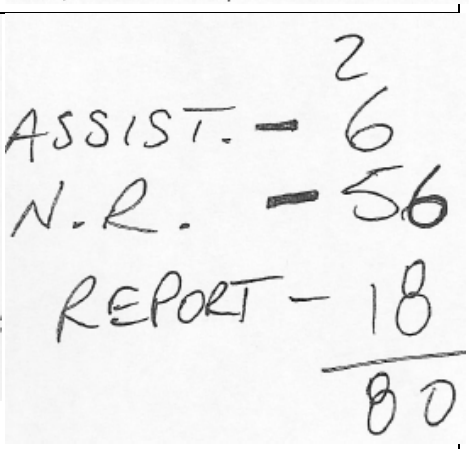
Hence, I included that information into my statement:

Anticipated evidence of Mr. Michael Jack (Schedule A):

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.

As is clearly evident from the Counsel's additional disclosure on March 23, 2012, Sgt. Flindall performed an analysis of case load of three persons, Mr. Michal Jack, PC Shaun Filman and PC Jennifer Payne:

Counsel's additional disclosure (March 23, 2009):

Analysis of case load Ontario Provincial Police Printed: August 19, 2009, 15:24 by #9740 FLINDALL, R. Summary for: Period from 2009/06/09 00:00 to 2009/08/09 00:00	Analysis of case load Ontario Provincial Police Printed: February 16, 2012, 23:32 by #9740 FLINDALL, R. Summary for: Period from 2009/06/09 00:00 to 2009/08/09 00:00	Analysis of case load Ontario Provincial Police Printed: February 16, 2012, 23:30 by #9740 FLINDALL, R. Summary for: Period from 2009/06/09 00:00 to 2009/08/09 00:00
Officer: **JACK, MICHAEL** *Employee No.:* **12690**	*Officer:* **FILMAN, SHAUN DAVID** *Employee No.:* **11212**	*Officer:* **PAYNE, Jennifer** *Employee No.:* **9931**
Summary for: Period from 2009/06/09 00:00 to 2009/08/09 00:00		
Printed: August 19, 2009, by Sgt. Flindall	**Printed: February 16, 2012, by Sgt. Flindall**	**Printed: February 16, 2012, by Sgt. Flindall**
Officer totals *Occurrences:* 101 *Dispatches:* 94 *Assignments:* 103 *Reports:* 100 *Non-Rpt Occ. With No Dispatch Detail:* 0	***Officer totals*** *Occurrences:* 98 *Dispatches:* 82 *Assignments:* 87 *Reports:* 50 *Non-Rpt Occ. With No Dispatch Detail:* 2	***Officer totals*** *Occurrences:* 80 *Dispatches:* 72 *Assignments:* 74 *Reports:* 28 *Non-Rpt Occ. With No Dispatch Detail:* 1
		

The fact that Sgt. Flindall printed an analysis of case load for me on August 19, 2009, is obvious: Sgt. Flindall was preparing my Month 6 & 7 PER (Exhibit 24) and needed the data. However, I hope the Tribunal will wonder why a comparison was made between an analysis of case load for me, which was printed on August 19, 2009, with the analysis of PC Filman's and PC Payne's case load which were printed on February 16, 2012. Furthermore, in light of many missing calls for service from my list of workload (Exhibit 47) which was printed on February 6, 2010, it is evident that many of the calls I handled are missing there (Analysis of the Respondent's disclosure: 20 - Missing calls for service).

12. (Page 13) (Line No. 29-34) The statement here is conclusion. Line 33-34 – the sentence beginning with "That was…" is opinion.

It is not collusion. It is a fact that my personal respondents (Sgt. Robert Flindall, PC Jennifer Payne and PC Shaun Filman) were local to Peterborough area making them more accustomed to dealing with local customs. It is a fact that I came from two different cultural backgrounds, which were radically different than the local area.

It is my assertion that in an attempt to seek their empathy and understanding I openly confided my concerns to them. It is my assertion that 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.

As for my comment, ***'That was detestable behaviour on their part'*** then since I am of the firm belief that I was racially marginalized and harshly targeted by some members at the Peterborough County OPP Detachment perhaps the Counsel for the Respondent would like to ask me to remove my HRTO Application from the file and blend into obscurity thus relieving the Counsel from the need to defend the Peterborough County OPP mafia.

I wonder if the paragraph had a comment like, *'That was acceptable or commendable behavior on their part'* would then the Counsel be voicing any objection? I hasten to say that the Counsel would not be doing so. If that were true then the only issue the Counsel is really objecting to is the negativity of the statement. It would also show that all of the Counsel's objections are with respect to the negativity of certain parts of my statement.

13. (Page 14-15) (Line No. 2-9) (of p. 15) This information is irrelevant.

In light of the finding that there is a diversion between the number of my calls for service (Exhibit 47) and the number of calls for service that I actually did (20 - Missing calls for service), this information is even more relevant than it was before for it clearly shows that Exhibit 47 does not furnish an accurate analysis of my case load and that I was right in my assertion:

> 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.

Somebody must have diluted my workload either shortly prior to my termination or shortly after thereof.

14. (Page 15) (Line No. 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.

PC Lloyd Tapp is my friend. PC Tapp is acting as my representative before the Tribunal on a friendship basis. PC Lloyd Tapp is not a licensed lawyer. PC Lloyd Tapp is a very experienced and knowledgeable police officer. When I was going through everything at the Peterborough County OPP Detachment many things just did not make any sense. I learned a lot about policing from PC Tapp after my termination.

15. (Page 16-17) (Line No. 26 to 3) (of p.17) This information is irrelevant.

This information is very relevant.

First paragraph (Line No. 26-36):

- First, the Tribunal is shown that around the same time of the year when I was dating a local girl I was being surreptitiously accused of ***'apparent dislike of women'*** (August 15, 2009) (Volume 1, I-3).
- Second, in addition to being false, the talks and the spreading of rumors about my ***'apparent dislike of women'*** constituted discrimination based on sexual orientation and poisoned my already poisoned work environment.

Second paragraph (Line No. 39 – 3, of p.17):

PC D'Amico's attitude towards me is an indication of me being ostracized and marginalized at the detachment.

16. (Page 17) (Line No. 8-12) The description of the accusations as "vexations" and "tantamount to explicit harassment" are conclusions.

Let's just suppose that I was walking down a street when a man approached me, smashed me on the face with his fist and ran away before I regained consciousness. There were witnesses to the event and in addition to being physically hurt I felt very humiliated. Though I was physically hurt and humiliated, I decided to neither seek medical attention nor report the incident to police. According to the Counsel in order for me to conclude that I was hurt and humiliated I should have sought medical help from a qualified physician and from a qualified psychologist for one to conclude that as a result of the attack in front of the bystanders I experienced physical and emotional pain.

17. (Page 17) (Line No. 35-37) This sentences contain personal information that is irrelevant.

This information is very relevant. It is provided with the sole purpose to explain to the Tribunal who on July 23, 2009, was assigned to keep me under the microscope when PC Payne was not around and why he was in a position to do that.

18. (Page 18-19) (Line No. 44-6) (of p. 19) This contains hearsay evidence of Mr. Tapp. Lines 1-6 of page 19 are speculative and not fact.

This so called hearsay is based on years of experience of an experienced police officer. As to the speculation towards the end then it is very clear that it is a speculation and was deliberately written in such a way as to raise a question about my perception. Its inclusion is relevant to corroborate my speculation. Its inclusion also corroborates my assertion in item 21 (8) of my application:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

21. The following are but a few examples of the differential treatment that I received while at the Detachment:

(8) During the first 8 months of my probationary period I only received two progress meetings despite that these meetings were supposed to take place on a monthly basis.

19. (Page 19) (Line No. 28) The statement is a conclusion.

The statement begins with the words, ***'If anything, this example attests …'*** That example could attest to other things as well. Again it is extremely relevant for it is a conclusion that any ordinary individual would arrive at based on the information provided afterwards. It is also evidence of item 24 of my application:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

24. I was having a tough time adjusting to the unwelcome and unsupportive environment created by some officers on my shift. Several of the key officers at the Peterborough Detachment, primarily on the Platoon 'A' shift made my life very stressful. I was constantly made to feel as though I was not welcome at the Detachment.

20. (Page 19) (Line No. 35-37) This sentence contains a conclusion that Mr. Jack was subjected to "harassment and blatant discrimination".

I was subjected to harassment and blatant discrimination. I have said it before, I am saying it now and I will be saying it forever. This is not a conclusion as the Counsel indicates. Any ordinary person would characterize the following actions of Sgt. Flindall as harassment and blatant discrimination:

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

The Counsel has provided disclosure that shows in an August 21, 2009, e-mail from S/Sgt. Campbell to Insp. Johnston (Volume 3, V-20) that I was subjected to treatment that would amount to a Human Rights complaint.

So with all the issues in the email to yourself and Doug Borton Doug Borton advised he felt the only thing to do was move him. You will note I advised this was against an earlier decision you had made but with this further info I think we were heading to an issue as Mike is basically an immigrant of Jewish background. You and I discussed we felt he was being targeted. To his own demise he has alienated his shift by not being 100% truthful when shopping for answers..

Cst Jack will be given an independent assessment by Rich Nie to avoid a possible HR complaint. Interestingly Cst. Jack brought up in the meeting he felt he had been left on his own to investigate matters in which he had no experience. He also brought up but refused to name officers on his shift for inappropriate remarks and berating him in front of the shift as well. In other words work place harassment and discrimination policy...I assume it is in relation to his ethnic origin. Anyway I stressed the importance of him coming forward and have also stressed this issue to his new coach. I stressed in Rob's presence the duty of management to stop it if it occurred.

Further, in an August 27, 2009, e-mail from S/Sgt. Campbell to S/Sgt. Coleen Kohen and Insp. Johnston (Volume 3, V-8) S/Sgt. Campbell indicated the following:

Added to this were his Supervisors comments at the beginning of the whole scenario that I think added to Mike's stress and were not warranted at the time. With these comments that "his job was in jeopardy" and that "he would be documenting everything he did" it appeared to me that the Supervisor was not being objective and Mike's work environment may be poisoned.

Hence, all I did in my statement was to reiterate what had already been stated, documented and was in the Respondent's possession.

The relevance of these comments that the Counsel is objecting to supports and offers evidence to items 19 – 20, 22, 24, 33 – 35, 37, 65 – 67 in my Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A).

21. (Page 21) (Line No. 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.

Police officers should not smile when they charge people. At the very least it is unprofessional. As a police officer you should not tell a driver you just charged under the HTA, *'Have a nice day'* when you let the driver go. What kind of nice day could the driver have after that? You tell the driver, *'Drive safely'* and you say it in an impartial and reserved manner.

First, Sgt. Flindall and his "number one" officer PC Payne colluded to charge me under the HTA. Second, Sgt. Flindall advised me of the charge with a smile on his face. Third, Sgt. Flindall rated me negatively in my Month 6 & 7 and my Month 8 PERs for not accepting the responsibility for not pleading guilty to the false charge.

The conclusion that Sgt. Flindall charged me under the HTA as a reprisal action for calling the OPP Association and seeking help will indeed be within the scope of the Tribunal's jurisdiction to make. The Tribunal has a copy of the entire transcript to digest the prosecution's and defense's positions. Inferences drawn for an entire transcript are consequently more meaningful.

I hope the Tribunal will take heed to the following timing of events:

- On August 14, 2009, at 12:16 pm Sgt. Flindall sent an e-mail to Insp. Johnston (Volume 1, I-72) regarding some issues with me.
- On August 15, 2009, at 7:22 am Sgt. Flindall sent an e-mail to PC Filman (Volume 1, I-71) instructing him to negatively document me without even speaking with either the complainant or me.
- On August 15, 2009, at approximately 9:18 am Sgt. Flindall disallowed me to work overtime and to cover for other officers (Volume 1, I-69).
- On August 15, 2009, at 12:13 pm Sgt. Flindall advised me he was charging me under the HTA, after having informed S/Sgt. Campbell and PC Filman about it.

In Sgt. Flindall's own words, ***'timing is everything'***.

22. (Page 22) (Line No. 29-36) This paragraph contains conclusions. The statements relating to Mr. Tapp's HTA charges are not relevant.

Mr. Tapp was a minority officer at the Peterborough County OPP Detachment. Mr. Tapp had filed 5 complaints with the OHRC. Mr. Tapp asserts that he was charged under the HTA as a reprisal action for filing the complaints. I assert that I was charged under the HTA for contacting the OPPA. The retaliation scheme to malign, discredit and isolate is the same in both Mr. Tapp's case and in mine.

23. (Page 24) (Line No. 22-25) This is a conclusion.

This is my conclusion. This conclusion of mine as in numerous other so called 'conclusions' is preceded by factual information to support it. The Tribunal will make its own conclusion. It is also evidence of items 20 and 21 of my Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A) under the heading of Differential Treatment and Derogatory Treatment.

24. (Page 26) (Line No. 19-23) This is a conclusion and is irrelevant.

On the contrary the Tribunal can clearly see that it is not a conclusion, but rather a mere observation. Certain actions were supposed to be followed and they were not. The Ontario Provincial Police Orders governing the Detachment Commander stipulate what he **shall** do and not what he may do. Hence, in light of what has been done, for example: the extreme tardiness of my PERs and the absence of evaluation meetings, his shortcomings are clearly evident to any ordinary person. Even if OPP Orders stipulated that the Detachment Commander had discretion and instead of using the word 'shall' uses the word 'may', his shortcomings are still clearly evident to any ordinary person.

25. (Page 28) (Line No. 27-30) This is a conclusion which contains legal terms (fraud).

It is not a conclusion as so much as it is a statement of fact. When one looks at the comments and signatures in relation to certain pre-printed information that was supposed to be brought to my attention and reviewed with me during the course of a meeting one sees that computer generated marks are in the boxes beside the pre-printed comments suggesting that a meeting was held with me and that the pre-printed information was reviewed with me. Obviously, the Counsel is not familiar with my PERs or has not examined them for she would not be making such an assertion.

26. (Page 30) (Line No. 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).

What about Superintendent Hugh Stevenson's comments about me and his characterization of me based upon reading a four year old occurrence of me as a security guard at Burleigh Island Lodge (Volume 3, V-7)? I would say that that was a conclusion based on hearsay whereas my comments here are all based on my experiences thus far.

The Counsel frequently attempts to discredit my evidence on the grounds of hearsay. I hope the Tribunal will consider the following analysis:

(Volume 3, V-7):

From: Stevenson, Hugh (JUS)
Sent: September 23, 2009 12:21 PM
To: Graham, Martin (JUS)
Cc: Smith, Ken C. (JUS); Armstrong, Mike (JUS); Johnston, Mike P. (JUS)
Subject: FW: Old occurrence involving PC JACK

Martin:

As per the message below - I have reviewed the NICHE occurence that involved PC Jack as a civilian security Guard - prior to PC Jack's employment with the OPP and I would ask that this information be considered. This information speaks to the character of this member - prior to his OPP involvement and missed in his OPP background check.

I will forward a hard copy of hte niche occurence to you today.

Regards

Supt Hugh Stevenson Ed.D.
Operations Manager
Central Region
Office (705) 329-7403
Cell (705) 238-9833

The words of ***'this speaks to the character of this member'*** are evidence of the person in charge of Central Region of Ontario in the OPP's Orillia Headquarters, Superintendent Hugh Stevenson's conclusion that I was a person of bad character. This is also a vexatious comment and a conclusion.

First, for the full story please refer to my Analysis of the Respondent's disclosure (16 - September 2009, pages 98 – 104).

Second, let us consider the following:

- In July 2005 I worked a part time job as a night attendant at a Burleigh Island Lodge resort.
- On July 4, 2005, an incident took place during which some alcohol was stolen from the bar.
- The abundant presence of Hollywood personnel on site (Exhibit 113) warranted caution and not rushing to judgment with respect to calling police for something minor like theft of a bit of alcohol.
- I wrote a report in the spirit of good humor and information that only the resort staff was privy to.
- The hotel day time manager decided to call the police to investigate the incident after I had already gone home.
- The investigating officer (PC McDermott) neglected his duty to question the only witness to the event (that is me) and instead just plugged the header from my report into his statement while also failing/neglecting to add me as a witness in the Niche RMS.
- So the header of the report made its way into a police report without my knowledge of it.
- Over 4 years later my former coach officer (PC Filman) came across the report.
- PC Filman informed (most likely immediately) my former "go-to" person PC Payne about it.
- PC Payne immediately informed my former accountable shift supervisor Sgt. Flindall about it (September 22, 2009) (Volume 1, I-115 and Volume 3, Y-2). PC Payne's comment:
    - ***'And yes it is who you're thinking it is....'***
- Sgt. Flindall immediately informed Detachment Commander Insp. Mike Johnston about it (September 22, 2009) (Volume 1, I-46). Sgt. Flindall's comment:
    - ***'congruent with the issues we are currently facing with him now'***
- Insp. Mike Johnston immediately informed S/Sgt. Campbell and S/Sgt. Coleen Kohen about it (September 23, 2009) (Volume 3, V-7) and Superintendent Hugh Stevenson about it (September 23, 2009) (Volume 3, V-7).
- S/Sgt. Kohen immediately informed Insp. Dave Lee about it (September 23, 2009) (Volume 3, V-7).
- Superintendent Hugh Stevenson immediately informed Chief Superintendent Mike Armstrong about it (September 23, 2009) (Volume 3, V-7) and very straightforward asked him to consider the information that spoke (negatively) about my character. Superintendent Hugh Stevenson's comments:
    - ***'I would ask that this information be considered.'***

- ***'This information speaks to the character of this member'***

Levels of indirection:	Date	Occurrence
↓	July 4, 2005.	Theft of alcohol
↓	July 4, 2005	My report Re: Theft of alcohol
↓	July 2005	PC McDermott's incompetent investigation Re: Theft of alcohol
↓	September 2009	PC Filman's finding of the report Re: PC McDermott's incompetent investigation Re: Theft of alcohol 4 years later
↓	September 22, 2009	PC Payne's excitement over it and immediate usage of it
↓	September 22, 2009	Sgt. Flindall's immediate usage of it
↓	September 23, 2009	Insp. Johnston immediate usage of it
↓	September 23, 2009	S/Sgt. Coleen Kohen's immediate usage of it
↓	September 23, 2009	Superintendent Stevenson's immediate usage of it
	September 23, 2009	Chief Superintendent Armstrong's consideration of it in his decision to terminate m.

By the time the report made it to Chief Superintendent Armstrong it was an indirection of the ninth degree and it was used along with other lies about me to terminate me.

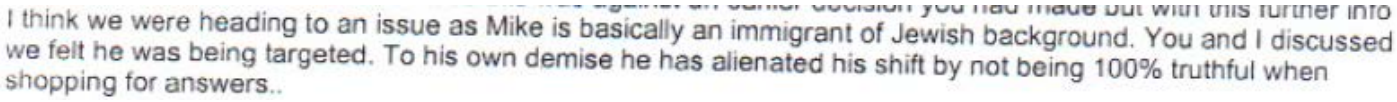
Could the Tribunal just imagine the Respondent's insatiable appetite for any information that could have been viewed and twisted into being negative about me?

Furthermore, I wonder what the Counsel would have to say about the degree of hearsay of Superintendent Hugh Stevenson's comment:

- ***'This information speaks to the character of this member'***

27. (Page 31) (Line No. 7-8 & 13) "false, frivolous etc." these are conclusions. Line 13 references reprisal which is a legal terms under the Code.

Though it might be a legal term under the Code surely the Counsel is not so narrow-minded to restrict her view to just the Code. D/Cst. Karen German did an investigation to the best of her abilities regarding my treatment and revealed the details to me and Superintendent Doug Borton. Her investigation confirmed that I was targeted and that Sgt. Flindall had many members in the detachment watching me and reporting back to him. Moreover, S/Sgt. Campbell acknowledged that in his e-mail to insp. Johnston on August 21, 2009, (Volume 3, V-20):


I think we were heading to an issue as Mike is basically an immigrant of Jewish background. You and I discussed we felt he was being targeted. To his own demise he has alienated his shift by not being 100% truthful when shopping for answers..

Furthermore, the Counsel is fully aware of the e-mails she provided to me in her disclosure (Volume 1, I-41) whereby Sgt. Flindall was told that I was the one to keep an eye on. Hence my so called conclusions are actually factual summations.

28. (Page 32) (Line No. 10-11) This is hearsay evidence from Mr. Tapp and is not relevant.

This information is crucial since it confirms the feeling that what was told to me was not right. The same information was told to another officer who also felt it was wrong.

29. (Page 32) (Line No. 40-41) This is personal information and irrelevant.

How can it not be relevant? I have made an assertion that they were neighbors and locals from the county and I am merely providing documentary evidence to support my assertion.

30. (Page 33) (Line No. 10-12) This is a conclusion and speculation.

My so called conclusion and speculation was again based on my experiences as they unfolded. Upon being terminated I reflected on these experiences and drew those conclusions. S/Sgt. Colleen Kohen confirmed in her notes provided to me by the Counsel that Sgt. Flindal had a strong dislike of me. When one takes that revelation and adds it to everything I have alleged in my application along with the decision to terminate my employment being made in early November 2009 and the rest of November and December being merely a side show then one sees the truthfulness of Sgt. Flindall's words to me on August 3, 2009. He said that he had never had such incompetent recruit before and that my employment was in jeopardy (Volume 1, I-8, I-76). Furthermore, in August 2008 there was a flurry of activity in GHQ Orillia over the possibility that the OPP had let me slip through the cracks so to speak and that it was too late to do anything then and that one would have to review my evaluations caused me to naturally speculate and draw a conclusion that

there was plan put in place to terminate me via my PERs and anything else that might come up. That is why Sgt. Flindall was told that I was the one to keep an eye on 4 months before I even started at the Peterborough County OPP Detachment. That is why everyone was so eager to report anything that could be twisted into being even remotely negative about me. That is why Sgt. Flindall was concerned about being in trouble in his e-mail communication to the S/Sgt. Campbell on August 20, 2009, (Volume 1, I-28).

Hence, I thank Counsel for all of this evidence provided in her disclosure that actually supports my conclusion/speculation.

31. (Page 34) (Line No. 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.

Counsel is absolutely wrong that this is irrelevant, frivolous and vexatious. PC Nie was quick to start a lengthy list of negative ratings in his very first evaluation of me. Utilizing the OPP's own performance evaluation I have substantiated each of the 6 ratings I gave PC Nie. If what the Counsel is saying is seen to be true then everything that PC Nie said about me in his first evaluation report is also frivolous and vexatious. PC Nie used one example to rate me negatively in several categories and I have shown how one example can rate him in several areas as well. Hence the relevancy is real and crucially important.

32. (Page 35) (Line No. 15-16) "as a python looks at its prey…" is frivolous and/or vexatious comment aimed at coloring the character of Mr. Nie.

Sometimes the use of external analogies is extremely important in showing the impact of one's comments and demeanor. I was describing PC Nie's demeanor when he made those comments to me. The only way to do that was to use external analogies like symbolic imagery. The fact that the Counsel got a very clear picture of the way PC Nie looked at me serves to prove my point about the usefulness of symbolic imagery.

The Counsel has provided disclosure that shows in an August 24, 2009, e-mail from A/Sgt. Jason Postma to S/Sgt. Campbell the situation with respect to my transfer to D platoon (Volume 2, L-12):

Please note the following excerpts:

- ***'do we have a structure of incidents laid out from Filman and Flindall so we are not starting fresh?'***
- ***'Rich is a good officer, but he has been in this coaching roll way too long. He needs a few years of no recruits to get that front line grove back (my opinion).'***
- ***'I do not want him to burn out if Mike requires extra documentation and process'.***
- ***'I am sensing the negative side of him of late'.***
- ***'D platoon is the laughing stock of this office because of these developments.'***
- ***'Our shift is not happy,…'***

- ***'Another note, from experience – problem officers or the rising stars define which coaches are successful in terminating probationarys or making positive recommendations. Everyone wants the good one, but very few are equipped to document and terminate employment if they don't meet the standards. We need to examine potential coaches more thoroughly in the future'.***

The Counsel has also provided disclosure that shows in an August 27, 2009, e-mail from PC Richard Nie to A/Sgt. Jason Postma PC Nie's attitude towards me before he even knew me (Volume 2, N-4):

Please note the following excerpts:

- ***'Rumours that I have heard are that he has refused to sign some evaluations and has called the OPPA for advice'.***
- ***'All of the rumors going around are that PC Jack calls the OPPA, human resources, or whoever else the minute he does not like what is happening.'***
- ***'I want it made clear to him (which I will do) that I am not about to waste my time on someone that does not want to learn or accept constructive criticism.'***

Hence, my comment ***'as a python looks at its prey before devouring it'*** was aimed at painting a picture of PC Nie's facial expression and the cold and callous look in his eyes when without a justifiable reason he told me: ***'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.'***

It should be apparent to any objective reader that my comment corroborates the evidence in the Counsel's own disclosure. I will leave for the Counsel to attempt to refute, on a balance of probabilities, the truthfulness of my observation and my feelings prior to me being aware of what was transpiring behind my back.

33. (Page 37) (Line No. 28) Line 28 is a conclusion.

The Counsel would have arrived at the same conclusion for Counsel was aware (or admitted to being aware) of the two above e-mails – the e-mail from A/Sgt. Jason Postma to S/Sgt. Campbell on August 24, 2009, (Volume 2, L-12) and the e-mail from PC Richard Nie to A/Sgt. Jason Postma on August 27, 2009, (Volume 2, N-4).

34. (Page 38) (Line No. 1-3) This sentence is a conclusion.

The Counsel has done a very good job in laying the framework for preparing a separate document that can be entitled: my speculations and conclusions (based on the treatment I was subjected to). My conclusions actually confirm my speculations. Consequently my speculations become facts. All of the facts I have reported will be attested to in the pending hearing.

35. (Page 38) (Line No. 8-9) The use of the words "vexatious", "false" and "bad faith" are conclusions.

I submit that the Counsel's characterization of some of my comments as speculation and conclusions are conclusions made by the Counsel. Where the Counsel characterizes some comments as vexatious they are nothing more than speculation on the Counsel's part. Whatever the Counsel wished to call them they are based on my experiences and it is my hope that the Tribunal will closely examine and compare my Month 8 PER (Exhibit 27) with my rebuttal to my Month 8 PER (Exhibit 58). I have asserted before, I am asserting it now that my Month 8 PER was falsified and my refusal to sign it was falsified too.

36. (Page 38) (Line No. 19-20) The description of the work environment as "hostile and poisoned" are conclusions.

Any objective person would arrive independently at the same conclusions if he/she referred to the following e-mails in the Counsel's disclosure:

- (August 18, 2009) (Volume 3, W-3)
- (August 21, 2009) (Volume 3, V-20)
- (August 24, 2009) (Volume 2, L-12)
- (August 27, 2009) (Volume 3, V-8)
- (August 27, 2009) (Volume 2, N-4)

In these e-mails the sender and the recipients discuss how Sgt. Robert Flindall has contributed and caused a poisoned work environment.

37. (Page 38-40) (Line No. 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.

The Counsel is absolutely right in her assertion that I have reviewed the report and arrived at conclusions with respect to the implied meaning of the report. The implied meaning was to oppress, discredit and malign me and they accomplished it with magnificence. For example, the report clearly stipulated that it had been reviewed by me for there was 'x' mark in the box beside that stipulation. That could only mean one thing. Its implied meaning is what the Counsel is objecting to. If that is the case then the Counsel is objecting to her own disclosure.

38. (Page 41) (Line No. 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.

It is in the scope of the Tribunal to make a finding that the filing of the complaint was a reprisal action against me for standing up to my rights. When I read the decision of the historic Human Rights case (Ali Tahmourpour vs. RCMP), specifically an excerpt from an overview of the complaint, ***'When Mr. Tahmourpour challenged one of the instructors who was treating him negatively, the instructor in question began mounting a campaign to have him removed from Depot.'*** I visualize Sgt. Robert Flindall and basically relieve my story again.

Please refer to following documents in the Counsel's disclosure:

- (September 1, 2009) (Volume 2, L-13)
- (September 3, 2009) (Volume 3, W-2)
- (September 22, 2009) (Volume 3, V-12)
- (September 22, 2009) (Volume 3, V-3)
- (September 23, 2009) (Volume 3, V-3)
- (November 19, 2009) (Volume 6, 60)

39. (Page 42) (Line No. 20-26) The nose blowing incident is irrelevant.

The blowing of the nose is very relevant for it shows PC Nie's belittling treatment of me. It is also extremely evident of the humiliating treatment I was subjected to. It is corroboration of what is asserted in my application in item 66:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

66. 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.

Hence, this nose blowing incident is extremely relevant.

40. (Page 43) (Line No. 15) The reference to the "brazen and bare faced discrimination" is a conclusion.

Again I reiterate what I have already previously stated that it is extremely relevant for it is a summary of what I was experiencing and have clearly indicated in my application.

41. (Page 43) (Line No. 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.

The reference to the PC Nie as Big Brother is neither frivolous nor vexatious and it is addressed extensively in 1. (Page 3-4) (Line No.).

42. (Page 44) (Line No. 33-35) This sentence calls for a conclusion with respect to the character of Nie. The use of "Big Brother" is frivolous and vexatious.

The reference to the PC Nie as Big Brother is neither frivolous nor vexatious and it is addressed extensively in 1. (Page 3-4) (Line No.).

43. (Page 44) (Line No. 38-41) This is evidence of Mr. Tapp which is a 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.

It is not a breach of the confidentiality terms of the settlement. The Counsel was not there while I was present at the hearing although not present during the signing of the terms of settlement document. As Mr. Tapp's Counsel explained outside of the hearing room, Mr. Tapp was not allowed to talk about the amount of the settlement, but it did not preclude him talking of what he has experienced at the Peterborough County OPP Detachment especially when it was continuing at the new detachment they transferred him to. Furthermore, the Counsel is objecting to that which is evidence to item 59 in my application:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

59. I am not the only individual in the Detachment to have suffered discrimination on the basis of a protected ground. To the best of my knowledge and belief other officers including Constable Lloyd Tapp, Constable Harry Allen Chase, Constable King, and Constable Mark Mussington were all subjected to similar targeted discriminatory treatment by the officers at the Peterborough Detachment.

44. (Page 46) (Line No. 17-20) This paragraph is a conclusion with respect to discrimination. It also purports to introduce evidence of a "syndrome" without a qualified expert.

That is what I felt and that is how I described it based on my experiences and my education. Even to this day when I reflect on my treatment at the Peterborough County OPP Detachment the Boiling Frog Syndrome comes to mind. It is also evidence of what I have stated in my application in item 61:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

61. The experiences that I was subjected to by the OPP caused severe stress in my life to the extent that I experienced and continue to suffer from, among other things, sleeping disorders, poor concentration, deteriorating health, and severe back pain. I became very self-conscious and my self-confidence was completely eroded.

45. (Page 46) (Line No. 26-34) These facts are irrelevant.

They are extremely relevant because it shows my state of mind at that time. PC Nie had just finished exposing some personal information regarding his early years with the OPP and naturally I sought his compassion and empathy so that he could understand my situation. It was such a disclosure from PC Nie that gave me the courage to talk about and ask questions with respect to what I was experiencing thinking that he would care. Alas, it turned out that I was actually giving him information to be used against me for he would always find something wrong with either my question or with me. It is also evidence of what I have stated in my application in item 43:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

43. 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 that he would find something wrong with either the question or with me.

46. (Page 46) (Line No. 43-44) This is a conclusion with respect to the state of mind of Nie and is therefore opinion evidence.

PC Nie did pride himself on being objective. Sgt. Flindall prided himself on being honest and on not tolerating deceit. It is my firm assertion, which I believe is a common wisdom, that one should be very cautious with people who pride themselves on being honest and righteous.

PC Nie was always cold and callous with me. On October 17, 2009, he even smiled when I was crying. What kind of person one has to be to smile when another human being is crying? In item 48 of my application I state that I voiced my concerns during a PER meeting between Sgt. Butorac, PC Nie and myself. PC Nie used the fact that I voiced my concerns as an example to rate me negatively in the Respectful Relations section of my Month 11 PER.

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

48. For example, on November 19, 2009, during a 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 speaking out in the Respectful Relations section in my Month 11 performance evaluation.

Hence, I reiterate my assertion that PC Nie was cold as a chunk of ice.

47. (Page 47) (Line No. 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.

The Counsel is wrong in stating that I do not have direct knowledge or evidence of this information. PC Nie was the one who shared this information with me and PC Tapp ironically corroborated the information much later on. This bit of information is also evidence for my application wherein I state in item 59:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

59. I am not the only individual in the Detachment to have suffered discrimination on the basis of a protected ground. To the best of my knowledge and belief other officers including Constable Lloyd Tapp, Constable Harry Allen Chase, Constable King, and Constable Mark Mussington were all subjected to similar targeted discriminatory treatment by the officers at the Peterborough Detachment.

48. (Page 47) (Line No. 35-39) This information is irrelevant.

Again I must add that it is extremely relevant. It shows PC Nie's state of mind at the time. He was the coach officer of PC Harry Allen Chase and had voluntarily disclosed information to me about PC Chase. PC Nie also felt that I would do something about my predicament should I find things not working out for me. He opened this line of conversation and so when I asked him about PC Chase he protected the knowledge that he had by stating, ***'Do not even go there.'*** His terminology was explicit and final. PC Nie was literally my Big Brother in a negative sense for he was very domineering even in our conversations.

49. (Page 47-48) (Line No. 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.

I believe it is relevant since I opened the paragraph it is found in with a comment about the significant change in attitude of the civilian personnel towards me. It also shows the extent of the poisoned work environment that I worked in and the adverse effects it had on civilian staff towards me. Even if one were to omit the following sentence ***'later, I learned from Cst. Tapp that one civilian female employee … that I was not altogether there'*** the remaining sentences in the paragraph to which the Counsel is objecting to are my personal knowledge. Furthermore it is evidence of item 19 (5) in my application::

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

Overt Discrimination and Harassment

19. During my probationary period I was subjected to unwanted comments, jokes and harassment that in turn poisoned my workplace environment.

(5) The poisoned work environment also spread to the civilian employees with whom I had little contact. Few of these employees would have had any exposure to me in my daily activities, yet I was progressively treated with increased disdain by some of the civilian employees. The rumours that circulated among them included statements that "I could not be trusted", "I was not altogether there" and that "I had problems."

50. (Page 50) (Line No. Paras 3-5) These paragraphs are not relevant.

All those comments are extremely relevant for they show the extent of the contempt those officers had of me. D/Cst. German's failure to keep her promise to burn me a copy of the interview is evidence that this Tribunal is also being deprived of by the Counsel's lack of adherence to section 18 of my application. The investigation conducted by Cst. German on behalf of the OPPA is the evidence I have been seeking in support of my application.

51. (Page 52) (Line No. 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.

As a matter of fact the Counsel is fully aware that PC Nie's comments to me, if carried out was an offence under the Police Services Act. Counsel is not a novice at representing the OPP. For example, the Counsel represented the OPP against:

- PC Brandon Wilson in the Ontario Civilian Commission on Police Services hearing in 2006 (OCCPS #06-11)
- Sergeant Shawn Hewlett in the Ontario Civilian Commission on Police Services hearing in 2007 (OCCPS #07-07).

So it is not a conclusion rather it is a statement of fact. It is also clear evidence of total aberration of Police Orders by PC Nie. These comments are all the more crucial since the toxicology results on the driver's blood sample revealed traces of marihuana (Counsel's additional disclosure on March 23, 2012, Documents relating to a motor vehicle incident). I preserved the evidence relevant to a very serious motor vehicle accident involving a school bus and the evidence I preserved was found to be crucial in so much that it corroborated the results of the toxicology tests. PC Nie on the other hand wanted me to dispose of this crucial bit of evidence from the scene. This is also evidence of an instance where I ought to have been commended for my work, but I was not.

52. (Page 53) (Line No. 12-36) This is a conclusion/speculation.

I have clearly articulated the basis for this belief I had in these sections when I compiled my Will-say.

53. (Page 56) (Line No. 3-13) This paragraphs contains conclusions. The statements regarding Mr. Tapp are not relevant.

What the Counsel is not stating is that the conclusions in this paragraph are based on what I have experienced at the Peterborough County OPP Detachment and are abundantly corroborated by Counsel's disclosure on January 16, 2012. So the conclusions are not vague statement lacking supportive information or credibility. I have clearly substantiated these conclusions in my statement. Furthermore, the Counsel uses the plural term for statement. While I made one statement here, ***'The officer she referred to turned out to be Cst. Tapp'*** it was PC D'Amico that made the other three statements that I quoted, ***'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.'*** I just identified who that officer was that PC D'Amico was referring to.

54. (Page 57) (Line No. 11-19) The information provided by the Applicant falls into the following categories:

- **medical opinion evidence (i.e. chronic fatigue syndrome and post traumatic street (I presume the Counsel meant 'stress disorder', not 'street')**
- **conclusions (re: poisoned work environment, discrimination, harassment)**

All of which cannot be proffered by the Applicant

All I can say is the Counsel is absolutely out of her mind to even suggest that what I have stated in this paragraph should be omitted on the basis that it is medical opinion evidence and they are also conclusions. What I have stated in this paragraph is no different than what an ordinary citizen would be telling a triage nurse if checking into a hospital. I know my body and my mind because I took pride in caring for both of them and defining them into the healthy individual I was prior to joining the OPP. My knowledge on the care and preservation of optimum health for my mind and body is what allowed me to make the following statements that the Counsel is objecting to:

> 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.

Furthermore, the Counsel is objecting to something that I have not even stated in this paragraph or anywhere in my statement: Post-Traumatic Stress Disorder. As appended below one can see that it was the diagnosis of my physician who indeed saw many signs and symptoms of Post-Traumatic Stress Disorder in me (Exhibit 51, page 4):

Visit Date: Aug, 30 2010, Seen by: Dr. V. Lokanathan
Michael Jack DOB: Dec, 16 1972,
Visit For: depression Diagnosis:

Mood Sequelae from loss job as police officer
Feels they ruined his life, unjust
Lawyer advised to keep journal
Presents documents with school marks and police training marks
Came across article re: ecstasy for PTSD
Sx PTSD nightmares, anxiety, all sx other than suicidal tendencies
Came in to extended hours - Rx for Cipralex - got rash all over - quit and disappeared
Was also stressed + + at the time
Going to Israel tomorrow - would rather not be on any meds
O: Anxious affect

A/P: adjustment disorder post alleged discrimination and dismissal - indeed many sx consistent with PTSD
Resistant to med Rx as he does not want to be on meds and adverse effects
Reasonable to have trial off while visiting his family in Israel, but if sx flare when back may need temporizing
Refer Dr. Anderson consider counselling

55. (Page 58) (Line No. 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 provided by Mr. Tapp which is not relevant to this Application

PC Tapp is allowed to tell his family and close friends of what he has experienced at the Peterborough County OPP Detachment especially when he was still being subjected to such treatment. PC Tapp is not allowed to disclose any information about the amount of the settlement. That is what was explained to him in my presence by his Counsel.

I assert that the information from PC Tapp regarding Mr. Chase and the occurrence PC Tapp completed for Mr. Chase is crucially important since it goes to show the utter contempt PC Nie had for Mr. Chase and for me.

56. (Page 58) (Line No. 14-25) Mr. Jack is providing medical opinion evidence which cannot be offered by an unqualified expert witness.

As explained earlier, Exhibit 51 (Anticipated evidence of Dr. Vanita Lokanathan) is that of my physicians' diagnosis of me. Dr. Lokanathan's diagnosis stipulated that she saw many signs and symptoms of PTSD in me.

A/P: adjustment disorder post alleged discrimination and dismissal - indeed many sx consistent with PTSD
Resistant to med Rx as he does not want to be on meds and adverse effects
Reasonable to have trial off while visiting his family in Israel, but if sx flare when back may need temporizing
Refer Dr. Anderson consider counselling

Exhibit 86 is just an article in the Peterborough Examiner newspaper that discusses Post-Traumatic Stress Disorder, elaborates on what those Post-Traumatic Stress Disorder signs and symptoms are and talks about possible treatment for it. The fact that I experienced every one of those articled symptoms attests to the fact that I experienced Post-Traumatic Stress Disorder. Furthermore, the Counsel is trying to prevent me from giving evidence to item 67 of my application that states:

Application to the Human Rights Tribunal of Ontario of Michael Jack (HRTO 2010-07633-I) (Schedule A):

67. 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. All of which were provoked by the poisoned work environment.

57. (Page 60) (Line No. 15-16) This statement is a conclusion with respect to credibility.

It is not a conclusion as much as it is statement based on the facts as contained in the Counsel's own disclosure. For example:

The Counsel has asserted in her response to my application that the Respondent denies anyone referencing me as "Crazy Ivan" and further that the Respondent denies any knowledge of it. Yet as shown later in a statement from PC Jason Postma (Exhibit 70) and PC Kevin Duignan (Exhibit 69) I was indeed referenced by members of the Peterborough County OPP Detachment by the racially derogatory nickname "Crazy Ivan".

The Counsel has asserted in her response to my application that the Respondent denies that I was targeted or kept under surveillance. Yet the Counsel for the Respondent was aware of what was contained in her own disclosure prior to making such an assertion. The Counsel's own disclosure revealed e-mails between the respondents that I was to be kept an eye on (Volume 1, I-41) and e-mails from S/Sgt. Campbell to Insp. Johnston that Sgt. Flindall had members of his platoon and members of his brother-in-law and good friend Sgt. Banbury's platoon all watching me (Volume 3, W-3):

d) Apparent discussions Sgt Flindall has asked his entire shift to monitor Jack's actions and contact him for any issues (this is also spread to platoon B)

S/Sgt. Campbell even acknowledged that he had undertaken his own personal investigation and found this to be true (Volume 3, W-3, V-8, V-20). Furthermore, S/Sgt. Campbell and Insp. Johnston discussed and felt that I was being targeted (Volume 3, V-20):

I think we were heading to an issue as Mike is basically an immigrant of Jewish background. You and I discussed we felt he was being targeted. To his own demise he has alienated his shift by not being 100% truthful when

Hence, when the Counsel prepared her response she obviously had to familiarize herself with all the disclosure gathered by the Respondent and presented to her in order to make a response. The Counsel then provided me with a copy of this disclosure as per January 16, 2012, deadline.

The Counsel's disclosure contained numerous inculpatory statements by way of e-mails between many of the respondents and officer's notes with respect to the allegations in my application. The Counsel, in the absence of such disclosure from the Respondent would not have been able to make a response to my application. Yet the Counsel made responses in her application denying the allegations contrary to the information she knew she had (Exhibit 122).

A more detailed list of the Counsel's contradictions between her response and her own disclosure is attached (Exhibit 122) and based on all of this information I am able make the statement that I made to which the Counsel is objecting to and regarding as a conclusion.

58. (Page 61, 62, 63, 64) (Line No. 1-2) This is a conclusion.

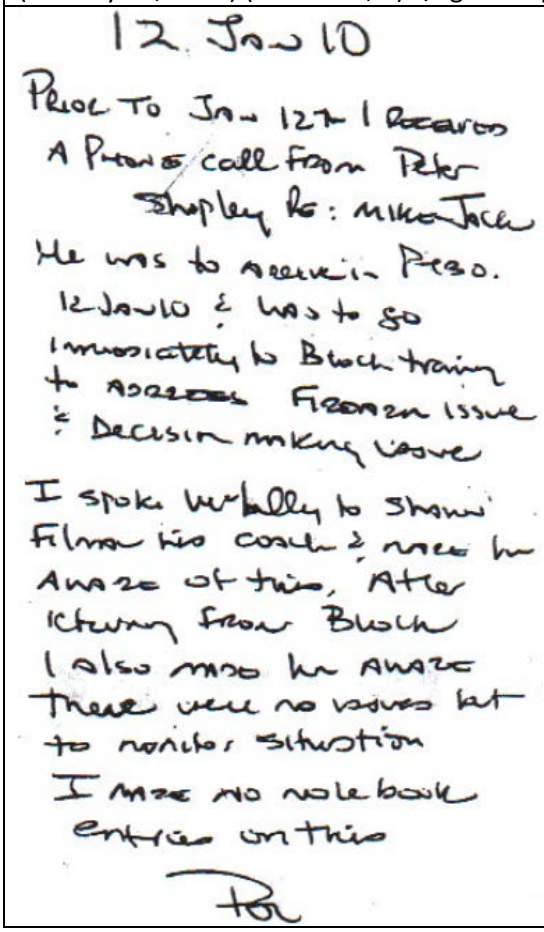
It is a fact that:

- 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).
- 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).
- 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).
- 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).

59. (Page 65) (Line No. 4-10) This statement calls for a conclusion regarding Mr. Filman's state of mind. The following statements are not relevant.

Those statements are extremely relevant for they show PC Filman's biasness towards me. Furthermore, as is evident from S/Sgt. Campbell's notes he asked PC Filman to monitor me:

(Volume 3, X) S/Sgt. Campbell's notes:

(January 12, 2009) (Volume 3, X) S/Sgt. Campbell notes:	
	12 Jan 10 Prior to Jan 12th I received A phone call from Peter Shipley Re: Mike Jack He was to arrive in Ptbo. 12Jan10 & was to go immediately to Block training to assess firearms issue & decision making issue. I spoke verbally to Shawn Filman his coach & made him aware of this. After returning from Block I also made him aware there were no issues but to monitor situation. I made no notebook entries on this. Ron.

S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:

Prior to January 2009

I have searched my notes and can find no entry but I received a phone call from Peter Shipley advising of issues regarding Cst. Michael Jack in his firearms and decision making. As a result of concerns about his judgement in scenario's as well as firearms drills the Academy wanted to send him for block training upon his arrival in Peterborough. Peter Shipley requested his judgement be monitored at block and that his coach officer also be apprised of this and to monitor his decision making ability. When I returned from block I advised Shaun Filman that I did not note any concerns.

60. (Page 66) (Line No.) The entire page relates to an irrelevant anecdote with respect to use of force and make a conclusion of mixed fact and law with respect to the conduct of Filman.

Some of the definitions for a term 'anecdote' are:

- A short and amusing or interesting story about a real incident or person
- An account regarded as unreliable or hearsay
- The depiction of a minor narrative incident in a painting

How could the Counsel refer to those facts as anecdote when PC Filman did draw his firearm on an unarmed person and PC Brockley did beat a suspect with his button? All the Counsel has to do is to request the Respondent to disclose the Use of Force report filled out by PC Filman with respect to the Breach of probation incident (RM09061734) that took place on May 27, 2009, to see for herself what kind of anecdote it was. The same applies to the investigation by the Special Investigations Unit of PC Brockley.

Furthermore, since the Counsel is most likely very much familiar with the unlawful or unnecessary exercise of authority by police officers because she represented the Respondent against the appellant Constable Brandon Wilson in 2006 (OCCPS #06-11) where Constable Brandon Wilson was charged with unlawful or unnecessary exercise of authority, i.e. beating and arresting an unarmed person, I find it amusing that the Counsel referred to my allegation with respect to the abuse of the use of force as anecdote.

ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

REASONS FOR DECISION

CONSTABLE BRANDON WILSON

Appellant

ONTARIO PROVINCIAL POLICE

Respondent

Appearances:

Leo A. Kinahan, Counsel for the Appellant
Lynette E. D'Souza, Counsel for the Respondent

Hearing Date: Monday, September 18, 2006

This is an appeal by Constable Brandon Wilson from a conviction on May 11, 2005 for the disciplinary offence of unlawful or unnecessary exercise of authority contrary to sections 2(1)(g)(i) and (ii) of the Code of Conduct found at Ontario Regulation 123/98 as amended (the "Code") by retired Superintendent A. Griffiths (the "Hearing Officer").

61. (Page 67-68) (Line No.) These two pages contain conclusions which are not evidence and are properly left to the tier of fact.

The Counsel should really proof read what she submits. 'Post Traumatic Street'??? And the above 'tier of tier' is actually the 'trier of fact'.

All of my conclusions are extremely relevant for they are summaries for the most part of everything I have been subjected to and experienced in the OPP at the Peterborough County OPP Detachment. The contents of Page 67, in entirety are excerpts of Ontario Provincial Police Orders and the Ontario Human Rights Code. Page 68 is a summary of all I endured in light of what I have appended on the proceeding page.

Conclusion:

In reflection of everything I have asserted in this response to the objections of the Counsel I have added exhibit 122. This exhibit deals with the contradictions of the Counsel.

- Counsel was fully aware of the contents of the disclosure that was provided to me for the January 16, 2012, deadline obligation.
- Counsel had all of that disclosure in her possession prior to making a response to my application (as one can see from the date and time stamp of the printing).
- Counsel had specifically requested for an extension of time to make a response to my application.
- Counsel obviously wanted time so that all of the material (with respect to the disclosure material relevant to the January 16, 2012, deadline obligation) could be reviewed in order to make a response.
- It stands to reason that the Counsel would not have been able to make a response to the application based on the application alone that was shared in December 2010 by my former Counsel Kimberley Wolfe before she removed herself from my application and again formally by the HRTO in the spring of 2011.
- It also stands to reason that the Counsel would not have been able to make such a response as submitted in the absence of any disclosure from the Respondent.
- A copy of the disclosure that the Counsel used to review and make the said response was submitted to the Applicant as per the January 16, 2012, deadline obligations. This disclosure from the Counsel contained numerous inculpatory statements, confirmations and corroborations of the Applicant's conclusions to numerous items of the Applicant's application.
- Yet the Counsel makes a declaration in section 21 of her response and affixers her signature asserting that what is contained in the response is the truth and devoid of any deception.

For all of the aforementioned reasons I have included Exhibit 122: Copies of inculpatory statements by the respondents with excerpts of denials from the Counsel's response to the Application.