

Analysis of the Respondent's Disclosure (March 2009)

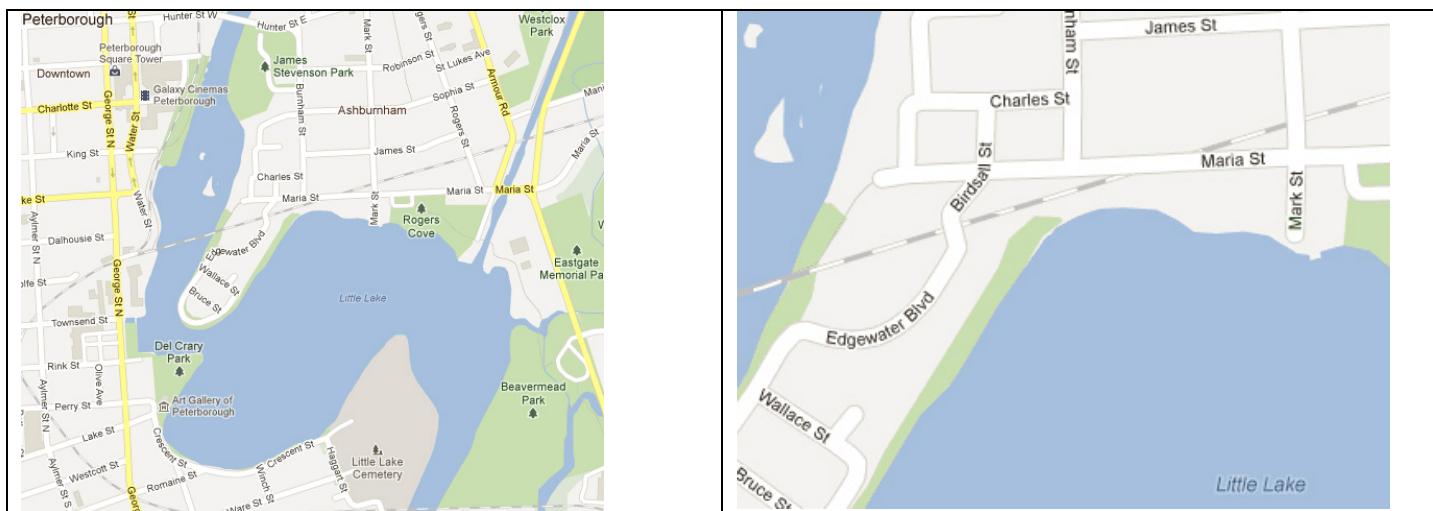
(March, 2009) (Volume 3, BB) Point Form Chronology:

March 2009 - PC Filman

- During routine patrol I turned into the Good Life parking lot to turn around. As we were in the lot PC Jack asked if we could stop so he could go inside. I asked if he had to go to the bathroom. He said no but there was a girl in there he wanted to ask out and thought that the uniform may help out. I said well that is not something we do on duty. We went about our day and ended up at the Bridgenorth community policing office. As we were leaving on our way to return to detachment PC Jack asked which way we would be going - I asked why. PC Jack said that if we were going in the direction of Good Life maybe he could stop in. I shook my head and turned the other direction.

What date was that? How come PC Filman failed to document the exact date of this incident? How come the documentation of the incident is missing in PC Filman's notes? Where were Detective Constable Filman's detective skills? How come he never discussed the incident with me at the time it took place nor mentioned it in my PER? How come it became worth mentioning in the point form chronology many months later? Further to this, PC Filman brought the incident up to the attention of S/Sgt. Coleen Kohen during the teleconference call on August 31, 2009.

I must admit, however, that the documentation of the incident is true as far as I remember. I agree that it does not look good on me to try to ask a girl out while in uniform and on duty, even though we knew each other and frequently spoke when I was a member in the gym. Again, I only asked PC Filman if I could do that. I did not do that. That documentation, however, brings to memory an incident where PC Filman and I picked up the daughter of Sgt. Gerry Smith from her residence in Peterborough (somewhere on or near Maria St. in the map below) and drove her to Bridgenorth in the police cruiser.



It was sometime around late January or early February 2009. When we picked her up I pulled my officer notebook out to write her details in (as per explicit instruction we got at the Provincial Police Academy to write details of every person that gets in the cruiser). PC Filman explicitly forbade me to enter the event in my officer notebook contrary to what I had been taught at the PPA. I complied.

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Personal Accountability section PC Filman noted the following with the 'Meets Requirements' rating:

When advised of a deficiency PC JACK is receptive and strives to remedy the issue

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Attitude Towards Learning section PC Filman noted the following with the 'Meets Requirements' rating:

PC JACK shows a very positive attitude towards learning.

(March, 2009) (Volume 3, BB) Point Form Chronology:

March 2009 - PC Filman

- Spoke to PC Jack as we were still in the office at 10:00am. I told him I wanted to get going several times and eventually he came out. The vehicle needed fuel so we went to the gas station across the road from the office which also has a Tim Horton's. PC Jack was obviously unhappy, staring forward and not saying a word. I fuelled the vehicle and PC Jack remained inside. I was going to have a coffee so I asked if PC Jack wanted one as well - PC Jack declined. I got a coffee and came out and was proceeding to patrol. PC Jack said "I'm hungry". I was somewhat annoyed as he had sat in the office for 4 hours but I said "What do you want?" He said "I have food in my locker". I said "you mean the office you were just at for the past 4 hours?" PC Jack said "I don't want that anyway". Again I said "what do you want?" PC Jack points at McDonalds restaurant and says "that's crap", I said "well you don't have to have that but I'm not going to decide what you eat" so PC Jack decided on a sub. I waited in the car as PC Jack got a sub and we received a radio call for an alarm. When PC Jack returned to the vehicle I told him that we had an alarm call and he said "can I get a coffee first?" I told him no we have a call, we just left a coffee shop. When we were called off the alarm and now in the village of Lakefield PC Jack again requested a coffee, so we went to that Tim Horton's and he got one.

What date was that? How come PC Filman yet again failed to document the exact date of the incident? How come PC Filman never documented the incident in notes? I remember the incident very vaguely. I think something like that might have taken place, but I am not sure. How could PC Filman remember the incident in such excruciating detail and even quote me some 8 months later?

In November 2009 PC Filman was directed by the Regional Command to compile a chronological document about his interactions with me. The lack of notation of these minute details in his officer's journal should

cause the Tribunal to wonder about the following: If it was not important to even mention these details in my PER how could one possibly bring them up 8 months later? The credibility of these chronological documentations is extremely questionable. However, if I were not a participant in the story and were to read PC Filman's account of the incident I would regard PC Jack as a rude, inconsiderate and obnoxious person. Also, why did PC Filman fail to mention what I was doing during the 4 hours while "sitting" in the office? I must have been busy with something, not just "sitting" in the office doing nothing! What was he doing during those 4 hours?

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Personal Accountability section PC Filman noted the following with the 'Meets Requirements' rating:

When advised of a deficiency PC JACK is receptive and strives to remedy the issue

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Department section PC Filman noted the following with the 'Meets Requirements' rating:

PC JACK remains professional.

(March, 2009) (Volume 3, BB) Point Form Chronology:

March 2009 - PC Filman

- Night shift - PC Jack appeared unhappy as I had made him leave the office almost immediately to go do radar, since it was a night shift I said that we could do paperwork later in the night. PC Jack came out and got in the cruiser obviously upset, not speaking and staring forward. I made three vehicle stops, exited the vehicle myself, ran the people and issued the tickets. PC Jack was not speaking at all, I said to him "are you sick?" He said no. "Are you tired?" and he said "no". "Are you in a bad mood?" He said "no". So I said "Well what is your problem - you haven't said anything. You don't get out of the car and you haven't issued a single ticket". He said "well you haven't told me to". I said "as a recruit I shouldn't have to tell you what to do let alone get out of the car during a vehicle stop as my back up".

What date was that? How come PC Filman again failed to document the exact date of the incident? If the incident was worth mentioning how come PC Filman failed to document it in his notes and in my PER? I cannot even remember that conversation. I would hasten to say that it never took place. At least not in the manner PC Filman described it.

For example, how was PC Filman able to remember in November 2009 (which is when he compiled his point form chronology) that he had made exactly three vehicles stops sometime in March 2009 when he did not even remember the date? I remember that during our short time on the road together in most instances it was me who was approaching the pulled over vehicles and speaking with the drivers since I needed the practice and stats, not PC Filman. Further to this, PC Filman would frequently say to me, 'Go talk to them' and so I did.

With respect to all of the point form chronology documentations by PC Filman the Tribunal should take note that they contain explicit detail and many of them also contain responses from me that were supposedly verbatim. In the absence of copies of PC Filman's notes in the Respondent's disclosure to show they were recorded at the time of the incident or shortly thereafter how can one attach any credibility to them when they were compiled many months after the fact (in November 2009)?

Moreover, I do remember the feeling when around the same time of the year I doubled up with PC Yves Piete in the Chevy cruiser. At one point (when we were northbound I think on Highway 28) PC Piete and I were talking about something and there was a feeling of friendliness in him towards me. After a few weeks in the cruiser with PC Filman and nearly always feeling like a leper, I was feeling like a normal human being for a change. At some point I got emotional, my voice trembled and my eyes got wet. I went silent and stared in the passenger side window to the right of me. I hoped that PC Piete did not notice as I was very embarrassed.

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Traffic Enforcement section PC Filman noted the following with the 'Meets Requirements' rating:

PC JACK has been active in RIDE initiatives and as well whenever time permits is active in RADAR and observation of other traffic infractions. PC JACK has investigated 3 MVC's and has identified and laid appropriate charges in these investigations.

PC JACK issued
24 speeding tickets
1 seatbelt ticket
1 headlight ticket
1 fail to display plate ticket
and participated in three RIDE checks

(March 4, 2009) (Volume 2, O), PC Filman's notes:

0900 [REDACTED]
PC Jack Place
[REDACTED]
He is 145 UNCOOPERATIVE
one phone called
PC JACK "Miscreant"
0942 2:9 PM PC
PICK UP
[REDACTED]
[REDACTED]
11:5 [REDACTED] Place
Came home
PC Resigned - PC Jack
Engagement Coming
140 [REDACTED]
PC Jack received info
on going problems
biggest concern
1) WFR has
been followed
twice while
walking down road
by [REDACTED] in his
vehicle, she is
very afraid and
came home crying
today, whether 54

0900 [REDACTED]
LIVES
Directly across
the road and
was contractor
for their house
since they have
stuck in Tresser
for problems and
Mr Hes had to
Pay \$11,000
They believe this
is why he is
causing them problems
1305
1345
1415
1530 [REDACTED]
1645 1179 [REDACTED]
1700 [REDACTED]
THURSDAY 05 MAR 09
Peterborough County
Weather overcast
TEMP APPROX -2°
Road Town and they
Rode snow day.
[REDACTED]
[REDACTED]
[REDACTED]
0450 [REDACTED] 55
0500 [REDACTED]

The complainant in the matter was uncooperative on the phone because when he heard my accent he immediately mistook me for his very neighbor (Krzysztof Geller of 385 Sumcot Dr.), whom he was in dispute with. Krzysztof Geller was apparently of Polish background and though I have never met him I would assume he had a similar accent. The complainant called me "Meshuga" (which means mad, idiotic) because he wholeheartedly believed it was Krzysztof Gellar calling him and pretending to be a police officer. I explained to PC Filman what "Meshuga" meant, since he had no clue, and the matter was promptly resolved as a simple misunderstanding on the complainant's part and a rush to judgment.

Calls for service (reportable and non-reportable) (Exhibit 47):

28) SP09042962	OPP	Harassment	2009/03/04 08:40	Complete - solved (non-criminal) - 388 SUMCOT DR, GALWAY-CAVENDISH-HARVEY TWP, ON Canada (Area: 1045, Duty locn: 1103, Beat: 30a, ESZ: 80734) Reportable / SPOKE WITH CPL ONGOING NEIGHBOUR DISPUTE SEE / REPORT ~PC JACK / (ONGOING PROBLEM WITH NEIGHBOUR - KRISTOFF GELLAR (53YRS)) / (THIS MORNING
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(March 4, 2009) (Volume 3, BB) Point Form Chronology:

04Mar09 - PC Filman

- I completed a neighbour dispute with PC Jack. In this investigation charges were not laid but PC Jack was shown how to complete the investigation so that both sides were satisfied. Of note during this incident, after we had spoken to the complainant PC Jack told me that he had recorded the entire event on a pen that he has that is equipped with audio/video capabilities. I advised him that that was not something that would be normal, could not be used in court and that I wanted to know if I was being recorded.

I had just acquired a digital Audio/Video (A/V) recording pen on eBay. I purchased it with the sole intention to assist me learn the job faster. I did not have any specific idea how I was going to use it, but I was inspired and motivated to do my new job to the best of my abilities and was investing into learning it everything I had, i.e. time, energy and money. Initially, I had been just looking for a digital audio recorder, but accidentally came online across one that incorporated both, video and audio. So I purchased it but it turned out to be of very poor quality and barely worked.

Note: I had an old fashioned tape recorder which I purchased in 2003 for the sole purpose of audio taping meetings with my client regarding the software engineering project I was leading in my fourth year at Trent

University. I found it to be very useful to play back our conversations to help me elicit the project software requirements. All the stakeholders were aware I was using it to record our meetings. No one had an issue with that. We all wanted to succeed.

The documentation of the incident is only partially true as I did not record the entire event. The entire event, which was a conversation across the table with the complainant in the complainant's house, lasted for nearly an hour. I was just an observer while PC Filman and the complainant talked. I only recorded a few minutes of it to see how the pen functioned. It was pretty poor quality. It was the first day that I carried the pen with me and I told PC Filman all about it shortly thereafter. Please note that I showed PC Filman my A/V digital recorder in the Bridgenorth Community Policing Office (CPO) sometime in the afternoon of March 4, 2009. The blacked out entries in PC Filman's notes in all probability hide the Bridgenorth CPO entry. I subsequently showed it to other platoon members and how it worked. I demonstrated to PC Filman how the pen worked in the Bridgenorth Community Police Office (CPO) for a few seconds, PC Moran in the Constables' in the detachment for a few seconds, Sgt. Flindall in the Sergeants' office in the detachment for a few seconds and showed them the recordings. The recordings were very poor. I told them I purchased the recorder to help me learn the job faster and not to spy on anyone. I was then told by PC D'Amico that officers would not understand that I was a techie and if I were to carry it around nobody on the shift would be talking to me and if I were to use it to record my interactions with the public then it must be disclosed to the court. I immediately took the pen out of the pocket and never used it again to date.

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Personal Accountability section PC Filman noted the following with the 'Meets Requirements' rating:

When advised of a deficiency PC JACK is receptive and strives to remedy the issue

(March ??, 2009) (Volume 2, O), PC Filman's notes:

0215	2 issues -
0235	PC JACK
1) When going to Domonic Marzo if call was slow to respond said he would ready as soon as went over with paper work then went into bathroom	had a wall review +, in not taking any crap
2) R. Lake advised he there were areas on his evaluation he needed to work on he	leaving PC JACK getting ready to leave for his reason "I came in at 3:30 pm to call CMB" he had no promises I told him he would have to change but new strategy shift sand he would go
0515	

(March 7, 2009) (Volume 3, BB) Point Form Chronology:

07Mar09 - PC Filman

- We were dispatched to a domestic dispute, I asked PC Jack if he was ready and I got up and left toward the vehicle. I waited for a bit and then came in to find PC Jack still finishing up paperwork. I said that this was a priority call "let's go". I went back to the door, waited and then found that PC Jack had gone to the washroom. I was about to leave him behind when he came walking out. He got into the car and I again I told him in a priority we hurry.

The date is totally wrong. Neither PC Filman nor I worked on March 7, 2009. From March 6, 2009, until March 9, 2009, our entire shift was on scheduled days off (Exhibit 66). While I am still waiting for my notes to be disclosed, I hope the Counsel for the Respondent will have the prudence to request PC Filman's notes for the dates between March 6, 2009, and March 9, 2009, to see for herself who she is representing. The domestic dispute that we were dispatched to and that PC Filman found it incumbent upon himself to document in the point form chronology some 8 months later took place on February 2, 2009. PC Filman was off by more than a month in his recollection of the incident.

Calls for service (reportable and non-reportable) (Exhibit 47):

SP09023552	OPP	Domestic dispute [8506]	2009/02/04 16:15	Complete - solved (non-criminal) - 1955 5TH LINE N, DOURO-DUMMER TWP, ON Canada (Area: 1042, Duty locn: 1I02, Beat: 20b, ESZ: 80614) Reportable / 12255 I MALE REMOVED NO VIOLENCE SEE REPORT / (RES 16:11:36) / (CALLER WANTS EX COMMON LAW TO LEAVE) / (CHRISTOPHER WHETUNG DOB 19661224) / (SHE HAD
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The dispute was verbal only and it was over some personal property between Christopher Whetung and Laurie Milne that I subsequently followed up on and completed (Exhibit 108). When we drove to the call PC Filman activated emergency equipment (lights and siren). PC Filman was an action junkie and used to activate emergency equipment and drive very fast at every opportunity he had, whether the circumstances warranted it or not. It took us approximately 20 minutes to get there. PC Steven Wagar (badge 12255) was dispatched to attend the call and had arrived on scene prior to us. PC Wagar quickly got into a verbal argument with Christopher Whetung over some nonsense. I liked how PC Filman deescalated the situation. After we departed from the scene, PC Filman told me that PC Steven Wagar and PC Russell Bates used to get in a lot of altercations with the public due to their stern and rigid approach to policing and that he was not like that. I remember the emotional part of PC Filman's lecture very clearly because it was one of two

occasions only when PC Filman talked to me with passion. Basically, after we departed from scene, he very passionately prided himself on being a good police officer.

Moreover, driving so fast to a call which I retrospectively believe did not warrant speeding, reminds me of an incident that took place sometime in late spring 2009 when I was patrolling on my own. I was eastbound on Smith 8th Line (County Road 18), traveling from Bridgenorth to Lakefield. I was running moving RADAR when the RADAR literally scared me by producing a very high pitched tone, which was a clear indication of a fast travelling motor vehicle in my direction. Moments later I locked the travelling speed of the vehicle at approximately 155 km/hr. I got somewhat nervous as I had not stopped a single vehicle that warranted a Stunt Driving charge. A few short moments later I observed a police cruiser flying by me. Behind the wheel was PC Shaun Filman. He was leaning forward in the driver's seat. At the time I figured he must have been trying to catch up with a speeder. The speed limit on Smith 8th Line is 80 km/hr. Ironically PC Tapp was falsely charged with Stunt Driving and Careless Driving (Exhibit 96a and Exhibit 96b) and here this officer was so callous in his violations of Police Orders and the Highway Traffic Act.

(March 7, 2009) (Volume 3, BB) Point Form Chronology:

07Mar09 - PC Filman

- I advised PC Jack that his evaluation was complete and that he would be receiving it soon. PC Jack asked how it was and I said that it was good but he is new and as usual I had indicated some areas that he would have to improve on over time. PC Jack's response to this was "I'm not taking any crap".

The date is wrong. Neither PC Filman nor I worked on March 7, 2009. From March 6, 2009, until March 9, 2009, our entire shift was on scheduled days off (Exhibit 66). While I am still waiting for my notes to be disclosed, I hope the Counsel for the Respondent will have the prudence to request PC Filman's notes for the dates between March 6, 2009, and March 9, 2009, to see for herself who she is representing. Once again after reading it I feel that PC Jack is a rude and obnoxious person. I remember saying, '*I am not taking any crap*', but I am vague about the context of the conversation. Is that all PC Filman remembered for the record?

In my Month 3 PER (09 Mar 09 – 09 Apr 09) in the *Self-Awareness* section PC Filman noted the following with the 'Meets Requirements' rating:

I have yet to observe a circumstance where PC JACK has shown a bias or jumped to a conclusion about anyone or anything. PC JACK will attack an issue head on, he is frank in his manners and doesn't appear to make judgement ahead of time.

Furthermore,

- If my Month 1 & 2 PER was complete on March 7, 2009, then why did PC Filman sign it off only on March 18, 2009?

- If my Month 1 & 2 PER was complete on March 7, 2009, then why did Sgt. Flindall sign it off only on April 15, 2009?
- I was served my Month 1 & 2 PER together with my Month 3 PER only on April 26, 2009.

(March 7, 2009) (Volume 3, BB) Point Form Chronology:

07Mar09 - PC Filman

- As I was preparing to leave for the scheduled end of my shift at 0500hrs PC Jack was also preparing to leave although scheduled until 0600hrs. I questioned him on this and he said that he had come in early to do something so he was leaving now. I asked if a supervisor had approved this prior to this decision, he said no. I told him that he would have to stay then because members count on bodies being in until the end of their scheduled shift. I told him that he would have to get approval before changing his shifts to ensure enough people were working. He asked if he could claim overtime for the time, I told him that overtime must be approved and if you come in early that must be approved prior. He went back into the constable's office and then returned and told me that the OIC for day shift said he could go. I told him that he would have to stay anyway because none of this had been approved by a sergeant and the OIC was a constable. Sgt. Flindall was advised.

The date is wrong. Neither PC Filman nor I worked on March 7, 2009. From March 6, 2009, until March 9, 2009, our entire shift was on scheduled days off (Exhibit 66). While I am still waiting for my notes to be disclosed, I hope the Counsel for the Respondent will have the prudence to request PC Filman's notes for the dates between March 6, 2009, and March 9, 2009, to see for herself who she is representing. However, the documentation of the incident is accurate and true (except for the date of course). The conversation took place in the change room as PC Filman was changing into civilian attire. I was going to go off duty at 5:00 am as I started my shift early, at approximately 3:30 pm. PC Yves Piette and I attended a call during the previous night shift and I was very concerned about one of the children's (a 14 year old boy) treatment by his step father and his appalling living conditions. I wanted to ensure I notified Children's Aid Society (CAS) as soon as possible so I came to work earlier to call CAS before their work day was over. Since I came to detachment earlier I figured I could leave earlier. Obviously, I was wrong.

In my all of my PERs by PC Filman in the Appearance section PC Filman noted the following:

Specific example:

PC JACK is always early for his scheduled shift. PC JACK continues to attend work with his uniform neat and clean and properly maintained.

In my all of my PERs by PC Filman (except the first one) in the Self-Awareness section PC Filman noted the following:

Specific example:

I have yet to observe a circumstance where PC JACK has shown a bias or jumped to a conclusion about anyone or anything. PC JACK will attack an issue head on, he is frank in his manners and doesn't appear to make judgement ahead of time.

(March 9, 2009) (Volume 1, I-87):

From: Flindall, Robert (JUS)
Sent: March 9, 2009 7:28 PM
To: Jack, Michael (JUS)
Subject: FW: [REDACTED]

Robert Flindall
Sgt. 9740

The above e-mail was sent in reference to the Driver's License of Mr. Shawn Sumilas. Interesting is the absence of the e-mail body.

(March 9, 2009) (Volume 1, I-112):

From: Jack, Michael (JUS)
Sent: March 9, 2009 7:36 PM
To: Laperle, Chad (JUS)
Cc: Flindall, Robert (JUS)
Subject: [REDACTED]

Hi Chad,

[REDACTED] girlfriend turned his DL over at the detachment on the 24th of February. We did not know who it was supposed to be going to so I sent the following email to the detachment distribution list:

"I got DL of [REDACTED] in my possession. His girlfriend delivered it to the front desk on February 24th claiming that [REDACTED] was stopped around 17:30hrs on 23Feb09 somewhere on Mount Pleasant Rd. and did not have his DL with him. He was asked by the officer to surrender his DL at the detachment. Whoever did the stop, please let me know and you can pick the DL from my diary slot.

PC Jack

Auth. Sgt. Flindall"

...but no one replied. I think you were not around at the time due to the death in your family (that is what I heard). You can find his DL in my diary slot.

Michael Jack

Auth. Sgt. Flindall

I sent the above e-mail in reference to the Driver's License of Mr. Shawn Sumilas.

(March 10, 2009) (Volume 3, BB) Point Form Chronology:

10Mar09 - PC Filman

- PC Jack completed an arrest for impaired driving with me present. He was walked through what he was required to do, what the proper demands were that had to be read as well as Rights to counsel and Caution.

The date of the occurrence (SP09071899) is wrong again. The incident took place on April 10, 2009, and not on March 10, 2009, as can be seen in the next point form chronology entry (second bullet) and in Exhibit 47c, pages 12 – 14.

(March, 2009) (Volume 3, BB) Point Form Chronology:

March 2009 - PC Filman

- I spent time in the cruiser with PC Jack explaining to him some of the difficulties I was seeing in regards to time movement, preparing paperwork etc.. After receiving the criticism we continued to drive for several hours and PC Jack did not speak with me for the rest of the shift and just stared ahead.
- On the 11th of April 2009 I assisted PC Jack with the completion of his brief for an impaired arrest SP09071899.

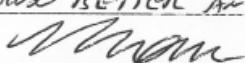
Please note the '**time movement**'. PC Filman must have meant '**time management**'. In any case, the conversation in the cruiser did not take place in March of 2009. It took place in April of 2009.

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

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

It was during this conversation (in place of a formal performance evaluation meeting as per Ontario Provincial Police Orders) that PC Filman explained to me the deficiencies that were later noted in my Month 1 & 2 PER, e.g. not answering the phones, etc.

Employee's Comments: *I ONLY DISAGREE ON THE FLEXIBILITY ASPECT OF MY EVALUATION. SHOULD HAVE BEEN INFORMED TO BE PROACTIVE AT ANSWERING THE PHONES FIRST, I WOULD HAVE KNOWN BETTER AND WOULD HAVE DONE SO.*

Employee's Signature: 

Date:

26-APR-09

In light of the message that was implied is it any wonder why I just remained quiet and never spoke until spoken to? Furthermore, with the way I felt I was being treated how could one expect the other to keep communicating as if everything was fine? Also, I was upset at being negatively documented for something that could have been easily prevented should I have at least been shown how to use the detachment phone system. When that phone system was put in place of the previous phone system, which was shortly prior to my arrival at the detachment, everyone went for a training session on its usage. Of course, I later learned how to use the phone system (by myself) and by then I was trying to be the first one to answer the phone.

Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 36:

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

In my Month 1 & 2 PER (09 Jan 09 – 09 Mar 09) in the Personal Accountability section PC Filman noted the following with the 'Meets Requirements' rating:

When advised of a deficiency PC JACK is receptive and strives to remedy the issue

(March 13, 2009) (Volume 1, I-99):

From: Filman, Shaun (JUS)
Sent: March 13, 2009 3:19 PM
To: Flindall, Robert (JUS)
Subject: RE: Ken Rusaw reviews

I have only one to do for Ken and that is for the evaluation period ending Mar 1st and Jack's first evaluation period ended 09 March, I have been off and will be off for the next few days but will do this on my first shift back. I knew about it and that was my intention. Its been a busy time for me lately.

-----Original Message-----

From: Campbell, Ron (JUS)
Sent: March 12, 2009 11:53 AM
To: Johnston, Mike P. (JUS)
Cc: Filman, Shaun (JUS); Flindall, Robert (JUS)
Subject: RE: Ken Rusaw reviews

I have sent this to Shaun & Rob I have not seen them. Ron Guys we need Ken's evaluation asap. Tks Ron Also I have not seen Mike Jacks either. Ron

-----Original Message-----

From: Johnston, Mike P. (JUS)
Sent: Thursday, March 12, 2009 9:59 AM
To: Campbell, Ron (JUS)
Subject: Ken Rusaw reviews

Ron

I am being told that Rusaw's Feb and Mar 09 PCS066 are overdue.

Can you advise his Sgt and Coach Officer.

Thanks

Mike

Sent from my BlackBerry Wireless Device

(March 13, 2009) (Volume 1, I-86):

From: terry.wright@ontario.ca [mailto:terry.wright@ontario.ca]
Sent: Friday, March 13, 2009 2:00 PM
To: Campbell, Ron (JUS); Wishart, Cathy (JUS)
Subject: Unit 01-152 TP22 Incident Investigation Finding has been Accepted

ND to advise the officer about safe operation of a force vehicle. This should be documented on a 233-10 entry.

(March 13, 2009) (Volume 1, I-86):

From: Campbell, Ron (JUS)
Sent: March 13, 2009 5:09 PM
To: Wright, Terry (JUS); Wishart, Cathy (JUS)
Subject: Unit 01-152
Inspector Wright and Cathy:

I know a lot of vehicles get damaged in Peterborough but this is one I can't complete for the following reasons.

This unit is a specialized unit somewhere down South it is ROPE or SPIN. The officer does not work in Peterborough and in February I had this email and made an inquiry and they switched it over to the proper person. I have no authority on the website to even add remarks to this file number.

Hope this helps but if there is something else I can do please let me know. Ron

I find S/Sgt. Campbell's comment about '*a lot of vehicles get damaged in Peterborough*' interesting.

(March 14, 2009) (Volume 1, B), Sgt. Flindall's notes:

SAT 14 MAR 09 1700 - on duty. 2350 ATS ENDS BY ENNISHORE. info received that PC. GILLIAM	observed a PK turn onto 14th Rd. it was tailgating PC. GILLIAM attempted stop the vehicle but it took off for him it blew a stop sign raced past some pedestrian and down a back alleyway. P.K. struck	2 occupants flag on foot to passenger possibly got out of the vehicle and was apprehended by PC. JACK PC. GILLIAM pursued the driver on foot night him and a struggle ensued
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I do not know if PC Gilliam was commended for the pursuit and the successful apprehension of the suspects, but I surely was not. Even though, not only did I apprehend and arrest one suspect, but I also

assisted PC Gilliam to gain control over his suspect (I also handcuffed him) as PC Gilliam ran out of breath struggling with him.

(March 16, 2009) (Volume 1, I-86):

-----Original Message-----

From: Wishart, Cathy (JUS)
Sent: Monday, March 16, 2009 7:55 AM
To: Campbell, Ron (JUS)
Cc: Wright, Terry (JUS)
Subject: RE: Unit 01-152

Ron - In looking at this TP22 it shows Assigned Location of vehicle as being Peterborough as well as the Detachment of Occurrence as being Peterborough. When I look up the Operator (Michael Jack) in Outlook his properties show him as being out of Peterborough Detachment. Even the estimates were done out of Peterborough.

Please see the attachment for your comments with regards to your submission as approver.

This was the TP22 involving Michael Jack and PC Gilliam who was accompanying PC Jack. Cruiser ended up nosing into ditch, motorist tried to pull him out with a rope which resulted in the cruiser going further down into the ditch and being pulled sideways and struck a metal cautionary road sign. Damage was \$2,523 and repaired by Holiday Collision Centre in Peterborough.

I don't think we're on the same page here with reference to 01-152. Could you please get back to me. Thanks very much.

(March 16, 2009) (Volume 1, I-86):

From: Campbell, Ron (JUS)
Sent: March 16, 2009 10:01 AM
To: Wishart, Cathy (JUS); Wright, Terry (JUS); Flindall, Robert (JUS)
Subject: FW: Unit 01-152

Once Jack is back to work on Wed 18 Mar 09 at 1800 hrs I will have Sgt Flindall serve him. Sorry for my confusion. Here is the 233-10 to be served. Ron

Rob once served let me know and I will update CR site. Tks Ron

(March 19, 2009) (Volume 1, I-86):

From: Flindall, Robert (JUS)
Sent: March 19, 2009 1:54 AM
To: Campbell, Ron (JUS)
Cc: Wishart, Cathy (JUS); Wright, Terry (JUS)
Subject: RE: Unit 01-152

S/Sgt. Campbell,

PC JACK was served on 19MAR09 at 0145 hrs with his 233-10 regarding this collision. Same is signed and in your in-tray.

Robert Flindall
Sgt. 9740

Does it say anywhere that I refused to sign the negative 233-10 (Exhibit 14)? No, it does not! I proudly accepted the responsibility for the accident and I was content with receiving negative documentation. At the time I could not have envisioned that not only was it wrong, but the incident would also be thrown into my face by Sgt. Flindall on August 19, 2009.

Aside: On August 19, 2009, during a meeting with S/Sgt. Campbell, among many other things, Sgt. Flindall accused me of being responsible for this collision. When I asked him why I was the only one to receive the negative documentation for the accident, Sgt. Flindall advised me that PC Gilliam had received negative documentation too. Shortly after I had been served with the negative 233-10 document (Exhibit 14), S/Sgt. Campbell told me otherwise (he approached me in the Constables' office and said that he believed that the responsibility should have been shared) (Schedule 'A', page 7) I wondered at the time who was being truthful with me and to date I still wonder.

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

years on the job. Around mid-March 2009, after I had been served with the negative 233-10 document (Exhibit 14), S/Sgt. Campbell approached me in the Constables' office and said that he believed that the responsibility should have been shared. Why was it not then? After all, not only Cst. Gilliam was two years senior to me, but he was also the officer in charge of the accident. In reflection, I conclude that Cst. Gilliam was born and raised in

If S/Sgt. Campbell was telling me the truth then Sgt. Flindall obviously viewed me a person not worthy of respect and similar treatment as the rest of the officers. Hence, I was one he could lie to. This differential treatment could be seen more clearly if the Tribunal was to replace me with any other officer on the shift or in the detachment. Sgt. Flindall would not have lied to them. If S/Sgt. Campbell was lying then the same would apply to him and I would hasten to say that he would not lie to any of the officers as well.

(March 23, 2009) (Volume 1, B), Sgt. Flindall's notes:

0500-
1134- P.C. JACK'S 1st
evaluation:
P.C. RUSSELL took
X 1st evaluation
reviewed by
self and
supervised only
PC. R. CAMPBELL
for his comments
1138

(March 23, 2009) (Volume 1, I-85):

From: Flindall, Robert (JUS)
Sent: March 23, 2009 11:26 AM
To: Campbell, Ron (JUS)
Subject: JACK evaluation

Attachments: 2ndMonth.doc

Staff,

Please find attached a copy of PC FILMAN's first evaluation for PC JACK. There are a few missing details, such as WIN #, but if the body is adequate, can you please add your comments and send back. I'll make sure FILMAN completes the missing info before printing.



2ndMonth.doc (191 KB)

Robert Flindall
Sgt. 9740

(March 23, 2009) (Volume 1, I-40):

From: Campbell, Ron (JUS)
Sent: March 23, 2009 11:59 AM
To: Flindall, Robert (JUS)
Cc: Johnston, Mike P. (JUS)
Subject: FW: JACK evaluation

Rob: I would like Shaun to address how many changes and what variety of charges Mike laid under Traffic. Has he arrested any impaired drivers or completed any investigations in this area? How many RIDE and seat belt checks has he completed? Are they accurately recording this on DAR?

I realize Shaun has had a lot on his plate with the new baby and juggling his last probationary off at the same time. I would suggest Jason Clarke's first evaluation on his member be reviewed. This is the format and type of evaluation I would like to see all the coaches complete. Tks Ron

Please note that PC Jason Clarke coached PC Dan Gay.

If both Insp. Johnston and S/Sgt. Campbell were aware of the fact the PC Filman had a lot on his plate then why was he assigned to coach me in the first place? Would not assigning a coach officer that had neither the desire nor the time to coach constitute a neglect of duty?

(March 23, 2009), (Volume 1, I-83):

From: Johnston, Mike P. (JUS)
Sent: March 23, 2009 12:05 PM
To: Campbell, Ron (JUS); Flindall, Robert (JUS)
Subject: RE: JACK evaluation

Agreed

Mike J.

(March 23, 2009) (Volume 1, I-84):

From: Flindall, Robert (JUS)
Sent: March 23, 2009 12:10 PM
To: Johnston, Mike P. (JUS)
Cc: Campbell, Ron (JUS)
Subject: RE: JACK evaluation

Looking after it.

Robert Flindall
Sgt. 9740

(March 23, 2009) (Volume 1, I-83):

From: Flindall, Robert (JUS)
Sent: March 23, 2009 12:38 PM
To: Filman, Shaun (JUS)
Subject: FW: JACK evaluation

Shaun,

Please read S/Sgt Campbell's comments below and amend his evaluation accordingly.

Thanks!

Robert Flindall
Sgt. 9740

(March 23/24, 2009) (Volume 2, O), PC Filman's notes:

1630	AS 5000 For Russ re-sent PC Jack request to provide stats	
1715	TUESDAY 24 MAR 09 Peterborough County Weather Clearing Temp Approx -3 Roads Town and Hwy Done 10 hrs	
0450		70

Ontario Provincial Police Orders (Volume 7, 2):

6.4: HUMAN RESOURCES

6.4.8: PROBATIONARY CONSTABLE

Responsibilities

Supervisor An immediate supervisor shall:

- be responsible for the supervision of the Recruit Field Training Program and monitoring the coach officer and probationary constable as they progress through the Recruit Field Training Manual;
- ensure that a probationary constable is offered every opportunity to participate actively with their coach officer in all phases of detachment work;
- confer with the respective coach officer when commenting on the probationary constable's Form PCS066P—Probationary Constable Performance Evaluation; and
- ensure the continuing compatibility between the probationary constable and their coach officer. In instances where it becomes clear that an irresolvable conflict exists, the supervisor shall recommend to the detachment commander that the probationary constable be re-assigned to another coach officer forthwith.

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

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

Coach Officer

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

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

Responsibility The coach officer shall be responsible for:

- developing a plan of training suited to the probationary constable's needs, and detachment priorities, in accordance with the Recruit Field Training Program;
- completing a monthly Performance Evaluation Report on Form PCS066P—Probationary Constable Performance Evaluation for submission to the probationary constable's immediate supervisor and detachment commander at the end of each month; and
- ensuring the probationary constable is familiar with the OPP Mission Statement contained in Police Orders.

(March 27, 2009) (Volume 1, B) Sgt. Flindall's notes:	(March 27, 2009) (Volume 1, A) PC D'Amico notes:	Comments:
<p>0600 - <u>FRIDAY 27 MAR 09</u> <u>on duty</u> 0943 - <u>P.C. D'AMICO</u> <u>on to speak</u> <u>with me about</u> <u>P.C. JACK</u> <u>she has</u> <u>spoken w him</u> <u>about his</u> <u>new video camera</u> <u>& trust it.</u> <u>advised her</u> <u>P.C. JACK was</u> <u>in about 45 mins</u> <u>to an HR ago</u> <u>showing me</u> <u>the cam.</u> 54 <u>advised him</u> <u>About using</u> <u>the cam in</u> <u>the office /</u> <u>taking officers</u> <u>out of trust</u> <u>P.C. D'AMICO</u> <u>will make</u> <u>note in her</u> <u>notebook.</u> 0951 - <u>call from</u> <u>P.C.C.</u> <u>- PD MVC given</u> <u>to FILMAN but</u> <u>he's tied up</u> <u>looking for</u> <u>and too</u> <u>re-assigned</u> <u>P.C. JACK</u> <u>- and given</u> </p>	<p> MARY D'AMICO Provincial Constable Peterborough County Detachment ONTARIO PROVINCIAL POLICE 453 Lansdowne Street East Peterborough, Ontario K9J 6Z6 Tel: (705) 742-0401 Fax: (705) 742-9247 maria.damico@ontario.ca OPP 24 Hour Police Service, ComCentre 1-888-310-1122</p> <p>0900 <u>NOTE: At old</u> <u>earlier spoke to</u> <u>P.C. JACK re having</u> <u>camera pen in</u> <u>his pocket at old</u> <u>while working. I</u> <u>advised him the</u> <u>shift members are</u> <u>having difficulty</u> <u>with him having</u> <u>electronics with</u> <u>him w/ if they</u> <u>are being audio/video</u> <u>recorded. Advised</u> <u>him it is a trust</u> <u>issue now & he needs</u> <u>to gain shift trust 1st</u> <u>if he wants to</u> <u>display such items.</u> <u>He advised he wasn't</u> <u>tape recording co-workers</u> <u>just has pen to</u> <u>assist him because</u> <u>of language barrier.</u> <u>P. FILMAN advised</u> <u>as coach, Sgt. FLINDALL</u> <u>also advised I</u> <u>spoke with him.</u></p>	<p>I had just acquired a digital A/V recording pen on eBay. I purchased it with the sole intention to assist me learn the job faster. I did not have any specific objective at the time how I was going to use it for, but I was determined to learn the new job and was investing into learning it everything I had, i.e. time, energy, and money. Though I was looking for simple a digital audio recorder, after coming across one that incorporated both, video and audio, I purchased it. It turned out to be of very poor quality and malfunctioned.</p> <p>I did carry an old personal tape recorder in my duty bag and never made a secret of it. In one instance, Sgt. Flindall even borrowed it from me to record something, but I never secretly recorded any of the conversations with my peers. As a matter of fact, I used it only once in an open manner in PC Filman's presence to audio record a memo to myself.</p> <p>Note: I purchased that tape recorder in 2003 for the sole purpose of audio taping meetings with my client in the software engineering project I was leading in my fourth year at Trent University (Exhibit 10a, page 8). I found it to be very useful to play back our conversations to help me elicit the project software requirements. All the stakeholders were aware I was using it to record our meetings. No one had an issue with that.</p>

In the entire month of March 2009 in the Respondent's disclosure there is no evidence of Sgt. Flindall holding a performance evaluation meeting with me because it never took place. Also, from the Respondent's disclosure of PC Filman's notes in reference to his interaction with me it is evident that during the entire 7 months of "coaching" me approximately 18 pages (ONLY) of his notes were in relation to his interactions with me. Did the Respondent care to follow the Ontario Provincial Police Orders at all?

Ontario Provincial Police Orders, Probationary Constable Evaluation Report Guidelines (Volume 7, 5):

Accountable Supervisor

- Ensures timely submission of the PCS 066P.
- Reviews and signs completed PCS 066P.
- Forwards PCS 066P to detachment commander.
- Conducts regular meetings with the recruit.

Ontario Provincial Police Orders, Law Enforcement, 2.51.1: Supervision – Member (Volume 7, 1):

Probationary Constable Performance Evaluation

A coach officer shall complete all monthly performance reviews for a probationary constable assigned to them using information gathered during the evaluation month.

Ontario Provincial Police Orders, Law Enforcement, 2.51.1: Supervision – Member (Volume 7, 1):

Disclosure of Evaluation

The immediate supervisor shall meet with the probationary constable to review each evaluation prior to submission to the detachment commander. At the discretion of the supervisor, the coach officer shall also be present at the meeting.

Ontario Provincial Police Orders, Administration & Infrastructure, 6.4: Human Resources (Volume 7, 2):

Responsibilities

Supervisor An immediate supervisor shall:

- be responsible for the supervision of the Recruit Field Training Program and monitoring the coach officer and probationary constable as they progress through the Recruit Field Training Manual;
- ensure that a probationary constable is offered every opportunity to participate actively with their coach officer in all phases of detachment work;

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

- select a coach officer utilizing the coach officer competency model;
- ensure that the Form PCS066P—Probationary Constable Performance Evaluation is completed in accordance with the Probationary Constable Guidelines; and

Coach Officer

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

- demonstrates the desire/willingness/ability to accept the responsibilities of a coach officer as listed in the Recruit Field Training Program and meets the required level for a coach officer in the competency model;
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Responsibility The coach officer shall be responsible for:

- developing a plan of training suited to the probationary constable's needs, and detachment priorities, in accordance with the Recruit Field Training Program;
- completing a monthly Performance Evaluation Report on Form PCS066P—Probationary Constable Performance Evaluation for submission to the probationary constable's immediate supervisor and detachment commander at the end of each month; and
- ensuring the probationary constable is familiar with the OPP Mission Statement contained in Police Orders.

Orientation to Provincial Communication Centre Once a probationary constable is posted to a detachment, the detachment commander and coach officer shall ensure that the probationary constable attends an orientation day at their respective Provincial Communication Centre (PCC). This will enable the probationary constable to gain first-hand experience in understanding the operations of the PCC and enhance their awareness of the complexity of the operator role and responsibilities.