

# Analysis of the Respondent's Disclosure (September 2009)

(September 1, 2009) (Volume 2, L-13):

File 233-10



## GENERAL INFORMATION FORM

Bureau / Region Central

Date: 01 Sep 09

Member	FLINDFALL, Rob	Badge # 9740
Supervisor	Campbell, Ron	Badge # 6385

CRITERIA	SUB CATEGORIES	
Job Knowledge & Skills	<input checked="" type="checkbox"/>	Attitude Towards Learning <input type="checkbox"/>
Problem Solving	<input type="checkbox"/>	
Communication Skills	<input type="checkbox"/>	Oral Communication
Leadership Skills	<input checked="" type="checkbox"/>	Delegation/Supervision
Interpersonal Attributes	<input type="checkbox"/>	Interpersonal Relations
Personal Impact	<input type="checkbox"/>	Demeanour
Other	<input type="checkbox"/>	Judgement
RATING		
Does Not Meet Requirements		

## NARRATIVE ( Incident # Optional )

Inc # SP09164458, SP09175128, RM09092516

### Background:

As a result of many discussions, emails and directives shift supervisors were to monitor and screen Crown briefs of their members prior to them being submitted.

In July 2009 it was stressed again the importance of Shift supervisors reviewing the briefs and ensuring they contained the required information to warrant charges and provide proper disclosure as the Court Office would be reduced by one member. This would make it all the more important that shift supervisors review members work.

In August 2009 Cst. Mike Jack had been identified by his supervisors as having many issues including his job knowledge as related to federal statutes.

Again increasing the diligence required in the review of his work.

In this time frame Sgt Flindall had received an email from the Court Officer advising of short comings of a Crown brief submitted by the member. Not having reviewed the briefs I spoke to Sgt Flindall about this on the date the message was sent. Sgt Flindall advised he had reviewed the matters and it was simply a issue of the style or wording of the synopsis and he would look at it but the matter was a legitimate charge.

File 233-10



## GENERAL INFORMATION FORM

It was not 15 minutes later Head Crown Attorney Brian Gilkinson contacted me to complain not only about the two briefs listed but a 3rd brief that has been the result of an ongoing complaint and neighbour dispute between two residents of Emerald Island and also a letter from the local MPP to the Solicitor General and our Professional Standards Bureau. Mr. Gilkinson was very clear that grounds did not exist for charges in any of these cases and the person who submitted them did not know the elements of the offences.

Sgt Flindall was to oversee the creation of an information brief concerning the possibility of the OPP laying charges of Criminal Harassment in this case.

In addition to this I from the direction of the Detachment Commander reviewed all incidents involving the two parties and reviewed each and every recorded RMS report on the OPP system but the City of Peterborough. In addition I met with one of the complainants and reviewed the case with him. During this review the complainant asked that the DVD statements given to the OPP be viewed by the OPP as they eluded to more evidence that the summary printed on RMS for the information brief. As a result of this request Sgt Flindall was requested to review these DVD's as well.

On the 31st of August 2009 Sgt Flindall advised he was too busy to review the DVD's while working the weekend.

Cst Jack is a probationary officer and by Sgt Flindall's own admission the briefs were lacking and ultimately he was the person responsible for review of the submissions prior to them being submitted.

Attached are Sgt Flindall's comments in relation to work completed by the member.  
"I have reviewed all of the documentation and correspondence, including emails from Ron and Brian who have summed up the situation perfectly. I am in agreement that there is simply not enough information to proceed with a criminal harassment charge at this time. In review of PC JACK's statements, not only in this matter but a few other matters I am reviewing, he has done a poor job in attempting to elicit the basic required information that one would expect to garner from victim/witnesses. I can only chalk this up to inexperience. "

Aggravating to me is that this duty entrusted to Sgt Flindall was not done but in addition to my own scheduled duties I have provided at least 12 hours of my time which should have been completed by him.

I was also able to review the briefs on 31 August 2009 and found that should they have been reviewed it was obvious the briefs lacked information, and corroboration.

The following information was provided by the Court Officers and Crown.

ROB - I have not dove in totally in this file, but see a couple issues that need addressing right away.  
PC JACK is the OIC.

SP09164458

1 - brief jacket says "no" record, yet inside the pkg there appears to be a record with a couple of convictions. It appears solid, but I did not see the cni page that would contain the acc fpc to verify this is HIS record. Also, its in French. We might want to take the initiative to translate it in writing into English??

2 - we seized firearms under 117 and have filed a return to jp. I see no indication of a "WEAPONS PROHIBITION" application under 117. we have 30 days to file that application from the date of the seizure, or we have to give the guns back. Date of arrest is 24jul09.

HBBR

File 233-10



## GENERAL INFORMATION FORM

Re: Constable Michael Jack

To: Staff Sergeant Campbell and Sergeant Flindall

Hello Ron and Robert,

May I respectfully suggest that Constable Jack needs some guidance?

I am seeing a bit of an ongoing pattern in his work that raises concerns.

Referring to the most recent file on an accused, [REDACTED]

First Appearance is August 27.

I got the Information sworn this morning. Following which, the file was returned by CAO staff to the OPP Court Office to be reviewed.

There are apparently five witnesses and one complainant.

o The statement of the complainant is not present in the file

o Notes: Copies of notebook notes with author unknown (however, probably Jennifer Payne. I will label as probably a simple oversight on her part)

Perhaps of more concern are deficiencies in the synopsis of the circumstances. I am wondering if it might be appropriate for Constable Jack to inform the reader who the players are? There are five witnesses indicated in the witness list and one complainant, none of which are identified in the synopsis.

The synopsis, as you will see, concludes with " Then [REDACTED] and friends went to the main office to see the resort manager who contacted the police."

This synopsis lacks the basic principles of the conclusion i.e. the arrest . Who, What, Where, When, How and Why.

Similarly, in the case of [REDACTED] the synopsis in this case contains a significant amount of irrelevant information. There is little provided on the allegation of Criminal Harassment. In fact, I got the Information sworn yesterday, however in review, I have a very uncomfortable feeling about it and will discuss it further with the CAO as the file has been forwarded. I have read this synopsis more carefully and I would go as far as to suggest the charge of Criminal Harassment should be withdrawn on August 27. I will let a CA review.

Sergeant Flindall, may I ask you to view the two occurrences and to consider my thoughts.

[REDACTED]  
Thank you,

Bob

This is to acknowledge the brief you submitted for review by this office. You requested that it be considered in determining whether or not charges are justified. This brief does not constitute a Crown brief capable of doing so at this point. Consider the following:

1. the synopsis makes a series of statements of conclusion about what [REDACTED] is done in the past.
2. the video statement summaries of [REDACTED] and [REDACTED] are similar.
3. the witness statements provided by [REDACTED] either character references for him or are so vague in the incidents they describe that they can not be related to any specific allegation stated in the synopsis.

You need to define the complaint(s) of illegal behaviour and then investigate to see if you can obtain evidence that relates specifically to each of those complaints. This evidence needs to include more than just [REDACTED]. They will be viewed by the court as adversaries of [REDACTED] and as such their evidence will be tempered, as will his, by the fact that they all have "axes to grind" in making the other side out to be the culprit.



## GENERAL INFORMATION FORM

Therefore, in addition to defining the complaint(s), you need to analyse the assertions of the complainants and identify areas where you should be able to find other evidence to confirm or refute the complaint(s).

For instance, with regard to [REDACTED] statement:

1. narrow down the "one point" he saw [REDACTED] prowling by night. There must be police records that prove the date if there was a police warning given to [REDACTED] or to refute the allegation of [REDACTED] if it did not happen. Get a statement from the officer involved as to all that was said and whether or not there was evidence that justified the warning. Secure all evidence/statements that can verify the incident.
2. identify who at [REDACTED] place of employment received calls from [REDACTED] how many were made, when and what was said. Who from the PLCPS cautioned [REDACTED] and why? Get all possible evidence /statements/records to verify the incident's). Remember it is the repeated nature of any type of harassing conduct that makes the case. You need evidence to establish that.
3. the children should have been able to see [REDACTED] taking pictures. While they are not truly independent, they are still witnesses. I need further information regarding the court appearance you refer to and those that were involved. Some times and dates would help. You can contact court services for a check of their records if [REDACTED] can't help.
4. The allegation of [REDACTED] delivering mail to [REDACTED] and then attempting to force his way into the house has no flesh to the bare bones statement. Was she the only witness? What was said by both parties? Do we know why [REDACTED] would have delivered mail to people he so obviously, on their evidence, wants to bother? Were any admissions made to others afterward that verify his visit there?
5. You need to take the same approach to each and every assertion of fact in the synopsis or in a statement made to you.

This will involve checks with the township personnel, neighbours, [REDACTED] employer, [REDACTED] other officers all with a view to corroborating any allegation that you feel constitutes an offence. This office will be more than happy to assist be prosecuting offences where a thorough investigation has been done and charges are deemed warranted, however, there is precious little in the material you have submitted that will discharge the Crown's burden of proof at a trial. We cannot afford to waste trial time on a tag team match between the [REDACTED] and the [REDACTED]. Too many allegations have flown back and forth, including the prior charging of [REDACTED] before there was clear and cogent evidence that he had committed a criminal offence. Any charge based on his complaint now will be viewed by the [REDACTED] and perhaps the court, as payback. There is a natural tendency to avoid these messy neighbour disputes in the hopes that things will calm down. That leads to a lack of thorough and corroborative police investigation and a response from the Crown that if there is no independent evidence distinguishing the good guys from the bad guys the case will go nowhere.

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Do not suggest to the [REDACTED] at the Crown will not prosecute their complaints. That is not the reality of the situation. This office will prosecute any complaint, including theirs, if the investigation can be viewed as thorough and corroborative of those complaints. Without that type of investigation judges will castigate the Crown for what it did not do to assist the court in coming to conclusions beyond a reasonable doubt.

Brian Gilkinson,  
Crown Attorney

In my view Sgt Flindall does not demonstrate in these examples KSA of his position nor has he monitored the outcome of his delegation effectively.

File 233-10



## GENERAL INFORMATION FORM

DISCLOSURE DATE: 01 Sep 09

DISCLOSED BY: M.R.J. Campbell #6385 S/Sgt.

MEMBER'S SIGNATURE

(September 1, 2009) Counsel's additional disclosure (March 23, 2012):

## GENERAL INFORMATION FORM

Bureau / Region Central

Date: 01 Sep 09

Member	FLINDFALL, Rob	Badge #	9740
Supervisor	Campbell, Ron	Badge #	6385

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RATING
Does Not Meet Requirements

### NARRATIVE ( Incident # Optional )

Inc # SP09164458, SP09175128, RM09092516

#### Background:

As a result of many discussions, emails and directives shift supervisors were to monitor and screen Crown briefs of their members prior to them being submitted.

In July 2009 it was stressed again the importance of Shift supervisors reviewing the briefs and ensuring they contained the required information to warrant charges and provide proper disclosure as the Court Office would be reduced by one member. This would make it all the more important that shift supervisors review members work.

In August 2009 Cst. Mike Jack had been identified by his supervisors as having many issues including his job knowledge as related to federal statutes.

Again increasing the diligence required in the review of his work.

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On the 31st of August 2009 Sgt Flindall advised he was too busy to review the DVD's while working the weekend.

Cst Jack is a probationary officer and by Sgt Flindall's own admission the briefs were lacking and ultimately he was the person responsible for review of the submissions prior to them being submitted.

Attached are Sgt Flindall's comments in relation to work completed by the member.

"I have reviewed all of the documentation and correspondence, including emails from Ron and Brian who have summed up the situation perfectly. I am in agreement that there is simply not enough information to proceed with a criminal harassment charge at this time. In review of PC JACK's statements, not only in this matter but a few other matters I am reviewing, he has done a poor job in attempting to elicit the basic required information that one would expect to garner from victim/witnesses. I can only chalk this up to inexperience."

Aggravating to me is that this duty entrusted to Sgt Flindall was not done but in addition to my own scheduled duties I have provided at least 12 hours of my time which should have been completed by him.

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HBBR

# GENERAL INFORMATION FORM

Re: Constable Michael Jack

To: Staff Sergeant Campbell and Sergeant Flindall

Hello Ron and Robert,

May I respectfully suggest that Constable Jack needs some guidance?

I am seeing a bit of an ongoing pattern in his work that raises concerns.

Referring to the most recent file on an accused, William Stephenson SP09173128.

First Appearance is August 27.

I got the Information sworn this morning. Following which, the file was returned by CAO staff to the OPP Court Office to be reviewed.

There are apparently five witnesses and one complainant.

- The statement of the complainant is not present in the file
- Notes: Copies of notebook notes with author unknown (however, probably Jennifer Payne. I will label as probably a simple oversight on her part)

Perhaps of more concern are deficiencies in the synopsis of the circumstances. I am wondering if it might be appropriate for Constable Jack to inform the reader who the players are? There are five witnesses indicated in the witness list and one complainant, none of which are identified in the synopsis.

The synopsis, as you will see, concludes with " Then Connery's family and friends went to the main office to see the resort manager who contacted the police."

This synopsis lacks the basic principles of the conclusion i.e. the arrest . Who, What, Where, When, How and Why.

Similarly, in the case of John Williamson SP09164458, the synopsis in this case contains a significant amount of irrelevant information. There is little provided on the allegation of Criminal Harassment. In fact, I got the Information sworn yesterday, however in review, I have a very uncomfortable feeling about it and will discuss it further with the CAO as the file has been forwarded. I have read this synopsis more carefully and I would go as far as to suggest the charge of Criminal Harassment should be withdrawn on August 27. I will let a CA review.

Sergeant Flindall, may I ask you to view the two occurrences and to consider my thoughts.

William Stephenson SP09173128

John Williamson SP09164458

Thank you,

Bob

This is to acknowledge the brief you submitted for review by this office. You requested that it be considered in determining whether or not charges are justified. This brief does not constitute a Crown brief capable of doing so at this point. Consider the following:

1. the synopsis makes a series of statements of conclusion about what Mr. Anderson has done in the past.
2. the video statement summaries of Julie Woodhouse and Jeffrey Standaert are similar.
3. the witness statements provided by Mr. Standaert are either character references for him or are so vague in the incidents they describe that they can not be related to any specific allegation stated in the synopsis.

You need to define the complaint(s) of illegal behaviour and then investigate to see if you can obtain evidence that relates specifically to each of those complaints. This evidence needs to include more than just Mr. Standaert or Ms. Woodhouse. They will be viewed by the court as adversaries of Mr. Anderson and as such their evidence will be tempered, as will his, by the fact that they all have "axes to grind" in making the other side out to be the culprit.

## GENERAL INFORMATION FORM

Therefore, in addition to defining the complaint(s), you need to analyse the assertions of the complainants and identify areas where you should be able to find other evidence to confirm or refute the complaint(s).

For instance, with regard to Mr. Standaert's statement:

1. narrow down the "one point" he saw Anderson prowling by night. There must be police records that prove the date if there was a police warning given to Anderson or to refute the allegation of Standaert if it did not happen. Get a statement from the officer involved as to all that was said and whether or not there was evidence that justified the warning. Secure all evidence/statements that can verify the incident.
2. identify who at Standaert's place of employment received calls from Anderson, how many were made, when and what was said. Who from the PLCPS cautioned Anderson and why? Get all possible evidence /statements/records to verify the incident(s). Remember it is the repeated nature of any type of harassing conduct that makes the case. You need evidence to establish that.
3. the children should have been able to see Anderson taking pictures. While they are not truly independent, they are still witnesses. I need further information regarding the court appearance you refer to and those that were involved. Some times and dates would help. You can contact court services for a check of their records if Standaert can't help.
4. The allegation of Anderson delivering mail to Mrs. Standaert and then attempting to force his way into the house has no flesh to the bare bones statement. Was she the only witness? What was said by both parties? Do we know why Anderson would have delivered mail to people he so obviously, on their evidence, wants to bother? Were any admissions made to others afterward that verify his visit there?
5. You need to take the same approach to each and every assertion of fact in the synopsis or in a statement made to you.

This will involve checks with the township personnel, neighbours, Standaert's employer (MNR), other officers all with a view to corroborating any allegation that you feel constitutes an offence. This office will be more than happy to assist in prosecuting offences where a thorough investigation has been done and charges are deemed warranted, however, there is precious little in the material you have submitted that will discharge the Crown's burden of proof at a trial. We cannot afford to waste trial time on a tag team match between the Andersons and the Standaerts and Woodhouses. Too many allegations have flown back and forth, including the prior charging of Mr. Standaert before there was clear and cogent evidence that he had committed a criminal offence. Any charge based on his complaint now will be viewed by the Andersons, and perhaps the court, as payback. There is a natural tendency to avoid these messy neighbour disputes in the hopes that things will calm down. That leads to a lack of thorough and corroborative police investigation and a response from the Crown that if there is no independent evidence distinguishing the good guys from the bad guys the case will go nowhere.

Do not suggest to the Standaerts that the Crown will not prosecute their complaints. That is not the reality of the situation. This office will prosecute any complaint, including theirs, if the investigation can be viewed as thorough and corroborative of those complaints. Without that type of investigation judges will castigate the Crown for what it did not do to assist the court in coming to conclusions beyond a reasonable doubt.

Brian Gilkinson,  
Crown Attorney

In my view Sgt Flindall does not demonstrate in these examples KSA of his position nor has he monitored the outcome of his delegation effectively.

# GENERAL INFORMATION FORM

DISCLOSURE DATE: 01 Sep 09

DISCLOSED BY: M.R.J. Campbell #6385 S/Sgt.

## MEMBER'S SIGNATURE

According to the negative 233-10, Sgt. Flindall did not meet the requirements in the **Job Knowledge & Skills** and **Leadership Skills** categories. If that is so, is one to believe that not meeting the requirements in those categories was a prerequisite to one being granted the role of Acting Staff Sergeant shortly after this negative 233-10 had been served on him? Also, it would appear that the narration in support of these two identified criteria would also support a '**Does Not Meet Requirements**' rating in the **Problem Solving Skills, Interpersonal Attributes, Delegation/Supervision** and possibly even other criteria. It is clear that Sgt. Flindall was issued the negative 233-10 in relation to the calls he assigned to me. The two occurrence numbers with respect to which Sgt. Flindall was issued the negative 233-10 – SP09164458 and RM09092516 – match the occurrence numbers of the calls for service that I was assigned directly by Sgt. Flindall to handle.

RATING
Does Not Meet Requirements

## NARRATIVE ( Incident # Optional )

Inc # SP09164458, SP09175128, RM09092516

## My list of calls for service (Exhibit 47):

SP09164458	OPP	Harassment	2009/07/23 12:53	Cleared by charge - 567 LINDSAY RD, SMITH- ENNISMORE-LAKEFIELD TWP, ON Canada (Area: 1054, Duty locn: 1105, Beat: 20, ESZ: 15038) Reportable / JACK - HARRASSING
RM09092516	OPP	Harassment	2009/08/05 21:56	Unfounded - 59 LAKESHORE BLVD, SMITH- ENNISMORE-LAKEFIELD TWP, ON Canada (Area: 1044, Duty locn: 1105, Beat: 30, ESZ: 80790) ONGOING NEIGHBOUR DISPUTE OVER PAST 7 YEARS, SEE REPORT, PC JACK 12690

First, in order to properly investigate the cases it would have required one with adequate training in general investigative techniques and a fair amount of policing experience neither of which I had nor could have had at the time. Second, in order to properly investigate the cases it would have required one to invest considerable amount of time, but since they were assigned to me (front line probationary rookie) in the midst of the busiest time of the year I did not have the necessary time. Third, I was literally left to my own devices to do the investigations. However, Sgt. Flindall maliciously yet very conveniently rated me with numerous **'Does Not Meet Requirements'** ratings in my Month 6 & 7 and Month 8 fabricated PERs in reference to those investigations and then falsified my refusal to sign them.

I was negatively documented (by Sgt. Flindall) and negatively evaluated (by Sgt. Flindall) in multiple evaluation criteria in two of my PERs that accounted for 3 months of my performance for which he himself (Sgt. Flindall) received negative documentation because it was his failure in the first place!

**In my Month 6 & 7 PER (09 Jun 09 – 09 Aug 09) in the Listening Skills section Sgt. Flindall / PC Payne noted the following with the 'Does Not Meet Requirements' rating:**

#### **LISTENING SKILLS**

Expresses active listening skills; accurately understands and attends to the facts and feelings of the sender. Able to clarify and re-frame the message with the sender in a professional manner.

SP09164458 - Criminal Harrassment --- On the 23<sup>rd</sup> of July 2009, PC JACK was involved in a Criminal Harassment investigation. PC JACK was provided instruction by his Sergeant on how to complete the task, including instruction to not complete a video statement transcription. PC JACK was expected to complete the crown brief on overtime, with the end result of having the accused in custody or the brief complete for an arrest warrant the following day. PC JACK disregarded the direction given to his Sergeant and only completed a video transcription and General Occurrence report. 233-10 documentation on file.

Does Not Meet Requirements

**In my Month 6 & 7 PER (09 Jun 09 – 09 Aug 09) in the Personal Accountability section Sgt. Flindall / PC Payne noted the following with the 'Does Not Meet Requirements' rating:**

#### **PERSONAL ACCOUNTABILITY**

Takes responsibility for one's own actions and consequences and willingly deals with any identified performance deficiencies.

Specific example:

SP09164458 - Criminal Harassment - 233-10 documentation on file as indicated in other sections of PCS066.

PC JACK has difficulty accepting responsibility for his actions where these actions have either been deemed inappropriate or deficient. In this above noted incident, PC JACK has not taken responsibility for not following the directions of his Sergeant.

In the future, PC JACK is expected to take responsibility for his own actions, learn from his mistakes and apply this to his future investigations so that these deficiencies don't happen again.

Does Not Meet Requirements

**In my Month 6 & 7 PER (09 Jun 09 – 09 Aug 09) in the Planning & Organizing section Sgt. Flindall / PC Payne noted the following with the 'Does Not Meet Requirements' rating:**

## PLANNING & ORGANIZING

Sets priorities, co-ordinates and schedules each task in a logical manner while exercising time management skills.

Specific example:

PC JACK is a very organized person. He usually comes to work with a pre-written task list

However, it is viewed that PC JACK cannot multitask. He has difficulty prioritizing what needs to be done on his list.

SP09164458 - Criminal Harassment - PC JACK was giving a list of specific instructions for dealing with this call by SGT FLINDALL. They were to have night shift make attempts to locate and arrest suspect; do up brief for this case and submit before going home. Brief to include; synopsis, photocopies of witness statements; summary of victim video statement; show cause hearing report. If not arrested then brief can be submitted for warrant.

PC JACK entered a GOR which was not required that evening. He transcribed the video statement which was not required (after leaving the detachment and attending Staples Business Depot and purchasing headphones - to listen to the statement). PC JACK did not complete and submit a bail /warrant brief as he was directed to do by SGT FLINDALL. He requested CST BROCKLEY complete his brief synopsis for him. This reflects his poor time management skills, working on items he wasn't told to do an weren't required at the time

Does Not Meet Requirements

**In my Month 8 PER (09 Aug 09 – 09 Sep 09) in the Planning & Organizing section Sgt. Flindall / PC Payne noted the following with the 'Does Not Meet Requirements' rating:**

## PLANNING & ORGANIZING

Sets priorities, co-ordinates and schedules each task in a logical manner while exercising time management skills.

Specific example:

During this evaluation period, PC JACK has only worked 6 shifts due to his holiday schedule. Because of this, the previous evaluation example has been carried over to this evaluation:

PC JACK is a very organized person. He usually comes to work with a pre-written task list

However, it is viewed that PC JACK cannot multitask. He has difficulty prioritizing what needs to be done on his list.

Does Not Meet Requirements

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I hope that the Tribunal will take particular note of the following paragraphs:

**In this time frame Sgt Flindall had received an email from the Court Officer advising of short comings of a Crown brief submitted by the member. Not having reviewed the briefs I spoke to Sgt Flindall about this on the date the message was sent. Sgt Flindall advised he had reviewed the matters and it was simply a issue of the style or wording of the synopsis and he would look at it but the matter was a legitimate charge.**

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**On the 31st of August 2009 Sgt Flindall advised he was too busy to review the DVD's while working the weekend.**

**Cst Jack is a probationary officer and by Sgt Flindall's own admission the briefs were lacking and ultimately he was the person responsible for review of the submissions prior to them being submitted.**

**Aggravating to me is that this duty entrusted to Sgt Flindall was not done but in addition to my own scheduled duties I have provided at least 12 hours of my time which should have been completed by him.**

**In my view Sgt Flindall does not demonstrate in these examples KSA of his position nor has he monitored the outcome of his delegation effectively.**

In reflection on this revelation (second last paragraph above) from the Respondent and in absence of evidence to the contrary I see the following stemming from the **prejudices** of my supervisor towards me:

- I was criticized and documented for accumulating 30 hours of overtime in a Criminal Harassment investigation whereas S/Sgt. Campbell accumulated 12 hours of his time simply addressing an e-mail from the Chief Crown Attorney Brian Gilkinson,
  - First, I incurred 20 hours of overtime, but since 1 hour of overtime equals 1.5 of regular time, they conveniently turned it into 30 hours of overtime.
  - Second, I had to drive to the accused's residence, which was located in the City of Kawartha Lakes (outside of the Peterborough County), seize, process and then lodge his 17 registered firearms and ammunition. That was a very time consuming process.
  - Third, my overtime on Friday afternoon, July 24, 2009, was not approved by S/Sgt. Campbell so I basically worked an extra shift for free.
- The tenderness of my service thus far (at the time of my criticism) was never taken into consideration,
- The fact that I was left to handle complex investigations beyond my scope of knowledge and expertise was never taken into consideration,
- Common sense would dictate that what should take an experienced officer a few hours of work would take an inexperienced officer (front line probationary rookie) several hours of work,
- The overall desire to document me negatively appears to be paramount whereas common sense would dictate once again that a probationary officer is going to make several mistakes and blunders and the need to speak to such an officer with a positive attitude of addressing the deficiencies while building the officer up should be the priority,

- If Sgt. Flindall had only focused on building me up (including screening the briefs) he would not have to waste enormous amounts of his time finding faults with me and negatively documenting me. Instead, he would have had the time to attend to his duties and there would have been no need for S/Sgt. Campbell to serve him with the negative 233-10s. Alas, Sgt. Flindall was driven by racial hatred towards me and people who are driven by hatred act irrationally.

To reiterate the point of wasted time I have appended excerpts from S/Sgt. Campbell's e-mails to Insp. Johnston on August 18, 2009 (Volume 3, W-3) and on August 21, 2009 (Volume 3, V-20):

**(Volume 3, W-3):**

Since that decision was made and with the background of Cst. Jack's call to S/Sgt Kohen and Sgt Flindall's statements to Cst. Jack.

a) his job was in jeopardy - for failing to follow direction given to him on cc investigation- he answer shopped and didn't do as instructed.

b) he would be watching his every move and documenting it

c) charge under the HTA for driving error on the 12th of Aug

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)

It is my feeling that it is because he is feeling vulnerable as a new employee, with a language issue, and an immigrant to the country that he is feeling the stress of his supervisors comments no matter how well intentioned it is likely resulting in a poisoned work environment and or a possible H.R. complaint. I think the supervisor has lost the focus he is here to assist and correct Cst. Jack as well as discipline him for transgressions that are not learning issues. I have touched on this with Sgt Flindall and will do so again on Wednesday in private.

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.

**(Volume 3, V-20):**

In answer to your question why was he moved.

I had cc you and A/Supt Borton regarding the driving issue. I also added my thoughts on the NCO Flindall losing objectivity with him. He has his shift and Sgt Banbury's shift all watching this officer and reporting any screw ups. Couple this with statements from Sgt Flindall he admits making but not in the context that Cst Jack has reported.

1. his job is in jeopardy

2. he will be documenting his every move and he will be getting paper on issues that have been discussed. ( this was after not following his direction on Criminal Harassment charge)

Then he screws up with the cruiser witnessed by Flindall and Payne and is given a ticket under the HTA and a 233-10.

Sgt Banbury comes to me complaining Jack has feigned illness the next day. I investigated and thank goodness he wrote his medical issues in his daily journal Sat afternoon along with a witness who assisted him a CP office in Buckhorn the Sat afternoon. He reports this continued through the night. I really think it is stress related from the scrutiny he is under. ( Banbury wanted him charged with deceit...he should know all about that) In any event this is unfounded.

Finally his present coach Shawn Filman is going off on 4 months parental leave starting in Sept. 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..

Long and short Sgt Flindall was advised that supervision is an issue here. That Cst. Jack needs one on one supervision to correct the problems. Work Improvement plans need to be in place and direct supervision from a coach. Both he and Mitch brought up that everything has been thrown at him at once without prior issues reported on his PCS 066. It is also apparent Cst. Jack is not following direction.

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.

Then yesterday I got a call from Brian Gilkinson about the utter poor quality of 3 Crown briefs handed in by Cst. Jack. He stated there is no basis for a charge in any of the cases as all it is or amounts to is a collection of one line statements by the alleged complainants with no basis or facts to prove the accused actually did it nor do they outline the elements of the offence. This would be for the [REDACTED] complaint, [REDACTED] complaint of Criminal Harassment, ( exactly what Sgt Flindall ) had given him a negative 233-10. Interestingly enough Sgt Flindall had just got done complaining to me about Bob, L, from the court sending this very brief back saying there was no offence for the very same reasons that the Crown was now stating. So I brought this to his attention that again it was simply unsubstantiated rumours and investigation needed to be completed. The same goes for a brief on [REDACTED]. So again I asked Rob where is the coach officer who should be guiding this and where is the vetting of the briefs by him!!! Sgt Flindall has now taken on the responsibility of following up on both cases involving Cst. Jack's briefs and investigations as this is as much of a screw up by him.

**(September 2, 2009) (Volume 2, N-7):**

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

**From:** McNeely, Dave (JUS)  
**Sent:** Wednesday, September 02, 2009 3:58 PM  
**To:** Campbell, Ron (JUS)  
**Cc:** Lungstrass, Chris (JUS)  
**Subject:** RE: Driving Assessment.....Thursday 10 Sept 2009 - Kingston

Ron

Looks like the 10th it is - my cell is 613-217-7294 - I like to meet at Tim Hortons - brand new one - 401 hwy to Hwy 15 off ramp - (East end of Kingston) turn right on Hwy 15 at lights (exit) ramp - left at the next set of lights on Hwy 15 - Tim's is visible from the road. I will meet your officer there - if he arrives earlier he can call my cell and I will meet him sooner. The assessment will be completed w/o sun glasses on. Plain clothes. Can you advise officers name, badge and DOB.

I will drive the route the day before to make sure there are no issues.

Any questions just call - 503-4561

Dave

**(September 2, 2009) (Volume 2, N-7):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 2, 2009 4:35 PM  
**To:** McNeely, Dave (JUS); Postma, Jason (JUS); Nie, Richard (JUS)  
**Cc:** Lungstrass, Chris (JUS); Johnston, Mike P. (JUS); Lee, Dave E. (JUS)  
**Subject:** RE: Driving Assessment.....Thursday 10 Sept 2009 - Kingston

Thanks Dave, I have cc the coach and A/Sgt so they can have him there. Ron

**(September 3, 2009) (Volume 1, I-100):**

**From:** Gozzard-Gilbert, Shelley (JUS)  
**Sent:** September 3, 2009 9:23 AM  
**To:** Flindall, Robert (JUS)  
**Cc:** Campbell, Ron (JUS)  
**Subject:** Michael JACK's PCS4

Good morning Rob

I am a little confused. You stuck a sticky to Michael Jack's PCS4 and asked me to change floater time to vacation time and I don't understand.

Ron sent Michael to me to figure out his time off. (I have never received the unscheduled leave form so I don't know what it says for time off) The floater sheets were not up to date (week of 21-27 June was the last entry) so I sat with Ron and he told me what days Michael wanted off and when he was switching over to the other platoon. By the middle of July Michael had 51.5 hour in his floater bank. I know there is always rumblings about the floater banks being too high so I didn't see the issue with using those hours.

Sorry if I screwed things up but I updated his floater sheets until the week of Aug 23-29 and then switched him over to Platoon D and made him up his new sheets. I have photocopied the old sheets and put them in your diary slot.

I am off Friday and won't be back in until Tuesday. If you still want them changed please let me know.

Thanks  
Shelley

The fact that already by mid-July 2009 I had 51.5 hours in my floater bank speaks about how busy I was throughout the summer. Considering that Shelley and I sat together as she updated my floater sheets around August 19, 2009, my floater bank balance was even higher which in turn reflected on how busy I was.

It is the responsibility of every shift Sergeant to keep floater sheets up-to-date. My floater days' bank was not up-to-date by nearly 2 month. That further attests to Sgt. Flindall lack of care and negligence with respect to his supervisor's duty. Sgt. Flindall focused so much on targeting and discrediting me that he neglected his supervisor's duty to regularly update my floater sheets.

(September 3, 2009) (Volume 1, I-25):

From: Campbell, Ron (JUS)  
Sent: September 3, 2009 9:37 AM  
To: Gozzard-Gilbert, Shelley (JUS); Flindall, Robert (JUS)  
Cc: Johnston, Mike P. (JUS)  
Subject: RE: Michael JACK's PCS4

Things were not screwed up by Shelley. What was entered on the SGT schedule was the dates were CTO and not vacation. We are not to be saving up floater days and the practice in this Detachment must stop. Supervisors need to work on reducing the floater hours in the scheduled time frame. I realize there are going to be some issues this summer with the G8 and Olympics in Feb but the floaters should be incurred and taken as soon as possible. Cst. Jack can carry a full year of vacation. There was sufficient time with shifts he worked for others so rather than monkey around with it. It will stand as is. Tks Ron

In light of the fact that S/Sgt. Campbell is acknowledging that I worked for others how could I be accused of not putting an effort into the job? How could I be accused of not being a team player? On the contrary, I tried the best I could to be a team player, but given the racially charged environment I was in, few wanted me on their team.

(September 3, 2009) (Volume 3, X) S/Sgt. Campbell's notes:

1650. S/Sgt Flindall in  
Office Discussed  
DV not typed  
  
Discussed DV. DV  
also needs to be  
given opportunity  
to come in Person  
- stated just today  
he had been as  
leave not due until  
on tonight  
  
Forever Eng 232-10  
Re C. Polarity  
- Discussed Cen-Door  
Situation regarding  
3 Agavekhanis  
We know Cst. Jack  
needed less & has  
issues. Issue of  
Complaint writer  
or DV's  
Discussed 3 issues  
- Atsumi

1720 He agrees on suspending  
DV's until after  
JUL that he is  
involved with  
Almenan or anyone  
Crime "Gangster"  
Re needs to be in  
Gym. phat.  
Running A-11  
Financial. desire  
these are EAT  
that is OPR case  
Annoy to confirm  
what he is saying  
& place in memo  
to Insp. ? myself.  
Also discussed  
as more & more  
= vulnerability of  
probationary C.  
injuries & injury  
issues.  
1750 OPR Duty

(September 3, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:

03 Sep 09

1650hrs

Sgt Flindall in office discussed 8 D.V. not approved

Discussed DV DD male needs to be given opportunity to come in person. States just running behind busy as **Unknown** word not done will do tonight.

Served UNKNOWN word 233-10 Re. C Policing

Discuss Crown Brief situation regarding 3 aggravating is he knows Cst. Jack needed help & had issues of complaint matter of DVD's Discuss Standaret and Anderson

1720

He advised of suspicious issue with Mike Jack that he is involved with Armenian organized crime "Ghost person" Re; Warrants and in Gym photo Running ARI Financial claim these are GAF plated OPP cars advised to confirm what he is saying and place in Ms mail to Inspector and myself also discussed comments & WDHP & vulnerability of probationary and immigrant and language issues.

It is evident from S/Sgt. Campbell's notes that he yet again discussed with Sgt. Flindall WDHP and valnerabiity of my status as a probationary and an immigrant employee. Alas, Sgt. Flindall pursued his targetting of me with all he had.

**The Promise of the OPP stands out in stark contrast to the aforementioned:**

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

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

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

**03Sep09 - S/Sgt Campbell**

- 1650hrs - S/Sgt. Campbell met with Sgt. Flindall to discuss performance issues
- 1720hrs - Sgt. Flindall discloses that PC Jack is involved with [REDACTED] Organized Crime and is running OPP under cover cars involved in an ongoing investigation. Sgt. Flindall advises information came from a gym photo shown by Jack to other shift members in the spring. Sgt. Flindall advised to confirm his information and put it in writing. Sgt. Flindall advised to forward these to Inspector Johnston as S/Sgt. Campbell was away 04 Sep 09.
- Sgt. Flindall and S/Sgt. Campbell discussed earlier comments made by Sgt. Flindall WDHP and the vulnerability of probationary, immigrant and language difficulties.

My response to the above 3 bullet point entries is as follows:

**Response to the 1<sup>st</sup> bullet point entry is as follows:**

Please note that S/Sgt. Campbell served Sgt. Flindall with a negative 233-10 in reference to his performance issues, the bulk of which was in respect to his neglect of supervision of me. Could one just imagine how such an authoritarian person as Sgt. Flindall was maddened by receiving a negative 233-10 over me? Not that it addressed the problem or helped me in any way. In fact, it made my situation even worse.

**Response to the 2<sup>nd</sup> bullet point entry is as follows:**

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

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

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

Furthermore, the innocent act of supposedly running an OPP undercover vehicle's license plate was conveniently linked to a six year old photograph of mine with five people from a gym (two of whom happened to be a subject of interest to PC Brockley and involved in drugs) by Sgt. Flindall thereby giving him ammunition to convince his supervisors that I might be involved in organized crime. That was a serious statement he made about me to S/Sgt. Campbell and extremely damaging. It was completely vexatious and made in bad faith due to his prejudicial hatred of me.

**Response to the 3<sup>rd</sup> bullet point entry is as follows:**

Sgt. Flindall failed to heed to S/Sgt. Campbell advice. Despite that S/Sgt. Campbell had already warned Sgt. Flindall on August 17, 2009, about losing objectivity with me and a potential H.R complaint Sgt. Flindall failed to heed to S/Sgt. Campbell warning. As I have stated earlier, Sgt. Flindall was driven by racial hatred towards me and people who are driven by hatred act irrationally.

**(September 3, 2009) (Volume 3, W-2):**

**From:** Campbell, Ron (JUS)  
**Sent:** Thursday, September 03, 2009 5:40 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** Rob Flindall

Served Rob your 233-10 and discussed the brief issues. I advised him he would be getting one and I would draft up 233-10 for this as there are aggravating factors. He was not happy about this.

We then discussed his comments to Mike Jack and we have left that as a discussion and it has been covered off.

We also discussed the domestics he advises he is aware of all and will review the matter I brought to his attention and will get them done tonight.

**He then proceeded to tell me info that he thinks Mike Jack was hanging out with organized crime at the Gym he went to as Jamie Brockley recognized people who are his friends that he knows from Drug unit dealings.**

**I told him to put it in a email and attempt to confirm some of these statements. To send it to you and he may need to do a briefing note on after you review. He did not have the full names and was going to spell it out in an email tonight. Ron**

I hope that the Tribunal will take note of the timing:

- Sgt. Flindall was negatively documented for his discreditable conduct towards me and lack of supervision.
- Sgt. Flindall immediately proceeded to tell S/Sgt. Campbell that I was hanging out with organized crime.

What a blatant and malicious lie! What an abuse of supervisor's authority! What a deceit! What an insatiable and vengeful appetite to terminate me!

This revelation from the Respondent whereby Sgt. Flindall was issued the negative 233-10s for his neglect and discreditable conduct towards me serves to prove the lack of proper guidance I should have received during my probationary term. The 233-10s also serve to establish the Respondent's knowledge that I was the only one being subjected to this type of treatment. A question then rises from these observations: Why did the Respondent not apologize or have Sgt. Flindall apologize to me for his prejudices towards me? Why did the Respondent choose to keep quiet about it and simply pretend that everything was OK thereby allowing everyone in the detachment to believe that I simply did not have what it took to be a police officer? More important, S/Sgt. Kohen who was one of the managers of OPP's Human Resources knew (by virtue of S/Sgt. Campbell communication to her) that I was being discriminated against (Sgt. Flindall had everyone watching me and that there could possibly be a Human Rights complaint rising from his actions towards me) yet failed to take appropriate measures to stem it. In S/Sgt. Kohen's subsequent communications with the OPP's Human Resources Unit Commander, Insp. David Lee regarding my PERs she deliberately omitted advising him of the discrimination I was being subjected to. Even S/Sgt. Campbell and Insp. Johnston did not advise him of the discrimination I was being subjected to. Hence, Insp. David Lee, Superintendent Hugh Stevenson, Chief Superintendent Mike Armstrong and everyone up to the Commissioner believed those fabricated and falsified PERs (Month 6 & 7 to Month 11) to force my termination.

Though it might seem that I am implying that managers in the upper echelon of the OPP never knew that I was being targeted and discriminated against, I must stress the reality that Superintendent Doug Borton was aware of it all through D/Cst. Karen German's investigation. He then decided to switch me to a new platoon. Hence, his rank and knowledge of what was happening to me at the time spoke for the OPP at large. In reflection I resolve to believe that the OPP was very well aware that I was discriminated against, but decided to leave me to my own devices based on the submitted PERs and the speculation that I was involved with organized crime. They firmly believed in preserving the so called image of the OPP and that it would only be a matter of time before the maggot would be exterminated and the image restored.

**(September 4, 2009) (Volume 2, N-7):**

**From:** Lungstrass, Chris (JUS)  
**Sent:** September 4, 2009 1:20 PM  
**To:** Campbell, Ron (JUS); McNeely, Dave (JUS); Postma, Jason (JUS); Nie, Richard (JUS)  
**Cc:** Johnston, Mike P. (JUS); Lee, Dave E. (JUS)  
**Subject:** RE: Driving Assessment.....Thursday 10 Sept 2009 - Kingston  
**Importance:** High

Ron,

My apologies for having to do this, but we need to postpone this for a week or so please. Sgt McNeely wears many hats around here and we've had a bit of a crisis arise today that will require his full attention next week. We will gladly complete this, but the week of the 14th would be much better.

Chris Lungstrass  
Insp. 6110  
Manager, E.R. Traffic & Marine  
613-284-4500 (O)  
613-295-5401 (C)

**(September 4, 2009) (Volume 2, N-7):**

**From:** McNeely, Dave (JUS)  
**Sent:** Friday, September 04, 2009 3:46 PM  
**To:** Campbell, Ron (JUS)  
**Subject:** FW: Driving Assessment.....Thursday 10 Sept 2009 - Kingston  
**Importance:** High

Ron - sorry about this - HSD tasked us (me) with a financial project for our units - it will take all of next week to complete. The next date you guys had was Friday 18th - let me know if that is still good.

Dave

### **Proof that the Respondent contravened Ontario Provincial Police Orders:**

**(September 8, 2009) (Volume 1, I-24):**

From: Flindall, Robert (JUS)  
Sent: Tuesday, September 08, 2009 4:09 PM  
To: Campbell, Ron (JUS)  
Subject: PCS66 JACK8.doc

Ron,

Here's the digital copy of PC JACK's next evaluation. A signed copy by Filman and I, as well as PC JACK's copy is sitting on your desk.

Rob

A signed copy of my Month 8 PER by Sgt. Flindall and PC Filman was already sitting on S/Sgt. Campbell desk while I was still off duty on the so called vacation! I returned to work on September 9, 2009. Where was Sgt. Flindall's and PC Filman's duty to hold an evaluation meeting with me? They signed my PER before even presenting it to me and later on fraudulently inscribed "REFUSED" in place of my signature. They even checked off the three points that they were supposed to go over with me. What a scheme! What an abuse of authority!

## Evaluation Meeting

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

**Employee's Comments:**

Employee's Signature:

REFUSED

Date:

## 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, Probationary Constable Evaluation Report Guidelines (Volume 7, 5):

The probationary constable, coach officer, supervisor, and detachment commander shall sign the document and ensure that the probationary constable has been given the opportunity to provide comment/comment.

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.

**(September 8, 2009) (Volume 2, N-7):**

**From:** Campbell, Ron (JUS)  
**sent:** September 8, 2009 12:01 PM  
**To:** McNeely, Dave (JUS)  
**Cc:** Jack, Michael (JUS); Postma, Jason (JUS); Nie, Richard (JUS); Butorac, Peter (JUS); Lee, Dave E. (JUS); Kohen, Colleen (JUS)  
**Subject:** RE: Driving Assessment.....Thursday 10 Sept 2009 - Kingston

Dave the 18th is fine. Mike you will need to start at 1000hrs this date so you can drive to Kingston for the assesment. The black plain car will be made available. Sgt McNeely will forward to you and your Acting Sgt Jason Postma the directions and confirmation of the 18 Sep 09. I beleive the driving assesment will begin at 1330hrs. Ron

Jason you will need to amend the schedule. Ron

**(September 9, 2009) (Volume 1, I-24):**

From: Campbell, Ron (JUS)  
Sent: September 9, 2009 9:09 AM  
To: Flindall, Robert (JUS)  
Cc: Johnston, Mike P. (JUS); Lee, Dave E. (JUS); Kohen, Colleen (JUS)  
Subject: FW: PCS66 JACK8.doc

Rob, Please review my comments in Red. I think you need to expand on some areas even though he only worked 6 shifts with your platoon and took vacation I think you can expand on some areas. Also when you account for his time on the 6 shifts if there is a reason he only wrote 4 tickets what was he doing with his time. If he was completing follow-up or had a number of calls for service this should be mentioned and given credit for it. Any proactive things he has done. Please review prior to disclosure. Tks Ron

**(September 9, 2009) Counsel's additional disclosure (April 5, 2012):**

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

From: Campbell, Ron (JUS)  
Sent: September 9, 2009 9:09 AM  
To: Flindall, Robert (JUS)  
Cc: Johnston, Mike P. (JUS); Lee, Dave E. (JUS); Kohen, Colleen (JUS)  
Subject: FW: PCS66\_JACK8.doc

Rob, Please review my comments in Red. I think you need to expand on some areas even though he only worked 6 shifts with your platoon and took vacation I think you can expand on some areas. Also when you account for his time on the 6 shifts if there is a reason he only wrote 4 tickets what was he doing with his time. If he was completing follow-up or had a number of calls for service this should be mentioned and given credit for it. Any proactive things he has done. Please review prior to disclosure.  
Tks Ron

Please note the excerpt, '*Please review my comments in Red*'.

**Response to the Application (HRTA 2010-07633-I), paragraph 46:**

**46. Paragraphs 31 to 36 – All of the PERs attributed to Constable Filman were written by him. All the PERs were reviewed by Sergeant Flindall who may have sought revisions before the documents were finalized. The Applicant was subject to the same expectations as every other probationary constable. The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were**

The comments from S/Sgt. Campbell to Sgt. Flindall were not meant to be delegated to Cst. Filman. Rather they were meant to be worked upon by Sgt. Flindall who was the real author of my Month 8 PER. If the Respondent wants to assert that it was merely a formality in desiring to keep within the chain of command which is why it was addressed to Sgt. Flindall (who was the supervisor of PC Filman), then the Tribunal should wonder why PC Filman's e-mail address was not in the carbon copy address bar. As one can see in the following e-mail coach officer PC Nie was included in the carbon copy. What did PC Nie have to do with my Month 8 PER? I guess he needed it to smear the "clean slate" I had been advised of.

Furthermore, in my Month 8 PER (09 Aug 09 – 09 Sep 09) (Exhibit 27) in the *Traffic Enforcement* section Sgt. Flindall / PC Filman noted the following:

**TRAFFIC ENFORCEMENT**

**Specific example:**

During this evaluation period, PC JACK has only worked 6 shifts due to his holiday schedule. He has laid only 4 provincial offence notices during this time period in which he investigated 19 non-reportable occurrences and 1 reportable occurrence which was an Impaired Driver SP09191712.

**(September 9, 2009) (Volume 2, N-8):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 9, 2009 11:06 AM  
**To:** Flindall, Robert (JUS); Nie, Richard (JUS)  
**Cc:** Johnston, Mike P. (JUS); Butorac, Peter (JUS); Postma, Jason (JUS)  
**Subject:** FW: PCS66\_JACK8.doc

**Attachments:** PCS66\_JACK8.doc



PCS66\_JACK8.doc  
(129 KB)

Rob, Rich was in to see me and he will not disclose this until it is complete. He needs the Work improvement plans to start a basis of where Mike needs to improve. Please supply these for months 6/7 and this current month. Also Rich and I were taking and we recall from the last Prob Cst that the category remains what it was for the time before rather than no basis for rating. As such if he met a category in month 6/7 but this month you have no examples he still meets requirements or vice versa if he didn't meet requirements it remains does not meet.

**(September 9, 2009) (Volume 3, V-10):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 9, 2009 11:06 AM  
**To:** Flindall, Robert (JUS); Nie, Richard (JUS)  
**Cc:** Johnston, Mike P. (JUS); Butorac, Peter (JUS); Postma, Jason (JUS)  
**Subject:** FW: PCS66\_JACK8.doc

**Attachments:** PCS66\_JACK8.doc

Rob, Rich was in to see me and he will not disclose this until it is complete. He needs the Work improvement plans to start a basis of where Mike needs to improve. Please supply these for months 6/7 and this current month. Also Rich and I were taking and we recall from the last Prob Cst that the category remains what it was for the time before rather than no basis for rating. As such if he met a category in month 6/7 but this month you have no examples he still meets requirements or vice versa if he didn't meet requirements it remains does not meet.

**(September 9, 2009) (Volume 1, I-24):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 9, 2009 2:02 PM  
**To:** Kohen, Colleen (JUS); Flindall, Robert (JUS)  
**Cc:** Johnston, Mike P. (JUS); Lee, Dave E. (JUS); Nie, Richard (JUS)  
**Subject:** RE: PCS66\_JACK8.doc

Thanks Rich and I spoke after the intial email and we had the same discussion the category reverts back to what it was before either meets or not meets. This just re-affirms it. Ron

S/Sgt. Campbell was quite familiar in how to address e-mails to keep in line with chains of command. Hence the Tribunal can clearly see that his e-mail to Sgt. Flindall to revise my Month 8 PER was meant strictly for Sgt. Flindall to do so. Hence, they are all guilty of violating Ontario Provincial Police Orders with respect to who did my PERs. In reflection I now see that Sgt. Flindall had so much influence over my PERs that the OPP should have made him my coach officer!

**(September 9, 2009) (Volume 1, I-24):**

From: Kohen, Colleen (JUS)  
Sent: Wednesday, September 09, 2009 1:39 PM  
To: Campbell, Ron (JUS); Flindall, Robert (JUS)  
Cc: Johnston, Mike P. (JUS); Lee, Dave E. (JUS)  
Subject: RE: PCS66\_JACK8.doc

Good Afternoon

At this stage of his Prob there shoiuld be no base for ratings. The rating if you don't have a specific example goes back to what it was in the previous month.

Also can you please ensure that there are specific examples and not general comments

TX

Colleen

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 46:**

**46. Paragraphs 31 to 36 – All of the PERs attributed to Constable Filman were written by him. All the PERs were reviewed by Sergeant Flindall who may have sought revisions before the documents were finalized. The Applicant was subject to the same expectations as every other probationary constable. The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were**

Please note that general comments ONLY were entered in the following sections of my Month 8 PER (Exhibit 27):

- Attitude Towards Learning – Does Not Meet Requirements
- Oral – Does Not Meet Requirements
- Non-verbal – Meets Requirements
- Community Focus – Meets requirements
- Valuing Diversity – Meets Requirements
- Flexibility – Meets Requirements
- Integrity – Meets Requirements
- Self-Confidence – Does Not Meet Requirements
- Self-Awareness – Does Not Meet Requirements

It is common sense that when something is not done (documenting specific examples for my performance evaluations) at the time it is supposed to be done on, then with the lapse of time one has to reflect on the past. Without proper documentations in my evaluations the need to repeat previously documented examples or just provide vague descriptions of incidents becomes real and convenient.

**(September 9, 2009) (Volume 2, N-9):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 9, 2009 2:02 PM  
**To:** Kohen, Colleen (JUS); Flindall, Robert (JUS)  
**Cc:** Johnston, Mike P. (JUS); Lee, Dave E. (JUS); Nie, Richard (JUS)  
**Subject:** RE: PCS66\_JACK8.doc

Thanks Rich and I spoke after the intial email and we had the same discussion the category reverts back to what it was before either meets or not meets. This just re-affirms it. Ron

**(September 9, 2009) (Volume 1, I-105):**

**From:** Gravelle, Marc (JUS)  
**Sent:** September 9, 2009 7:52 PM  
**To:** Flindall, Robert (JUS); Rathbun, Brad (JUS)  
**Subject:** Jack

I am not sure of the date in which the incident happened, it was sometime in early to mid August/2009. Jack was doing a paid duty and my shift was working nights. I received a call from Comm. Center requesting the 10-20 of Jack, they advised they were unable to reach him on the radio. I paged the office over the phone system then called him on his cell phone, both results were negative.

A short time later Jack arrived at the office and was told by myself that the Comm. Center was looking for him. Somehow Jack took this as a personal attack by myself and became irate towards me. I then told him his responsibilities to answer the radio.

Regards,

Marc Gravelle

An interesting and corroborating observation can be made from this e-mail revelation. It is September 9, 2009, and the same officer who in all probability started the racially derogatory nick name of "Crazy Ivan" and one who was neither on Sgt. Flindall's nor on Sgt. Banbury shift, recalled an incident a month previously and felt it incumbent upon him to bring it to the attention of Sgt. Flindall. This was done for the sole reason that Sgt. Flindall ordered (a request from a sergeant to subordinates is an order) members to report to him anything that could be twisted into being negative and discreditable about me.

**(Volume 1, I-41):**

**From:** Flindall, Robert (JUS)  
**To:** Campbell, Ron (JUS)  
**Sent:** Tue Sep 23 18:12:08 2008  
**Subject:** RE: Shift Changes

Staff,  
I see I am now taking one of the male recruits, Michael Jack. Can you advise if he's the recruit that we needed to keep an eye on, ref his love of guns etc. ?  
I'm just looking for a heads up.

Thanks!  
Rob

**(Volume 3, W-3):**

Since that decision was made and with the background of Cst. Jack's call to S/Sgt Kohen and Sgt Flindall's statements to Cst. Jack.

a) his job was in jeopardy - for failing to follow direction given to him on cc investigation- he answer shopped and didn't do as instructed.

b) he would be watching his every move and documenting it

c) charge under the HTA for driving error on the 12th of Aug

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)

The Counsel for the Respondent was fully aware of the truth that I was to be watched and kept under surveillance (as personally observed by S/Sgt. Campbell with his comments in brackets) for she had these e-mails prior to submitting a response to my Application. However, the Counsel for the Respondent deliberately deceived this Tribunal in believing otherwise:

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 47:**

**Paragraph 37 – Sergeant Flindall did not ask the officers in the Detachment to keep the Applicant under surveillance and report back to him. The coaching of a new recruit does not occur in isolation from other police officers. The Applicant was treated in the same manner as all other recruits.**

The information was then utilized by Sgt. Flindall to document me with a 'Does Not Meet Requirements' in the **Radio Communications** section in my Month 8 PER (Exhibit 27), which was the last PER he had a direct influence in writing. After that evaluation Sgt. Flindall worked indirectly along with PC Nie to bring the OPP's plan to terminate me to fruition.

For my rebuttal to the accusation of becoming irate with PC Marc Gravelle please refer to the **Radio Communications** section in my rebuttal to my Month 8 PER (Exhibit 58).

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

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

10517	CST.	NIE, Richard	Valerie	15 Carson Court, Peterborough K9K 2R1	(705) 876-0710
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9740	A/S/SGT.	FLINDALL, R. (Rob)	Tanya	19 Carson Crt. Peterborough K9K 2R1	749-6195
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I was assigned a new patrol zone – Zone 2 (I worked in Zone 3 for the first 8 months; it takes a few months to adequately learn zone geography). I was forbidden to work on my own. I was forbidden to work paid duties. I was forbidden to work over time (Exhibit 66). From the first hour on the new platoon Cst. Nie started constantly finding "faults" with me and meticulously documenting them in his notebook and in my monthly performance evaluations. Later on in reflection I realize why he was doing this. The targeting did not stop and the neighborly relationship between Cst. Nie and Sgt. Flindall meant that the plan to terminate my employment was being carried on.

- started at 0500hrs – notified by night shift Sgt. of pending threats call – asked him to gather info – he took one call for a stolen vehicle – asked him about threats call, said PCC said there were three calls and they had to go – told him to call back and get all three and we would prioritize – he called back and got all three - at 0542hrs still hadn't called comp. – tried to get me to leave call as not our zone
- at threats call the complainant [REDACTED] got upset with PC Jack and asked him to take off his sunglasses instead of hiding behind them – he would not at first – he was unable to resolve to gather the information – I stepped in and tried to calm situation but complainant said he would only talk to me and not Jack – ended with complainant asking us to leave
- explained to PC Jack that the hard/tough approach doesn't always work with every type of person – we have to change our approach with each call

My response to the above 3 bullet point entries is as follows:

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

179) SP09210832	OPP Threats	2009/09/09 04:47	Unfounded - 1249 HIAWATHA LI, OTONABEE-SOUTH
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MONAGHAN TWP, ON  
Canada (Area: 1055, Duty  
locn: 1111, Beat: 10c, ESZ:  
70506) Reportable / Preempt /  
SPOKE TO COMP, COMP  
DECLINED TO PROVIDE  
INFO, SEE / REPORT 12690 /  
(\*\*) / (PC MATHERS  
ADVISED) / (HOLD FOR  
DAYS AS PER SGT  
BANBURY) / (PC JACK  
ADVISED) / (MALE: FRANK  
MCPEHRSN AGE APPROX  
48 YRS IS CALLING CM  
RES HARRASSING HIM) /

First and foremost an interesting observation could be made from the above. If the call was so important, (and according to PC Nie's negative documentation of me the call was very important) then how come Sgt. Banbury ordered to keep it for day shift when it was clearly reported during his shift and prudence would dictate that you dispatch officers to attend a death threats call right away? The fact is that the call had

already been assessed and its urgency for immediate attention was deemed to be low, but it was useful for PC Nie's purpose of documenting me negatively.

(September 9, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

10-13 7-3CP-09		CM YELLED AT ME
SOFT	+29°C, SUNNY	- JUST GOT OUT
HARD	11-201	OR TATE
	1-235	- CROWN WITNESS
MIL	640 9.6 / 642 01	TO A RAPE
EQUIP	RADAR C8-AS9	- SUSPECT IS CROWN
05:12	TOOK DETAILS OF 4	
	OUTSTANDING CALLS	- CM "I TOLD THE POLICE
	PRO OR NOT ON SHIFT.	ALL THE INFO, I AM
	2006 1:	NOT TELLING YOU
	DEATH THREATS OVER	SHIT. I AM DONE,
	THE PHONE	DONE, DONE."
CM		
	WITNESS TO A RAPE	- CM MADE UP PHONE
	SUS:	CALLED CM BACK
05:42	PHONED ME ABOVE	CM: "YOU ARE A
	SPOKE WITH THE CM	FUCKING JOKE".
		SUSPECT ANSWERS
		78

Furthermore, while it is not evident from my notes, I clearly remember that I called the complainant (Exhibit 112) more than once before 5:42 am. He never answered the phone and I only got through for the first time at 5:42 am. I could not have envisioned at the time that PC Nie was attached to finish me off under the guise of coaching me and that he was documenting in excruciating detail my "poor" performance from my first minute on their shift. Had I known at the time his true objective I would have documented things very differently.

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

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

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

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

- I started my shift at 5 am.
- When I was walking towards the detachment Sgt. Banbury advised me of the pending threats call which was left over from night shift.
- I was in my civilian attire and did my routine: changed and went into the Constables' office.
- I subsequently contacted the despatcher and obtained the details of the leftover calls.
- I placed a call to the complainant in the threats call since it, though it was not the oldest call it appeared to be the most serious. The complainant did not answer.
- I touched base with the other calls that did not require immediate police involvement.
- At 05:42 am I telephoned the complainant again at which time I spoke with him. He was very agitated and resolute in the fact that he had already told the police dispatcher everything and so he was not telling me 'shit' and hung up on me.
- At 5:50 am I called the complainant again and spoke with him again during which time he was extremely rude again.
- By now it was a few minutes past 6:00 am and shift briefing was announced.
- During the shift briefing I was introduced to my new shift. It is noteworthy to mention that I telephoned Cst. Nie a few days prior on my scheduled day off to see if he wanted to meet to have a coffee so we could establish some rapport. His response on the phone was very curt and sharp, 'I do not any police work on my days off,' and I sensed by the tone of his voice that he was displeased.
- Upon hitting the road with my new coach officer, Cst. Nie we attended the address of the threats call where we spoke to the complainant around 07:20 am. The complainant was a not-so-bright middle-aged male with a very lengthy criminal record who had recently got out of jail. He lived in a small trailer on his friend's property.

- At that time the complainant was agitated and was under the belief that police were not going to do anything. Using strong language he told us not to come back and that he did not want us to do anything (Exhibit 28). Note: I have subsequently compiled a record of the complainant's interaction with Peterborough OPP Detachment and to date have this record on file.

For a history of violence of the complainant in the matter, Richard Kaulback, and his involvement with the police please refer to Exhibit 112.

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

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

#### Communicational Skills

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

#### Problem Solving Skills

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

#### Leadership Attributes

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

#### Interpersonal Attributes

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

#### Personal Impact

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

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

Counsels' Response to the Application (HRTO 2010-07633-I), paragraph 50:

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

The Counsel is right in her assertion that Constable Nie did carefully document my performance. Where I assert the Counsel is wrong is abundance of biasness towards me along with the lack of objectivity and truthfulness in Constable Nie's documentation of my performance. Constable Nie was assigned to finish me off and he fulfilled the assignment to the tee.

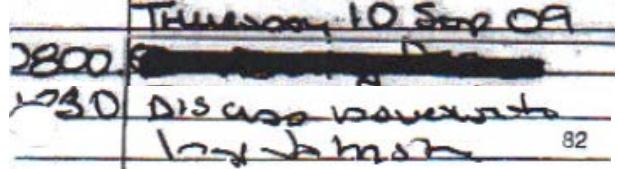
(September 9, 2009) Counsel's additional disclosure (January 27, 2012), Sgt. Butorac's notes:	
<p>WED 09 SEP 09</p> <p>[redacted]</p> <p>0600 on 1800</p> <p>off - 1800</p> <p>[redacted]</p> <p>- met with Nie about P/C Jack &amp; being coach</p> <p>- reviewed PCS66's + outlined difficulties reflected</p> <p>- awaiting last evaluation from Filman to deal with new L.P. (Learning Plan)</p> <p>[redacted]</p>	<p>WED 09 SEP 09</p> <p>[black]</p> <p>[black]</p> <p>06:00 on 0600</p> <p>off 1800</p> <p>- met with Nie about P/C Jack &amp; being coach</p> <p>- reviewed PCS66's + outlined difficulties reflected</p> <p>- awaiting last evaluation from Filman to deal with new L.P. (Learning Plan)</p> <p>[black]</p>

I wonder when exactly Sgt. Butorac and PC Nie met to talk about me. It would appear that the meeting took place first thing in the morning – during the period of time that PC Nie so conveniently accused me of mishandling the alleged death threats call.

(September 9, 2009) (Volume 3, BB) Point Form Chronology:

**09Sep09 - S/Sgt Campbell**

- 0815hrs Discussed with Inspector Johnston concerning the allegations of PC Jack involvement. Inspector JOHNSTON had spoken to Sgt. Flindall a short time ago and contacted Regional Headquarters Command Staff.

(September 10, 2009) (Volume 3, X), S/Sgt. Campbell's notes:	(September 10, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:
	10 Sep 09 1230 Discuss issues with Inspector Johnson 1230 hrs

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

Also, in the morning on September 9, 2009, while in the Constables' office, I asked Cst. Nie if I could go to the washroom. Cst. Nie looked at me and said, "Michael, do not ever ask me that question again". At that time, it felt normal and logical to me to ask for a permission to take a washroom break. Later I pondered why I asked such a childish question. The only rationale answer appears to be that I felt like a slave. My self-confidence was severely eroded and I feared to even go to the washroom without asking for permission first. I felt like I was a puppet. How does one adjust from being made to feel like a slave at the detachment to being an authority figure on the road and in the interactions with the members of the public at large?

**10Sep09 - PC Nie**

- 0530hrs working on crown brief for impaired case – had POA charges to add and one for no insurance – asked PC Jack if he had ever searched for MTO certified documents for a suspended driver – said he had – asked if he ever did a vehicle record search – said no – showed him where form was and attempt to fill in blanks and I would check
- At 0645hrs go to check – I pointed out two errors and he told me that he followed example that PC McNab had showed him at 0100 hrs some morning
- Questioned him why he told me no if he had already done one – told him that one of his issues was answer shopping and I would not tolerate it – told him this was his warning and not to do it again, I will not accept lying and blaming other officers for mistakes – he apologized and said he must have been mistaken by the form
- Advised while entering call for stolen vehicle that he needed assistance searching the address – it was 46 County Road 4 – he told me he had never been shown how to search for this – told him that in 8 months on the job I didn't believe him that he wouldn't know this, I said it was a day one teaching thing – explained in all the times that he had done reportable calls he had to have been shown this – he brought up an impaired occurrence (etherington) that had County Road 18 entered incorrectly – said that PC D'Amico had showed him that – then changed and said that it was his mistake and he had been shown properly – told me that he was embarrassed and was not trying to be untruthful
- Advised PC Jack that he needs to be more aggressive/confident with his driving – he drives under the speed limit regularly, slows down and often stop at green lights, slows down completely when asked a question while driving – I keep reminding him to keep speed up
- MVC call on Blairton Road with Huffman – immediately once he locates the driver he walks in and tells the man there will be no charges, he just needs to fill out the traffic report – I knew the suspect and upon checking his record it's discovered he is suspended four times over – PC Jack said that yesterday I told him to be softer on the approach with people – he realized his mistake but I reiterated that he has to adapt to each call
- He questioned me as to how to start off his notebook – said he was never taught – told him I didn't believe him because he would have been taught that on his first day – said that PC Filman never showed him, said he

learned from PC Rusaw – again told him not to blame others, told him that I would look at how he does it and confirm it was okay, but I was not showing him my way so that he could later on use it against me – talked to him again about how he commits people to answers so that he can blame them if someone else tells him differently – told him I was not playing his games and he smiled and said he was sorry – it was clear to me that he knew what he was doing and that I had figured it out

- Appeared very stressed today with deciding what tasks to do and when – explained the need to prioritize and not just sit around the office all day doing paperwork – need to have a balance

**My responses to the above 8 bullet point entries are as follows:**

**Response to the first 3 bullet point entries is as follows:**

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

Note: I might be wrong with respect to the day in which the incident took place. Unlike my personal respondents when they compiled the point form chronology I did not have the benefit of access to my officer's notes when I compiled my statement. While I wrote in my statement that the incident took place on September 9, 2009, I might have been wrong because the incident could have taken place on September 10, 2009. However, PC Nie might have been wrong as well in his statement.

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

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

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

Exhibit 26a, page3:

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

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

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

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

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

**My response to the 4<sup>th</sup> bullet point entry is as follows:**

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

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

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

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

Exhibit 26a, page3:

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

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

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

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

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

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

Moreover, while at the Provincial Police Academy we were trained on the usage of the Niche RMS for only three days. During that training the instructors pointed out that it would take a couple of years to learn the system properly (Exhibit 13c, page 6):

A VERY BORING DAY. ALL DAY SPENT STUDYING RMS. IT IS A VERY INTERESTING SYSTEM, YET PRACTICE IS REQUIRED TO MASTER IT. 3 DAYS ON IT IS A DROP IN THE OCEAN. AND INSTRUCTORS POINTED OUT THAT IT WOULD TAKE A COUPLE OF YEARS TO LEARN THE SYSTEM PROPERLY.

Niche RMS is a very sophisticated system, which constantly evolves. Even experienced officers are constantly seeking advice regarding Niche RMS let alone a probationary officer. The training one gets is the bare minimum and one has to get familiar through trial and error, which needless to say takes years to accomplish.

#### **Rebuttal to Month 9 PER (09 Sep 09 – 09 Oct 09) (Exhibit 59):**

I would never have advised Cst. Nie that it was my mistake for to this date I am not certain what mistake I had made. Does asking your coach officer a job related question constitute making a mistake? I was rattled by Cst. Nie attitude. I did advise Cst. Nie that I felt embarrassed. I felt embarrassed because with 8 months on the job I did not know how to effectively locate certain addresses on the Niche RMS and had to ask him to show me. I could not have possibly envisioned that instead of getting help I would be reprimanded, accused of playing mind games, and subsequently rated negatively in my Month 9 performance evaluation. **Great rapport establishment right from the beginning!**

**My response to the 5<sup>th</sup> bullet point entry is as follows:**

#### **Rebuttal to Month 9 PER (09 Sep 09 – 09 Oct 09) (Exhibit 59):**

The comments are true. After being charged by Sgt. Flindall under the HTA on August 15, 2009, and subsequently disallowed to work on my own I lacked confidence in driving. I subsequently drove slower and more cautiously. Also, when I attended remedial driving sessions with Sgt. Kent Taylor in the fall of 2009 he specifically instructed me that safe driving should take precedence over other tasks when one is behind the wheel of a motor vehicle.

**My response to the 6<sup>th</sup> bullet point entry is as follows:**

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

179)	SP09210832	OPP	Threats	2009/09/09 04:47	----- Unfounded - 1249 HIAWATHA LI, OTONABEE-SOUTH
180)	SP09211022	OPP	Motor vehicle collision	2009/09/09 11:22	----- AOOJ Complete - solved (non- criminal) - 0 BLAIRTON RD, HAVELOCK-BELMONT- METHUEN TWP, ON Canada (DO NOT ALTER) (Area: 1040, Duty locn: 1104) Non- reportable 11-09-00768 / Preempt / REPORTED FOR POLICE INFO ONLY JACK / (-) / (201 TO CALL FOR DETAILS) / (CALLER WAS WALKING ON ROAD IN AREA OF THE BLAIRTON ROAD) / (HEARD MOTORCYCLE SPINNING TIRES) / (WHEN CALLER LOOKED BEHIND HIM) / (CALLER KEPT TRYING- BIKE HAD NO LIGHTS ON WHATSOEVER) / (CALLER HEARD IT SLOW DOWN- CALLER MOVED TO THE SHOULDER) / (AND WAS HIT BY THE BIKE) / (CALLER CANNOT SAY WHAT KIND OF BIKE IT WAS) / (THINKS WAS A RED BIKE) / (----- -----) / (OCCURED SATURDAY EVENING 8:30PM) / (CALLER WALKING WITH HIS SPOUSE AT THE TIME) / (CALLER ADVISED HOME NEAR TRAILER PARK WITNESSED) / (NO ONE CALLED POLICE AT THE TIME AND HE FELT FINE) / (DRIVER DID SPEAK TO SUSPECT AND KNOWS WHERE HE LIVES) / (----- -----) / (CALLER WOULD LIKE CALL

-----

First, PC Nie is wrong with respect to the date of the occurrence as it took place on September 9, 2009, and not September 10, 2009. At least here I can use solid facts to prove him wrong. Second, PC Nie stated '**PC Jack said that yesterday I told him to be softer on the approach with people - he realized his mistake but I reiterated that he has to adapt to each call**'. Since '**yesterday**' would have been September 8, 2009, when both PC Nie and I were off duty (Exhibit 66) how could have PC Nie told me that? Third, the call was in reference to an after-the-fact MVC (bike vs. pedestrian) that took place 4 days earlier, on Saturday, September 5, 2009. Fourth, PC Nie failed to mention that the complainant in the matter specifically asked both of us not to charge the driver with anything as the complaint did not sustain any injuries, the driver of the bike stopped to render assistance to the complainant, the driver of the bike was very apologetic to the complainant and furnished the complainant with his personal details. While it is for the police to decide whether to charge or not to charge we decided not to charge the driver with anything prior to attending his residence. Hence, I stated to the driver up front that we were there to get his details for the Traffic Report. Retrospectively, I realized that we should not have jumped to conclusion while PC Nie in turn conveniently added the incident to the list of my "sins". I must have forgotten to make a copy of the Traffic Report as it is absent from the list of my traffic reports re: Motor Vehicle Collisions (Exhibit 47d).

**My response to the 7<sup>th</sup> bullet point entry is as follows:**

I could not have possibly said that I had never been taught how to start off my notebook. How could have I said it when we were taught note taking techniques, albeit briefly, at the Ontario Police College. The fact that PC Filman never taught me his note taking style and PC Payne lashed out on me when I asked her to see how she took her notes with respect to a specific incident that I witnessed first-hand (on July 1, 2009) did not mean that I did not know how to start off my notebook. Let's assume that I did say to PC Nie that I learned how to start off my notebook from PC Rusaw. So because I gave credit to the source of my knowledge PC Nie twisted that fact into me blaming others. Incredible! However, if the incident did take place, then I would have probably apologized for it because it would have been easier to apologize than to incur the wrath of the Big Brother.

**My response to the 8<sup>th</sup> bullet point entry is as follows:**

**Rebuttal to Month 9 PER (09 Sep 09 – 09 Oct 09) (Exhibit 59):**

During my training with Cst. Nie I was responsible for handling and documenting all the calls I took, as it should have been happening of course. When I had to stay at the detachment to complete my paper work Cst. Nie reprimanded me for it. Out of the 2 community policing offices in our patrol zone, only one had a working computer at the time. To combat the problem, I started taking paper work home and continued coming to the detachment on my time off duty to complete paper work so I could have a fresh start each shift and spend more time on the road. In one of my subsequent evaluations Cst. Nie negatively rated me for doing that.

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

Note: I might be wrong with respect to the day in which the incident took place. Unlike my personal respondents when they compiled the point form chronology I did not have the benefit of access to my officer's notes when I compiled my statement. While I wrote in my statement that the incident took place

on September 9, 2009, I might have been wrong because the incident could have taken place on September 10, 2009. However, PC Nie might have been wrong in his statement as well.

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

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

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

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

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

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

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

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

(September 10, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:

1330

Review work plan & notes for Jen Payne WDHP issue on 3 occasions notes sent email  
Also noted issue of A/V recording of persons & det members by Cst. Jack sent message to C. Cox for advice.

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

10Sep09 - S/Sgt Campbell

- 1330hrs - S/Sgt. Campbell reviews work plan for PC Jack and also receives a note from PC Payne outlying WDHP complaint within it as to PC Jack's behaviour towards her and inappropriate comments concerning her appearance.
- Allegation as well as to PC Jack secretly audio video taping fellow officers.
- S/Sgt. Campbell brings this to the attention of Inspector Johnston and also contacts Detective Inspector Cox for direction.

My responses to the above 3 bullet point entries are as follows:

- Fabricated allegation of inappropriate conduct.
- False allegation of audio and video taping fellow officers.
- Ok.

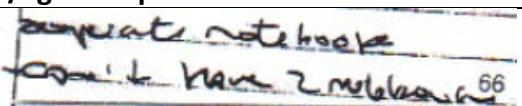
(September 10, 2009) (Volume 1, I-23 and Volume 3, Y-1):

From: Campbell, Ron (JUS)  
Sent: September 10, 2009 1:32 PM  
To: Payne, Jennifer (JUS)  
Cc: Flindall, Robert (JUS); Johnston, Mike P. (JUS)  
Subject: Notes Tracking Cst Jack's duties on A Platoon

Jen:

I have read through the notes concerning your assistance in mentoring Cst. Jack. I note that on 3 occasions you raise a WDHP issue with this member. On the 3rd occasion you address the issue directly with Cst. Jack and advise him this behaviour is unwanted and un welcome and request he stop. As a Manager of the Office I want to ensure that everyone has a workplace free of this type of behaviour. What are your wishes in regards to this. I can speak to Cst. Jack about this and re-enforce acceptable behaviour in the office. I would also like you to know should there be any continuance to let us know and it will immediately be addressed. Please let me know what your wishes are.  
Ron

Please take special note that while S/Sgt. Campbell advised Sgt. Flindall very clearly that an officer could not have two separate notebooks as is clearly evident from his notes made on July 22, 2009:

(July 22, 2009) (Volume 3, X), S/Sgt. Campbell's handwritten notes:	(July 22, 2009) S/Sgt. Campbell's transcribed notes (March 13, 2012):
	separate notebook -can't have 2 notebooks

Sgt. Flindall deliberately allowed, and I would hasten to say encouraged, his “number-one” officer PC Payne to keep a special separate notebook (Re PC Jack) and despite the direction given earlier S/Sgt. Campbell condoned PC Payne’s practice.

It is so easy to allege that someone winked at another because it will always come down to a ‘he says, she says’ case in the absence of any witnesses. That is what PC Payne did to me. Now when you fabricate such an allegation against a minority rookie officer that is being targeted and scrutinized and go to the extent of forwarding your special journal (Re PC Jack) to the management you are poisoning the mind of management against that individual.

It is against the Ontario Provincial Police Orders and the Police Services Act to keep more than one daily journal at a time. I clearly remember from the Ontario Police College that such practice was strictly prohibited. However, PC Payne maintained a separate journal consisting of her observations made regarding me. When it came to dealing with me PC Payne independently decided to keep a separate journal to fabricate false allegations and to document her observations and interactions with me in direct contravention of the Ontario Provincial Police Orders. The Tribunal should wonder if the other three rookie recruits that started around the same time I did were privileged in being monitored and documented in such details as I was. **Alarming is the fact that S/Sgt. Campbell and Sgt. Flindall were aware of this and condoned PC Payne’s practice of keeping two notebooks in her current use. There was a total aberration of policies (be it the Ontario Provincial Police Orders or Human Rights Code or the Ontario Public Service) (Exhibit 87, Exhibit 88, Exhibit 89, Exhibit 90a, Exhibit 90b, Exhibit 90c, Exhibit 90d, Exhibit 90e, Exhibit 116, Exhibit 117, Exhibit 118, Exhibit 119) when it came to dealing with me.**

Furthermore, I hope the Tribunal will take note of the differential treatment between PC Payne and me. PC Payne was being given so much attention over her assertion that I was winking at her whereas the OPP knew I was being discriminated against and did nothing to address it.

#### **Ontario Provincial Police Orders 2.50 Member Note Taking (Exhibit 117):**

### **2.50.3: DAILY JOURNAL**

**Content** Except as otherwise provided in this policy, a uniform member shall maintain a Form Cat 1-22—Daily Journal in accordance with procedures taught to police officers attending the Provincial Police Academy (PPA) and Ontario Police College (OPC). Before putting Form Cat 1-22—Daily Journal into use, a uniform member shall:

**Review** A supervisor shall review a uniform member’s Form Cat 1-22—Daily Journal on a regular basis to ensure it is complete, accurate and in compliance with OPP policy.

**Complete Chronology** A uniform member shall account for each calendar day in Form Cat 1-22—Daily Journal, and consecutive days off may be shown as one entry, e.g. 03 & 04 JAN 2005—weekly rest days.

**Current Use** Except as otherwise provided in this policy, only one Form Cat 1-22—Daily Journal shall be in current use.

Based on the referenced e-mail from the Respondent:

I've been made aware by PC MORAN that when she was on the coach course, a Sgt from the Police Vehicle Operations at Aylmer was there. He advised her that there were two issues with PC JACK while at the college - his driving and his apparent dislike of women. It's quite apparent that his driving has not improved since then.

Why would I have any desire to wink at PC Payne if I had a dislike of women? Furthermore, how can the OPP attempt to convey an impression to the Tribunal by alluding to an allegation from PC Payne that I winked at her when I was under such racial tension at the detachment? It is highly inconceivable to imagine that such a person would have the audacity to do such an act.

**In a paragraph from an e-mail to Insp. Johnston on August 21, 2009, S/Sgt. Campbell stated the following:**

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.

Please note the following excerpts:

- **'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 group'.**

The '**berating him in front of the shift as well**' was in reference to PC Payne lashing out on me on July 1, 2009, in the Constables' office (Schedule 'A', page 15). Though I brought the incident up to the attention of S/Sgt. Campbell I felt at the time that it was highly unethical to reveal the names of the officers who had done it to me. Hence, I kept it to myself. I hope that the Tribunal will take note of the fact that not only PC Payne was keeping a separate journal in dire contravention of the Ontario Provincial Police Orders (Exhibit 117) to track my performance "issues" where she documented 3 WDHP issues concerning me, but also disclosed her journal to S/Sgt. Campbell once I was no longer on her platoon where she could no longer fabricate anything against me directly.

I also wonder if S/Sgt. Campbell was aware of my nick name "Crazy Ivan". If he was aware, as a Manager of the Office, was he trying to ensure that I was free of harassment? Or was I not part of the '**everyone**'? On the contrary, he was probably aware of what was happening and was probably actively taking part in racially marginalizing the detachment from me as his e-mails to Insp. Johnston documented (Volume 3, W-3):

Since that decision was made and with the background of Cst. Jack's call to S/Sgt Kohen and Sgt Flindall's statements to Cst. Jack.

a) his job was in jeopardy - for failing to follow direction given to him on cc investigation- he answer shopped and didn't do as instructed.

b) he would be watching his every move and documenting it

c) charge under the HTA for driving error on the 12th of Aug

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 was fully aware of the racial discrimination I was experiencing for he added his personal observations to what he was telling Insp. Johnston. His action of isolating his words in brackets serves to bring to the attention of the Tribunal that he had done some form of investigation into my comments to S/Sgt. Kohen by corroborating it with his personal observations (Volume 3, W-3) and (Volume 3, V-20):

**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.**

It is my feeling that it is because he is feeling vulnerable as a new employee, with a language issue, and an immigrant to the country that he is feeling the stress of his supervisors comments no matter how well intentioned it is likely resulting in a poisoned work environment and or a possible H.R. complaint. I think the supervisor has lost the focus he is here to assist and correct Cst. Jack as well as discipline him for transgressions that are not learning issues. I have touched on this with Sgt Flindall and will do so again on Wednesday in private.

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.

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 being 100% truthful.

**(September 10, 2009), (Volume 3, V-14):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 10, 2009 1:28 PM  
**To:** Cox, Chuck (JUS)  
**Cc:** Johnston, Mike P. (JUS)  
**Subject:** Confidential Inquiry

Sir,

I am looking for some input here which will I believe will not be as dated as my recollection. It has come to my attention today that we have an officer at Detachment who has purchased one of the audio/video recording pens and has used it around the office to video one of the female officers. ( For What purpose I do not know) It is also stated by the other officer that this member uses the pen to record information on calls the officer attends to make his notes.

The provisions of the CCC would allow a private citizen to audio tape persons as long as they are a party to the conversation. As for Police we generally need an authorization under Part VI and Section 184.4 spells out conditions.

I can see all sorts of disclosure issues for this officer on calls he has been on and if he has been recording conversations with persons he has charged and not been disclosing this information to the courts in the form of briefs...

Anyway I would like your opinion on this as I will be having the member in to discuss this issue and advise him he is to stop this practice immediately. I am also going to inquire why he is A/V a female officer at the Detachment.

Ron

**(September 10, 2009) (Volume 3, V-18):**

**From:** Cox, Chuck (JUS)  
**Sent:** September 10, 2009 1:51 PM  
**To:** whitton, Phil (JUS)  
**Subject:** I have a question about one of our officers intercepting communications

Phil,

I have a question about one of our officers possibly recording his contacts with the public while working. Could you please give me a call on my cell 725-3719.

Thank you,

C.E.J. (Chuck) Cox  
Inspector  
Ontario Provincial Police  
Central Region  
Manager of Crime Prevention and Investigations  
(705) 329-7408 Office  
(705) 725-3719 Cell

(September 10, 2009) (Volume 3, V-14):

From: Cox, Chuck (JUS)  
Sent: September 10, 2009 2:02 PM  
To: Campbell, Ron (JUS); Johnston, Mike P. (JUS)  
Subject: RE: Confidential Inquiry

Mike and Ron,

I have a call into ██████████ of TSS just to get some confirmation on the law in this area. I would suggest that we don't go down the road of conducting an investigation at this time as this could be something that has to get sent up to PSB. I will call you as soon as I hear back from Phil and then you can proceed accordingly from there.

Thank you,

C.E.J. (Chuck) Cox  
Inspector  
Ontario Provincial Police  
Central Region  
Manager of Crime Prevention and Investigations  
(705) 329-7408 Office  
(705) 725-3719 Cell

(September 10, 2009) (Volume 3, W-2):

From: Campbell, Ron (JUS)  
Sent: September 10, 2009 2:29 PM  
To: Johnston, Mike P. (JUS)  
Subject: FW: Rob Flindall  
Mike this was the original message I sent you about it.

(September 10, 2009) (Volume 3, V-18):

From: whittton, Phil (JUS)  
Sent: September 10, 2009 3:03 PM  
To: Cox, Chuck (JUS)  
Subject: RE: I have a question about one of our officers intercepting communications

In Summary

S184(1) C.C. tells us that it is an offence to wilfully intercept a private communication, however there are saving provisions:

The external circumstance of the offence S184(1) C.C combine an interception, a private communication and a prohibited device. In the scenario you gave me the issue really amounts to a "Private Communication". The criminal Code tells us that what must be intercepted is a private communication.

Anyone who knows they are speaking to a Police Officer, must also realize that in essence it is not a "Private Communication" which is the basis for all the criminal code sections dealing with judicial authorizations etc. Society at large realize

that the officer will make notes etc as part of his duties, if he tapes the conversation then that could be argued as the best evidence rule, however R Vs Duarte tells us that the interception of private communications by an instrumentality of the state, with the consent of one of the participants, but without prior judicial authorization, violated S8 of the charter. In other words if the officer intends to use those recording in criminal proceedings, he is going to be severely challenged.

You need to find out the intent of the officer for making those recordings. Video recording is a whole new ball game with increased charter protection.

Hope that helps

(September 11, 2009) (Volume 1, H), Sgt. Flindall's notes:	Comments:
<p>FRI 11 SEP 09</p> <p>0600- on duty SHIFI: 0600-1800</p> <p>0755- Spoke w CAMPBELL he said to carry over the contents as well from last month</p> <p>0817- <del>valuations in a small prelude</del></p>	<p>It would appear that S/Sgt. Campbell ordered to carry over the contents of my Month 6 &amp; 7 fraudulent PER into my Month 8 fraudulent PER, which Sgt. Flindall and PC Filman so dutifully complied with while also adding a few more "sins" to my list of "achievements" along the way.</p>

(September 11, 2009) (Volume 3, X), S/Sgt. Campbell's notes:

706. Insp Johnston advises  
Cst Payne not interested  
in pursuing case  
7 P [REDACTED] 94

1722 Jen Payne advised  
verbally Mike  
she not speaking  
to her & she dealt  
with it at the  
time as such will not  
come forward unless  
it happens again  
1730. OFF Duty  
Sat 12 Sep 09

(September 11, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:

11Sep 09

0730

on attendance to Det spoke to Jen Payne requested to know what she would like to do with statement concern Mike Jack she advised she would think about it over the day.

1706

Inspector Johnston advises Cst. Payne not interested in pursuing case.

1722

Jenn Payne advises verbally Mike Jack not speaking to her and she dealt with it at the time as such will not come forward unless it happens again.

(September 11, 2009) (Volume 3, BB) Point Form Chronology:

11Sep09 - S/Sgt Campbell

- 0730hrs - S/Sgt. Campbell speaks to PC Payne concerning her WDHP allegation and direction as to what would correct issue.
- 1706hrs - PC Payne advises that the change in shifts rectified situation she does not wish to pursue matter.

My responses to the above 2 bullet point entries are as follows:

- I wonder how S/Sgt. Campbell addressed PC Payne's initiative to starting and maintaining a special separate journal (**Re PC Jack**) contrary to Ontario Provincial Police Orders.
- I hope that the Tribunal will take note of the timing:
  - On July 18, 2009, PC Payne falsely accused me of "inappropriate behaviour" towards her.
  - Except for my comment that she looked good in uniform on June 2, 2009, everything else was a mouthful of malicious lies.
  - On September 11, 2009, having had her extensive negative say in my PERs, having had her hand in falsely charging me under the HTA, having played a vital role in the fabrication of the

false allegation that I was associating with criminals and once she could no longer even remotely justify her false allegations against me of inappropriate contact towards her since we no longer worked on the same shift she decided not to pursue the matter as "the ball was passed" to PC Nie.

**(September 11, 2009) (Volume 1, I-55):**

From: Flindall, Robert (JUS)  
Sent: September 11, 2009 8:01 AM  
To: Kohen, Colleen (JUS); Campbell, Ron (JUS)  
Cc: Johnston, Mike P. (JUS); Lee, Dave E. (JUS)  
Subject: RE: PCS66\_JACK8.doc

Thanks Colleen,

We are on this as I write. PC FILMAN is making the necessary changes to his current PCS066.

Robert Flindall

**(September 11, 2009) (Volume 1, I-53):**

From: Kohen, Colleen (JUS)  
Sent: September 11, 2009 8:58 AM  
To: Flindall, Robert (JUS); Campbell, Ron (JUS)  
Cc: Johnston, Mike P. (JUS); Lee, Dave E. (JUS)  
Subject: RE: PCS66\_JACK8.doc

Thanks Rob

Once completed can you please send me the final version of PCS66P and WIP via e mail for review as I want to set up a conf call with new sgt and coach

I am assuming this is being disclosed to member today ?

Colleen

It was nice of S/Sgt. Kohen to make that assumption with respect to the disclosure, which did not take place until September 24, 2009.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 46:**

46. Paragraphs 31 to 36 – All of the PERs attributed to Constable Filman were written by him. All the PERs were reviewed by Sergeant Flindall who may have sought revisions before the documents were finalized. The Applicant was subject to the same expectations as every other probationary constable. The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were

<p>(September 11, 2009) (Volume 1, H), Sgt. Flindall's notes:</p> <p>0855- in speaking w Insp. Johnston ref P.C. JACK. PC. MORAN in as well - she has provided info ref her friend video taped - not making a complaint re: WDHP</p>	<p><b>Some facts to consider:</b></p>
	<ul style="list-style-type: none"> <li>• In March 2009 I showed my A/V digital camera pen to my platoon members.</li> <li>• In March 2009 I recorded PC Moran on my A/V digital recording pen for a period of approximately 5 seconds in a demonstration how the pen operated.</li> <li>• I made her fully aware of the purpose of the demonstration and she did not object to it.</li> <li>• In March 2009 PC D'Amico told me it was not a good idea to carry the A/V digital recorder with me on duty.</li> <li>• Since March 2009 I have not carried the recorder with me at all.</li> <li>• In September 2009 (six months later) PC Moran provided info that I videotaped her.</li> <li>• Working in such a poisoned environment made it easy for one to mention to her personal sergeant (who was referring to her as, '<b>hey legs... warm and fuzzy...</b>') that she was videotaped by me some six months ago and deliberately omit to mention that I was demonstrating the pen to her with her full knowledge of it.</li> <li>• It was very convenient for her to speak to Insp. Johnston and Sgt. Flindall about something that was six months old and to deceive the Inspector into believing that I videotaped her surreptitiously.</li> <li>• I would hasten to say that PC Moran mentioned to Sgt. Flindall casually that I possessed an A/V pen and that I showed it to her once some time earlier and Sgt. Flindall told her that he had a meeting that day with Insp. Johnston and asked her to come in and mention that in his presence.</li> <li>• Again, as in the case of PC Payne, why would I want to do this to her while she was fully aware of it and especially since it was rumored that I had a dislike of women.</li> <li>• The notations in Sgt. Flindall's officer notes at the bottom that, '<b>not making a complaint re: WDHP</b>' has been written as such to be deliberately misleading.</li> </ul>

**(September 11, 2009) (Volume 1, I-54):**

**From:** Flindall, Robert (JUS)  
**sent:** September 11, 2009 9:02 AM  
**To:** Kohen, Colleen (JUS)  
**Subject:** RE: PCS66\_JACK8.doc

Shaun has sent me the updated PCS66 already. I have to review it yet to see how he made out. We had left the original PCS066 with S/Sgt. Campbell for disclosure over the last 2 days when PC JACK was working, however, as there were issues with it, it was not disclosed. It will be disclosed on Monday when PC JACK is back in on shift.

As well, while I have you, there were 10 does not meets requirements on his last evaluation. Does this require 10 separate WIP's or one WIP covering them all? Shaun has done up 10 separate ones, so before those are sent in as well, I might as well get them fixed up before forwarding on.

Talk to you soon,

Robert Flindall  
Sgt. 9740  
Peterborough County OPP

That disclosure referred to by Sgt. Flindall simply did not occur. When I returned to work on Monday, September 14, 2009, I had no such PCS066 shared with me.

**(September 11, 2009) (Volume 1, I-52):**

**From:** Kohen, Colleen (JUS)  
**Sent:** September 11, 2009 9:17 AM  
**To:** Flindall, Robert (JUS)  
**Subject:** RE: PCS66\_JACK8.doc

Rob

One (1) WIP is all that is required with the 10 Does Not meet requirements

Colleen

**(September 11, 2009) (Volume 1, I-52, I-53):**

**From:** Flindall, Robert (JUS)  
**sent:** September 11, 2009 9:19 AM  
**To:** Kohen, Colleen (JUS)  
**Subject:** RE: PCS66\_JACK8.doc

10-4 thanks! I'm on it.

Robert Flindall  
Sgt. 9740  
...

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 46:**

**46. Paragraphs 31 to 36 – All of the PERs attributed to Constable Filman were written by him. All the PERs were reviewed by Sergeant Flindall who may have sought revisions before the documents were finalized. The Applicant was subject to the same expectations as every other probationary constable. The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were**

<p>(September 11, 2009) (Volume 1, H), Sgt. Flindall's notes:</p> <p><i>- also add him P.C. JACK is fighting the ticket I issued him - still defending 09/10 - no one in</i></p> <p><i>09/20 - in speaking w/ 1050 Johnston - info provided up P.C. JACK and potential Albanian contacts.</i></p> <p><i>10/44 - tape request form sent to Sgt. R. Powers @ P.C.C. - ref motor vehicle run by P.C. JACK 18 on 3/1/08 on 2255 bus copy sent to Jmss Johnston</i></p>	<p><b>Some points to consider:</b></p>
	<p>I am fighting the false HTA charge. My first appearance date was not until the end of September so one has to wonder how Sgt. Flindall found out that OTT Legal Services were representing me.</p> <p>'I am associating with Albanian drug dealers and I am spying on the OPP for the "evil" Albanians.' This stemmed from a license plate that I ran via the PCC on July 31, 2009, in the lawful execution of my duty. As pointed out later by the OPP's own examination of the Provincial Communication Center's tape of the license plate that I ran, the PCC erred in the license plate number (as queried a different plate number) that resulted in the particulars of an OPP surveillance vehicle conveyed to me via radio.</p> <p>Prudence would have dictated that you wait for the results of the request sent to PCC to review the recording of the call I made to ascertain if the dispatcher did not make a mistake in entering the wrong plate. However, that was not the case. Sgt. Flindall was quick to have a complaint initiated through the Professional Standards Bureau that I was associating with "Undesirables". He even brought up the photograph that I showed innocently to PC Filman and PC Brockley some 7 months earlier to add credence to the false complaint.</p> <p>The mafia got what they wanted in initiating this complaint that they knew was going to take a few months at least to investigate and in doing so they were able to hasten my termination.</p>

As I have later found out, the mark of a good undercover agent is that the police are unable to detect that you are a police officer and mistake you for a civilian. Furthermore, the fact that police ran your license plate also means that you have chosen or are using a vehicle that is not easily recognized as a police vehicle or a stereotype undercover vehicle. I only mention this to show that there was a rush to jump to conclusions with it came to dealing with me.

**(September 11, 2009) (Volume 3, V-18):**

From: Grimmel, vi (JUS)  
Sent: Friday, September 11, 2009 10:36 AM  
To: Campbell, Ron (JUS)  
Subject: Mussington

Can you tell me when Dan Gay and Michael Jack are working next week so I can set up an interview with them.

Thanks

Vi Grimmel  
Detective Sergeant  
OPP Professional  
Standards Bureau

**(September 11, 2009) (Volume 1, I-51):**

From: Flindall, Robert (JUS)  
Sent: September 11, 2009 10:45 AM  
To: Powers, Rob (JUS)  
Cc: Johnston, Mike P. (JUS)  
Subject: Tape request form\_PC\_JACK.doc

Attachments: Tape request form\_PC\_JACK.doc



Tape request  
orm\_PC\_JACK.doc ..  
ob,

Please find attached a copy of the tape request form in relation to the information we discussed over the telephone.

Thanks for your time in this matter!

Robert Flindall  
Peterborough County OPP  
VNET 501-4620

**(September 11, 2009) (Volume 1, I-50):**

From: Flindall, Robert (JUS)  
Sent: Friday, September 11, 2009 11:27 AM  
To: Campbell, Ron (JUS)  
Subject: FW: Jack

Here's Marc Gravelle's response to the incident that happened between himself and PC JACK.

**Robert Flindall**  
**Sgt. 9740**

Sgt. Flindall forwarded PC Marc Gravelle's e-mail regarding his surveillance about me to the attention of S/Sgt. Campbell. No one asked me about the incident. No one! I found it negatively documented in my Month 8 fraudulent PER.

**(September 11, 2009) (Volume 3, V-18):**

RE Mussington.txt

**From:** Campbell, Ron (JUS)  
**Sent:** September 11, 2009 11:01 AM  
**To:** Grimmett, Vi (JUS)  
**Cc:** Johnston, Mike P. (JUS)  
**Subject:** RE: Mussington

Only after we talk about this.. Anyway we need to talk here is the answer to your query...

Dan Gay works Days 14 15 18 next week 0500 to 1700 and next week after that 23, 24 Sep same time.

Mike Jack works nights 14, 15 6pm to 6am and next week after that nights 23, 24. He is working the 18th of sep but he is travelling to Kingston for his driving assessment.

The issue below involves Mike Jack. He has had difficulties on his shift and in some documentation by one of the officers mentoring him I read yesterday that he is video/audio taping persons including a female on his shift. I don't know why he did this as the officer does not say and is in today and I have asked her to come and speak with me. She is not the female that was video audio taped on his pen but she is the one who has come forward. I see all sorts of disclosure issues with the a/v of the public while he is working and I am wondering although it doesn't leave me with a warm fuzzy if I knew every time I spoke to a fellow worker he was taping me...but as long as he is a party to the conversation other than me not liking it is he violating any code of conduct??? Ron

Gentlemen,

Here is the response I received from Phil Whitten of TSS. I also spoke to PSB briefly about this and they have dealt with this situation before. My advice is to call PSB and ask them for some direction on this before you proceed further.

Thank you,

C.E.J. (Chuck) Cox  
Inspector  
Ontario Provincial Police  
Central Region  
Manager of Crime Prevention and Investigations  
(705) 329-7408 Office  
(705) 725-3719 Cell

**(September 11, 2009) (Volume 1, I-22 and Volume 2, N-10):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 11, 2009 12:00 PM  
**To:** Flindall, Robert (JUS)  
**Cc:** Postma, Jason (JUS); Nie, Richard (JUS); Butorac, Peter (JUS); Johnston, Mike P. (JUS)  
**Subject:** RE: Jack

Since this happened during your supervision of the member and the completion of his PCS066 it is up to you what you decide to do with the documentation. Should you mention it in the PCS066 this is your documentation. But like any issue and to be fair the member should have a chance to respond prior to placing it in the file. Ron

Since S/Sgt. Campbell wrote that I should have had a chance to respond to my Month 8 PER (Exhibit 27) I wonder who wrote the "REFUSED" instead of my signature and when.

However, my line of thinking is that since S/Sgt. Campbell advised Sgt. Flindall that it was up to him to decide what to do with the documentation, it must have been Sgt. Flindall who fraudulently wrote "REFUSED" instead of my signature without even considering presenting me with the PER, let alone going over it with me. What a fraud! What an abuse of power!

In the Point Form Chronology Sgt. Flindall documented that I refused to sign my Month 6 & 7 PER. Even though I only asked (based upon the advice of the OPPA 8<sup>th</sup> Branch President D/Cst. Karen German) to have it reviewed by an OPPA representative before I sign it. Furthermore, I thoroughly documented the incident in my notes (Exhibit 26c, pages 31 - 37). How come there is no evidence in the Point Form Chronology that would suggest that I refused to sign my Month 8 PER (Exhibit 27)?

Though Sgt. Flindall's officer for my Month 8 PER are not present in the disclosure provided by the Respondent, it would be of interest to the Tribunal to see if his journal for that PER has any notations that my Month 8 PER was shown to me and that I had the opportunity to review it and that I refused to sign it. After all, Sgt. Flindall documented in his journal that I refused to sign my Month 6 & 7 PER. Moreover, I meticulously documented how I "refused" to sign my Month 6 & 7 PER in my notes (Exhibit 26c).

I do not have access to my officer journals since they are in possession of the Respondent. Though I have made a request to have them present (Exhibit 91a) through this application they have not been provided to me (Exhibit 91b). If the Tribunal is ever given an opportunity to review my notebook entry with respect to my Month 8 PER the Tribunal will see that there is no notation that I was given the opportunity to review it and sign it and neither will the Tribunal find any notation that I refused to sign it because the word "REFUSED", in the place of my signature is fraudulent.

**(September 11, 2009) (Volume 2, N-11):**

From: Flindall, Robert (JUS)  
Sent: Friday, September 11, 2009 1:32 PM  
To: Campbell, Ron (JUS)  
Subject: PCS66\_JACK8.doc

Ron,

I think we're good to go on this copy. Colleen is looking to read this today as well when complete.

Rob

The above attests that there was a colluded effort by everyone including Regional Command (S/Sgt. Colleen Kohen is part of Regional Command) to discredit me and to force the termination of my employment.

(September 11, 2009) (Volume 1, F):

**From:** Flindall, Robert (JUS)  
**Sent:** September 11, 2009 4:41 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** PC Michael JACK

Inspector,

As your request, here is the information that I provided to you today, however I must reiterate that nothing has been sourced on this :

Shortly after coming to the Detachment, our probationary constable PC Michael JACK #12690 was in on shift and had brought a picture with him. The picture was of himself, along with a number of other individuals. The picture had been taken at a gym. It has subsequently been learned the gym was the Good Life Fitness on Chemong Rd in Peterborough. The people in the picture were clearly posing with shirts off, and PC JACK was apparently "ripped". PC Jamie BROCKLEY and PC Shaun FILMAN (his coach) were both in the office at the time and observed the photograph. Both have articulated that PC JACK must have been on steroids as he appeared to be twice the size that he is now. Both PC BROCKLEY and PC FILMAN recognized 3 of the males in the photograph as [REDACTED] (spelling may be off). It has come to my attention that [REDACTED] are both [REDACTED] and are part of an organized [REDACTED] crime group that deals mostly in drugs. I've been advised that this is an extremely violent crime group. [REDACTED] a local character and he is known to us. The relationship with PC JACK is such that [REDACTED] in the US and brought a rifle scope back for PC JACK. Where this gets sticky is the fact that [REDACTED]

[REDACTED] I'm afraid of burning any relationships that we have in regards to this. Our concerns regarding PC JACK's involvement with this group has been brought to the attention of D/Sgt. Scott MAHONEY who was to look into this association with PC JACK and the [REDACTED] Albanians. I currently do not have a time frame for when the photograph was taken, but regardless, the association was there in the past and the concerns are, what are the associations presently?

Also, on the 31st of July 2009, PC BROCKLEY had occasion to work on my shift while I was away on holidays. During his tour of duty, BROCKLEY overheard PC JACK running a licence plate that he believes comes back to [REDACTED] [REDACTED] which is used by our organization [REDACTED] PC BROCKLEY is fairly certain what he had heard on the radio, but only having half an ear to it, he can't be 100% certain. PC BROCKLEY also missed the licence plate that was run but tweaked to the registered owner. I have ordered a copy of the PCC tapes for this time period and have been advised I will have same by the end of the weekend. PC JACK was questioned about running this vehicle by either BROCKLEY or FILMAN, however he has no notes in his notebook and does not recall running the marker. Again, until such time that we can review the PCC tapes, this information is unsubstantiated and may merely be circumstantial.

Given the nature of PC JACK's prior associations and possibly running our gaff plates, I feel it is imperative that we review the PCC tape for the 31st of July, make a CPIC dump of all the people and motor vehicles he has run and provide as much documentation to the RCMP so that they can go back through their records to see if we have a hit on PC JACK. PC JACK's current cell phone # is (705)740-5765. This is the number he has listed with us so I'm unaware if he has a home phone number. [REDACTED] have not been run on CPIC yet as I didn't want to have a [REDACTED] until we had our ducks in a row with this.

Regards,

Robert Flindall  
Sgt. 9740  
Peterborough County OPP  
VNET 508-4120  
Tel : (705) 742-0401  
Fax : (705) 742-9247

Please consider the following excerpts from the above e-mail:

~~PC Brockley and PC Shaun FILMAN (his coach) were both in the office at the time and observed the photograph. Both have articulated that PC JACK must have been on steroids as he appeared to be twice the size that he is now. Both PC BROCKLEY and PC FILMAN recognized 2 of the males in the photograph as individuals that were apparently tipped off to the photograph. PC Jamie~~

I have never been on steroids in my life. Moreover, I have always strongly opposed the taking of steroids. I was half the size at the time the e-mail was written because of the treatment I was subjected to by the Respondent. PC Filman's and PC Brockley's comments are completely false and made in bad faith. It is a fact that I worked out regularly prior to joining the OPP and it is also a fact that I was unable to work out regularly after commencing my employment at the Peterborough County OPP Detachment. One can see the extreme prejudices of those officers and Sgt. Flindall who went to the extent of believing that I had to be on steroids in order to be in the shape I was in, in that photograph. Furthermore, the prejudices of Insp. Johnston also became apparent by receiving this e-mail and not having the professional fortitude to chastise them severely for making such vexatious comments and judgments. Perhaps the Counsel for the Respondent is of the belief that the actions of those in the aforementioned e-mail do not have an effect on poisoning one's work environment which is why the Counsel made the following statement:

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 31:**

**Paragraph 19 – The Respondent denies that that Applicant was subjected to unwanted comments, jokes and harassment or that his workplace was poisoned.**

~~in the US and brought a rifle scope back for PC JACK. Where this gets sticky is the fact that~~  
~~relationships that we have in regards to this. Our concerns regarding PC JACK's involvement with this group has been~~  
~~I'm afraid of burning any~~

I wonder what information was blackened out. I suspect it must have been in relation to some undercover surveillance.

~~Also, on the 31st of July 2009, PC BROCKLEY had occasion to work on my shift while I was away on holidays. During his tour of duty, BROCKLEY overheard PC JACK running a licence plate that he believes comes back to [REDACTED] which is used by our organization [REDACTED]. PC BROCKLEY is fairly certain what he had heard on the radio, but only having half an ear to it, he can't be 100% certain. PC BROCKLEY also missed the licence plate that was run but tweaked to the registered owner. I have ordered a copy of the PCC tapes for this period and have been advised I will have same by the end of the weekend. PC JACK was questioned about running this vehicle by either BROCKLEY or FILMAN, however he has no notes in his notebook and does not recall running the marker. Again, until such time that we can review the PCC tapes, this information is unsubstantiated and may merely be circumstantial.~~

The above statement might be inaccurate since according to the Peterborough County OPP Duty Schedule (Exhibit 66) on July 31, 2009, PC Brockley worked day shift on Platoon 'B' and not the night shift on Platoon 'A'. PC Payne worked the night shift on Platoon 'A' as I did (Exhibit 66). Even if it is accurate the following observations can be made:

~~period and have been advised I will have same by the end of the weekend. PC JACK was questioned about running this vehicle by either BROCKLEY or FILMAN, however he has no notes in his notebook and does not recall running the marker. Again, until such time that we can review the PCC tapes, this information is unsubstantiated and may merely be circumstantial.~~

The information was not circumstantial. Rather it was the product of a vengeful and probative mind that was so consumed with a desire to document anything negative about me that it failed to function logically and coherently.

The fact was that I did run a plate via the dispatcher and that plate was entered incorrectly by the dispatcher which resulted in an OPP surveillance vehicle's info conveyed to me. PC Payne (not PC Brockley) was consumed with a desire in believing that I run that plate with ill intentions that she genuinely wanted to prove her belief to be true which is why she had Sgt. Flindall order the PCC tape. Their overly suspicious mind got all the more excited when they observed that I had no notations in my notebook. Sgt. Flindall was then too quick to run with this unsubstantiated belief and have a complaint initiated via PSB.

They were so bent on believing that I was linked or associated with some organized crime group that they went to the extent of doing checks with the Intelligence branch to see if a hit came up on my cellular number and also planned on running my home number, which I did not have. The Tribunal should see how this very action by the OPP infringes upon one's rights to privacy and security under the Canadian Charter of Rights and Freedoms. I wonder if there was a search warrant prepared to execute this unlawful search on my cellular number. I suspect this based on all the disclosure from the Respondent that affords evidence to my allegations in my Application before the HRTO.

JACK's current cell phone # is (705)740-5765. This is the number he has listed with us so I'm unaware if he has a home phone number. ██████████ have not been run on CPIC yet as I didn't want to have a ██████████ until we had our ducks in a row with this.

I was a duck in their sights as they apparently did not have anything better to do with their time, but to target me. Once again Sgt. Flindall's notation in his notes on August 31, 2009, comes to mind: '**- PC Jack going to be afforded every opportunity to succeed; - rest is up to him.**' What a hypocrite! What a deceitful person!

**(September 11, 2009) (Volume 2, N-11):**

**From:** Campbell, Ron (JUS)  
**sent:** September 11, 2009 4:42 PM  
**To:** Johnston, Mike P. (JUS); Kohen, Colleen (JUS); Flindall, Robert (JUS); Nie, Richard (JUS); Postma, Jason (JUS); Butorac, Peter (JUS)  
**Subject:** FW: PCS66\_JACK8.doc  
**Attachments:** PCS66\_JACK8.doc



PCS66\_JACK8.doc  
(208 KB)

Colleen: Mike Johnston added the comments under detachment commander. Here is the revised version. Ron

(September 11, 2009) Counsel's additional disclosure (April 5, 2012):

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

From: Campbell, Ron (JUS)

To: Johnston, Mike P. (JUS); Kohen, Colleen (JUS); Flindall, Robert (JUS); Nie, Richard (JUS); Postma, Jason (JUS); Butorac, Peter (JUS)

Sent: Fri Sep 11 16:41:50 2009

Subject: FW: PCS66\_JACK8.doc

Colleen: Mike Johnston added the comments under detachment commander. Here is the revised version. Ron

I am amazed at the number of officers who united their efforts in compiling my fraudulent Month 8 PER (Exhibit 27) while contravening the Ontario Provincial Police Orders. Insp. Johnston added his comments to the evaluation more than two weeks prior to it being disclosed to me with the "REFUSED" in place of my signature. Wow!

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

**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, (Exhibit 99b, page 8):**

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

- ensure that the Form PCS066P—Probationary Constable Performance Evaluation is completed in accordance with the Probationary Constable Guidelines; and
- review, comment and forward Form PCS066P to the regional commander each month.

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

The probationary constable, coach officer, supervisor, and detachment commander shall sign the document and ensure that the probationary constable has been given the opportunity to provide comment/comments.

Perhaps the Respondent is prepared to show this Tribunal that the other three probationers (PC Amanda Knier, PC Dan Gay and PC Michael Davidson) that came to the Peterborough County OPP Detachment at the time I did, were subjected to the similar type of scrutiny and collusion in the preparations of their evaluations that I received after all the Respondent does assert, in response to this application that I was treated no different than the other probationary constables. The Tribunal will soon find out if this was true.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 46:**

~~The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were~~

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 47:**

Paragraph 37 – Sergeant Flindall did not ask the officers in the Detachment to keep the Applicant under surveillance and report back to him. The coaching of a new recruit does not occur in isolation from other police officers. The Applicant was treated in the same manner as all other recruits.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 53:**

or association. The Applicant was afforded the same opportunity to develop skills and improve over the course of his probationary year as any other recruit. Unfortunately the Applicant was unable to apply his knowledge [redacted]

(September 11, 2009) (Volume 3, V-9):

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 11, 2009 4:53 PM  
**To:** Stevenson, Hugh (JUS)  
**Subject:** FW: PC Michael JACK  
Hugh

As I discussed earliest with you, I wanted to source some of this information, but I have not been able to speak with D/Sgt Scott Mahoney. We have to be careful about inquiries about the three named subjects below as they are apparently being surveilled by the [redacted]

I will forward you additional info once I speak with Scott.

Mike

Here, the Tribunal can see how the supposedly learned individuals of rank and file, all of whom have demonstrated that they have what the OPP views as leadership attributes are so quick to rush to judgment on anything concerning me, even a speculation. Insp. Johnston was quick to poison the mind of Superintendent Hugh Stevenson and who knows who else in the OPP's General Headquarters in Orillia. This rush to judgment on the part of rank and file officers led to the false allegation of me associating with "Undesirables". Worse still was that this rush to judgment on the part of rank and file officers led the OPP to believe I was involved in organized crime and further exacerbated my already crippled probationary period. All one had to do was ask me some simple questions and all this speculation would have been cleared up instantly. The actions of everyone involved and hence the Ontario Provincial Police as an organization are just unforgivable.

**(September 11, 2009) Counsel's additional disclosure (April 5, 2012):**

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

From: Kohen, Colleen (JUS)  
Sent: Friday, September 11, 2009 5:01 PM  
To: Campbell, Ron (JUS)  
Subject: Re: PCS66\_JACK8.doc

Thanks

Will review on monday. Rob was doing the WIP so will wait for that

Has it beed disclosed ?

**(September 11, 2009) Counsel's additional disclosure (April 5, 2012):**

**From:** Campbell, Ron (JUS)  
**Sent:** September-11-09 5:02 PM  
**To:** Kohen, Colleen (JUS)  
**Subject:** RE: PCS66\_JACK8.doc

No I think he is waiting for your critic. Mike Jack is in on Monday anyway I think he is off until then.  
Ron

**(September 11, 2009) (Volume 3, V-11):**

**From:** Graham, Martin (JUS)  
**To:** Smith, Ken C. (JUS); Beesley, Paul (JUS); Powers, Paul (JUS); Armstrong, Mike (JUS); Stevenson, Hugh (JUS); Cox, Chuck (JUS); Johnston, Mike P. (JUS)  
**Sent:** Fri Sep 11 18:38:11 2009  
**Subject:** PC Michael JACK

Chief Smith et al

I have made some enquiries on this matter. The information from Sgt. Flindall at P'Boro Detachment has been examined. It does not require an urgent response at this time.

I can confirm that the names provided by Sgt. Flindall that were linked to PC Jack are currently part of an investigation that is being undertaken by the RCMP. I have spoken to D/Sgt K. Watson, OPP liaison and seconded to CFSEU. He advised he is unaware of any definitive link that has been made between our member and the targets of this or any investigation.

I suggest that a CPIC/MTO audit of PC Jack be completed. This request can not go in until Monday with Kati Curtis at CPIC operations. Intelligence section should be consulted to determine if any Level 3 CPIC hits on surveillance vehicles can be traced back to PC Jack. PC Jack should not be made aware these checks are being undertaken. I suggest this be completed by PSB investigators.

DS Watson has advised that he is willing to meet with PSB and discuss this matter if required. He will be reporting through his channels at the RCMP the enquiries that are being made but DS Watson assured me that these actions will not compromise any current investigation.

Submitted for consideration

Martin

*Martin J. Graham  
Sergeant Major # 8160  
Professional Standards Bureau,  
Central Region/GHQ  
777 Memorial Avenue,  
Orillia, ON.*

*L3V 7V3*

*Tel: 705-329-6059  
Fax: 705-329-6050*

It is amazing how many members of General Headquarters could be swayed so easily by the beliefs of a few. Then again it was really easy when you consider the information that had already poisoned the minds of the upper echelon of the OPP as I was:

- believed to be a crazy Russian with a large collection of registered vintage firearms,
- believed to have killed people in the Middle East and was proven to be a very accurate shooter,
- extremely fit,
- both from Russia and the Middle East,
- already found to be in possession of a 6 year old photograph of myself along with others, two of whom, unbeknownst to me, were reported to be involved in drug trafficking,
- believed to have run a vehicle plate belonging to the OPP undercover surveillance.

Articulable cause for an investigation of Associating with “Undesirables” was created out of the prejudiced, vengeful and probative minds of a few that were so consumed with a desire to harass, oppress and discredit me that they failed to function logically and coherently. On another note, the public should be made aware of the OPP’s classification of someone with a Criminal Record – “**an Undesirable**”.

**(September 11, 2009) (Volume 3, BB) Point Form Chronology:**

**11Sep09 - S/Sgt Campbell**

- Inspector Johnston advises allegations of PC Jack's crime involvement to be reviewed by Professional Standards Bureau. Peterborough Detachment is to do no investigation.

To an outsider or an individual having no knowledge of what I was going through or having no knowledge of the circumstances that precipitated the false allegation of me associating with “Undesirables”, this notation in S/Sgt. Campbell’s chronology was damaging to those controlling my future with the OPP. My so called “crime involvement” had to be a topic of numerous discussions behind my back. My so called “crime involvement” actually classified me as an “Undesirable” at the detachment. This allegation and false

labeling of me was extremely damaging to any hope I could have had in passing my probationary for it had already poisoned many minds towards me.

**(September 11, 2009) (Volume 2, L-9):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** Friday, September 11, 2009 8:31 PM  
**To:** Flindall, Robert (JUS); Campbell, Ron (JUS)  
**Subject:** Fw: PC Michael JACK

**Importance:** High

Rob - FYI

EXTREMELY CONFIDENTIAL

We are to stand down on any other action on this, as PSB will be the lead on any further action.

Mike

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Sent from my BlackBerry Wireless Device

Though the e-mail was supposed to be extremely confidential, it certainly was not. The information spread and poisoned my work environment even further. When I received the Notice of Internal Complaint on September 23, 2009, (Exhibit 39) my new accountable supervisor Sgt. Butorac had already known about it, alternative OPPA rep PC Mitch Anderson had already known about it, and though I cannot compel many officers to testify to their knowledge of the complaint I assert that many more in the detachment were either made aware or became aware of the complaint. PC Anderson told me that he had even spoken with Insp. Johnston directly if he now had to run every person on CPIC he knew from the gym where he worked out to ensure they were not criminals!!! How did he know about the gym photograph??? Everyone was so quick to pass judgment and document anything and everything about me that information like this was ripe for gossip. If the Respondent does not believe this and if the Tribunal wants the proof, please consider a paragraph from Sgt. Jason Postma's e-mail on August 24, 2009, (Volume 2, L-12):

**Moral:** D platoon is the laughing stock of this office because of these developments. People are not viewing this as second chance or re-focus, they look at this as "its not our problem anymore." Our shift is not happy, but will give Mike every chance to succeed. Its surprising how many people knew about this before I did, and before Rich made any comment on this.

The contradiction in what is stated above is very real and can be seen as being present in any work environment. How could one say that I would be given every chance to succeed if at the same time they were stating that everyone that I was going to be working with was not happy with me? In the opinionated environment of a policing profession I was already viewed as an "Undesirable". According to Sgt. Postma his platoon (that I was soon to be working on) was the 'laughing stock' because of me. There is simply no excuse for the prejudice directed at me.

**(September 13, 2009) (Volume 1, I-47, I-48, I-49):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 13, 2009 11:47 AM  
**To:** Filman, Shaun (JUS)  
**Subject:** JACK's WIP's

Shaun - you mentioned you were going to put all of PC JACK's WIPS together onto one form for me. Have you gotten this done yet?

I need it asap.

**Robert Flindall**  
Sgt. 9740

**(September 13, 2009) (Volume 1, I-47, I-48, I-49):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 13, 2009 3:24 PM  
**To:** Filman, Shaun (JUS)  
**Subject:** RE: JACK WIP masterc.doc

You are a good man sir! I was just about to call you. :)

**Robert Flindall**  
Sgt. 9740

**(September 13, 2009) (Volume 1, I-47, I-48, I-49):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 13, 2009 3:26 PM  
**To:** Filman, Shaun (JUS)  
**Subject:** RE: JACK WIP masterc.doc

Hey I can't edit this. Send an attachment instead of how you did it.

**Robert Flindall**  
Sgt. 9740

**(September 13, 2009) (Volume 1, I-48):**

**From:** Flindall, Robert (JUS)  
**Sent:** Sunday, September 13, 2009 5:36 PM  
**To:** Campbell, Ron (JUS)  
**Cc:** Kohen, Colleen (JUS); Filman, Shaun (JUS)  
**Subject:** JACK WIP masterc.doc

Ron and Colleen,

Please find a revised WIP for PC JACK. PC FILMAN has compiled the ten separate WIP's into one and I have tweaked them to their final draft.

Robert Flindall  
Sgt. 9740

As Sgt. Flindall illustrates in an e-mail to PC Nie on September 24, 2009, his definition '***I have tweaked them to their final draft***' was to literally place me in a position where I would be out of my comfort zone. My health was already being impacted on by the racially charged atmosphere of my workplace and now he was deliberately moving me out of my so called '***comfort level***'. Even more incredible is the revelation from the Respondent that the Operations Manager, Detachment Commander and General Headquarters Human Resources Manager for probationary recruits, S/Sgt. Colleen Kohen were also in agreement with this plan and giving directions to officers Richard Nie, Jason Postma and Sgt. Peter Butorac.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 46:**

**46. Paragraphs 31 to 36 – All of the PERs attributed to Constable Filman were written by him. All the PERs were reviewed by Sergeant Flindall who may have sought revisions before the documents were finalized. The Applicant was subject to the same expectations as every other probationary constable. The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were**

**(September 14, 2009) (Volume 1, I-21, Volume 2, L-7, Volume 2, N-12, Volume 3, W-6):**

**From:** Campbell, Ron (JUS)  
**sent:** September 14, 2009 10:44 AM  
**To:** Johnston, Mike P. (JUS)  
**Cc:** Kohen, Colleen (JUS); Flindall, Robert (JUS); Nie, Richard (JUS); Postma, Jason (JUS); Butorac, Peter (JUS)  
**Subject:** FW: JACK WIP masterc.doc  
  
**Attachments:** JACK WIP masterc.doc



JACK WIP  
masterc.doc (76 KB)

Like I will defer this to you for D/Commander Comments unless you prefer I add mine as Operations Manager.

Rich Jason and Peter: Please wait until we have heard from Colleen prior to disclosure.  
Tks Ron

**(September 14, 2009) (Volume 2, L-4 and Volume 3, W-10):**

**From:** Johnston, Mike P. (JUS)  
**sent:** September 14, 2009 11:07 AM  
**To:** Campbell, Ron (JUS); Flindall, Robert (JUS); Nie, Richard (JUS); Kohen, Colleen (JUS); Postma, Jason (JUS); Butorac, Peter (JUS)  
**Subject:** FW: JACK WIP masterc.doc  
  
**Attachments:** JACK WIP masterc.doc

  
JACK WIP  
masterc.doc (77 KB)

All

Detachment Commander's comments added.

Mike

The Tribunal can take special note in just this e-mail from the Respondent of how many officers had a part to play in my Month 8 PER and Work Improvement Plan (WIP).

**(September 14, 2009) (Volume 1, I-20):**

**From:** Kohen, Colleen (JUS)  
**Sent:** Monday, September 14, 2009 11:41 AM  
**To:** Flindall, Robert (JUS); Campbell, Ron (JUS)  
**Cc:** Filman, Shaun (JUS)  
**Subject:** RE: JACK WIP masterc.doc

Good Morning

I have reviewed the WIP and looks good .. But I do suggest this last comment be removed. It is our role over the next few more months to help him with these areas and we should not expect to resolve all of these immediately.

Also on the PCS66P.. It should read month 8

Once discussed lets look at another conference call maybe next week if that works with the new platoon

Colleen

JACK is expected to resolve the 10 items listed above by his second evaluation with his new coach officer. This will ensure a proper amount of time to work with his coach officer in achieving these goals.

Who wrote the comment that S/Sgt. Kohen suggested be removed? Also, since the comment was made in my Work Improvement Plan for Month 8 PER there should have been 17 items as opposed to 10 items for 17 'Does Not Meet Requirements' ratings, which was yet another negligence on Sgt. Flindall's and PC Filman's part.

I hope the Tribunal will note that the e-mail was addressed to S/Sgt. Campbell and to Sgt. Flindall while PC Filman was only carbon copied.

Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 46:

46. Paragraphs 31 to 36 – All of the PERs attributed to Constable Filman were written by him. All the PERs were reviewed by Sergeant Flindall who may have sought revisions before the documents were finalized. The Applicant was subject to the same expectations as every other probationary constable. The Applicant was not subjected to greater scrutiny than other probationary constables. The Applicant was struggling to perform the duties which were

(September 14, 2009) (Volume 1, I-20):

From: Campbell, Ron (JUS)  
Sent: September 14, 2009 3:17 PM  
To: Kohen, Colleen (JUS); Flindall, Robert (JUS)  
Cc: Filman, Shaun (JUS)  
Subject: RE: JACK WIP masterc.doc

Rob please ensure this comment is fixed.

(September 15, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

<p>TUE 15-SEP-09</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>0105 I POKE W 1514 Sgt Butorac AND PC Nie ABOUT MY PROGRESS HE WAS ABLE TO IDENTIFY THE SPECIFIC ISSUES<sup>2</sup> AND INSTRUCTED ME</p>	<p>WED 16-SEP-09 FOLLOW UP ON [REDACTED] [REDACTED] 12:00 PM 10</p>
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(September 15, 2009) (Volume 2, M), PC Nie's notes:

<p>TUE 15SEP09</p> <p>0105 - met with Sgt. Butorac + PC Jack - Sgt asked him to let us know what he needs help with 0120 clear</p>	<p>Tue 15SEP09</p> <p>0105 – met with Sgt. Butorac + PC Jack – Sgt asked him to let us know what he needs help with 0120 clear</p>
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(September 15, 2009) (Volume 1, G, Volume 2, L-8 and Volume 3, V-1):

**From:** Johnston, Mike P. (JUS)  
**Sent:** Tuesday, September 15, 2009 3:26 PM  
**To:** Campbell, Ron (JUS)  
**Subject:** FW: Clarification re PC JACK

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**From:** Blue Sky Gear [mailto:admin@blueskygear.com]  
**Sent:** September 15, 2009 2:41 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** Clarification re PC JACK

Inspector,

As per our discussion, here is some clarification information regarding PC JACK. I have spoken with PC BROCKLEY today, after our conversation, for more information and about the timing of this information.

PC BROCKLEY advises that 2-3 weeks after PC JACK arrived at the office, in Jan '09, PC JACK produced a photograph to PC BROCKLEY at the request of PC FILMAN, his coach officer. PC BROCKLEY at the time was working in the Drug Unit. When PC JACK produced the photograph, PC BROCKLEY recognized 3 of the people in the photograph, 2 of which were [REDACTED] and heavily into the drug scene. I believe PC BROCKLEY was also aware of a drug project that was running on the pair at that time by the [REDACTED] which was highly secretive. PC JACK also provided information that the other person in the photograph, [REDACTED] had brought him back a rifle scope when he was down in the US. Given the manner in which PC JACK was forthcoming with the information that he had worked out with these people in the past, and keeping the integrity of the [REDACTED] nothing was brought forward at the time.

PC BROCKLEY has advised that the 2 males play their cards close to their chest and either you know absolutely nothing about what they do, or you know everything. Again, the manner in which PC JACK provided the information, led PC BROCKLEY to believe he didn't know anything.

I was made aware in passing some time after that, that PC JACK had worked out with some undesirables in the past at the gym but was never told the above information concerning their [REDACTED]

In July, I was away on holidays into August. During that time period, PC BROCKLEY worked on my shift due to personelle shortages on the 31st of July. During the evening hours, PC BROCKLEY was involved in an investigation and was dealing with a youth, when he overheard the registered owner [REDACTED] which he believes is [REDACTED]. He wasn't 100% certain as he only had half an ear to the radio. PC BROCKLEY has advised me today that PC JACK was spoken to by PC PAYNE and PC FILMAN about 2 hours after the plate had been run, and PC JACK advised he didn't recalling running the plate nor had anything in his notebook about it. PC BROCKLEY advised that this was odd, and thought back to the photograph that PC JACK produced back in January.

I was advised of PC JACK potentially running an [REDACTED] August after I had gotten back from holidays. Again, I don't have the exact date with me. I wasn't familiar with [REDACTED] being used by surveillance teams nor did I have the information above about the [REDACTED]. I believe it was PC PAYNE that told me about him running the plate. No one on the shift fully heard the plate he had run or the RO information, but thought it was something similar [REDACTED] advised her I would look into the matter when I had a chance and would see about pulling the tape from the PCC.

In the beginning of Sept, the 3rd I believe, the licence plate matter was brought up again, which reminded me to make a request for the tapes. It was also at this time that PC BROCKLEY came forward about the details of the photograph in January. He provided me with the details of the RCMP project and the 2 males affiliation with [REDACTED] drug running. He advises that each matter alone, didn't cause him concern, but it was the pairing of the two that caused him to take notice. He advised that he was concerned about the integrity of the project and felt that had any information been discovered about PC JACK it would have been brought forward.

I in turn brought this information immediately forward to S/Sgt. CAMPBELL and we had discussions about where we were to go from this point. None of the information at the time had been sourced. I hadn't run any of the parties involved as I didn't want any SIP hits coming back. S/Sgt CAMPBELL advised he was going to notify Insp. JOHNSTON about the information and did so by email. I advised S/Sgt. CAMPBELL I would send an email to Insp. JOHNSTON, but didn't do so, because I had just literally received very basic information about the matter and needed to obtain more detailed information to provide a better picture. I provided Insp. JOHNSTON the above information when he was back in on days from being away on the 11th of Sept.

In all accounts, PC JACK's affiliation with the 2 males at the gym seemed innoquous enough to PC BROCKLEY given the manner in which the information was provided by PC JACK. It wasn't until the incident at the end of July when PC JACK ran a suspected [REDACTED] that PC BROCKLEY started piecing together a potential conflict. Had I the information about the [REDACTED] connection, I would have prioritized obtaining the PCC tapes to see if in fact it was an [REDACTED] plate that PC JACK had run. Once the totallity of the information was learned, S/Sgt. CAMPBELL was immediately notified.

I hope this provides clarification as to the timing of events. As they say, timing is everything. Further clarification should be obtained from PC BROCKLEY, PC FILMAN and PC PAYNE for further, finer details.

Respectfully,  
Robert Flindall  
Sgt. 9740  
Peterborough County OPP  
VNET 501-4620

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

I might be wrong with respect to the disclosure date of my Month 8 PER to me in my statement. Unlike my personal respondents when they compiled the point form chronology I did not have the benefit of access to my officer's notes when I compiled my statement. While I wrote in my statement that my Month 8 PER was disclosed to me on September 14, 2009, sufficient evidence in various e-mails in the Respondent's

disclosure and Sgt. Butorac's notes indicates that my Month 8 PER was disclosed to me on September 24, 2009.

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

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

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

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

- In actuality, when Sgt. Butorac presented me with the evaluation in mid-September, 2009 it was the first time I ever laid eyes on it! The Evaluation Meeting never took place!
- Though there was a statement printed above the coach officer signature stipulating that I was on my days off for the majority of this evaluation (I actually worked only 6 shifts) the evaluation purports to reflect the previous evaluation.
- I knew at that time I was being harshly targeted in order to have me fired from the OPP in a "legitimate" way.

COMMENTS AND SIGNATURES		
<b>Evaluation Meeting</b>		
<input checked="" type="checkbox"/> I have met and discussed my performance with my coach officer or my accountable supervisor. <input checked="" type="checkbox"/> I have reviewed and discussed with my coach officer or my supervisor, my responsibilities under the policy on Safe Storage and Handling of Firearms. <input checked="" type="checkbox"/> I have reviewed and discussed with my coach officer, or my supervisor, my performance in relation to my responsibilities under the Professionalism, and Workplace Discrimination and Harassment Prevention policies.		
Employee's Comments:		
Employee's Signature:	<i>REFUSED</i>	Date:
<b>Coach Officer Comments:</b> During this evaluation period PC JACK was off on rest days for the majority of the evaluation period. This has resulted in a lack of content for this evaluation period. As well sue to the fact that the previous evaluation had a number of Work improvement plans and PC JACK was off he has not had a significant opportunity to rectify the identified performance deficiencies.		
Coach Officer's Signature (Performance has been observed that supports the rating assigned for each category): <i>[Signature]</i>	Date: 11 Sep 09	
<b>Accountable Supervisor's Comments (Mandatory):</b> PC JACK has only worked 6 shifts during this last evaluation period due to his vacation leave. A number of the sections in this evaluation have been carried over from his last evaluation. It is expected upon his return to work, that he will actively meet the objectives of his Work Improvement Plans as he continues his probationary period with Platoon D.		
Accountable Supervisor: <i>Sgt. R. FLINDALE</i>	Accountable Supervisor's Signature: <i>[Signature]</i>	Date: 11 Sep 09
Detachment Commander: <i>Ron Campbell</i>	Detachment Commander's Signature: <i>[Signature]</i>	Date: 11 Sep 09
<b>Instructions:</b> At the conclusion of each evaluation period: <ul style="list-style-type: none"> <li>• Forward the completed and signed ORIGINAL document to Region/Bureau for signatures and tracking purposes.</li> </ul>		

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

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

##### ATTITUDE TOWARDS LEARNING

Able to re-evaluate personal opinions, judgments and assumptions based on new information and experiences; able to learn from mistakes and accept disappointments as well as successes.

Meets Requirements

##### Specific example:

PC JACK has an obvious desire to learn and takes his own initiative to do so. However, having said this, his ability to take advice or constructive criticism or direction from experienced officers is sometimes met with "I know". This has led to some question about his attitude from these officers.

SP09148553 - As the result of a traffic complaint about a possible impaired driver PC JACK located and stopped the vehicle. He appropriately issued a roadside demand and when the subject failed the roadside he arrested the driver and issued the Demand for the intoxilyzer. PC JACK however, did not issue the rights to counsel and caution to the accused until he was back at the detachment after I questioned him about this time. PC JACK acknowledged the mistake and immediately corrected the issue.

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

##### ATTITUDE TOWARDS LEARNING

Able to re-evaluate personal opinions, judgments and assumptions based on new information and experiences; able to learn from mistakes and accept disappointments as well as successes.

Does Not Meet Requirements

##### Specific example:

PC JACK has an obvious ability to learn but is not willing to take responsibility for mistakes or accept any disappointments. He has been found to avoid an officer that has given him negative feedback. He has also been argumentative with officers that have given him direction and states that discipline is "humiliating".

The presence of the noted comment of Issues Noted clearly implies that the evaluation was reviewed and approved by the Regional Commander who is the manager of Staff Development and Training (Exhibit 27):

<b>Regional Commander (or designate)</b>		
Comments (Mandatory)		
<i>Issues noted. Work improvement plan is attached.</i>		
Insp. Dave E. Lee Manager Regional Commander (or designate) Staff Development and Training		Regional Commander's (or designate) Signature: <i>D.E. Lee</i>
		Date: <i>05/05/09</i>
<b>Instructions:</b> At the conclusion of the evaluation period: <ul style="list-style-type: none"><li>• Return a signed COPY of completed document to the member.</li><li>• Forward the completed and signed ORIGINAL document to Career Development Bureau for tracking purposes.</li></ul>		

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

**(September 15, 2009) (Volume 1, G) Sgt. Flindall's e-mail to Insp. Johnston:**

I was advised of PC JACK potentially running an [REDACTED] plate in August after I had gotten back from holidays. Again, I don't have the exact date with me. I wasn't familiar with [REDACTED] states being used by surveillance teams nor did I have the information above about the Albanians. I believe it was PC PAYNE that told me about him running the plate. No one on the shift fully heard the plate he had run or the RO information, but thought it was something similar [REDACTED]. I advised her I would look into the matter when I had a chance and would see about pulling the tape from the PCC.

Please note the excerpts:

- **'nor did I have the information above about the Albanians'.**
- **'I believe it was PC Payne that told me about him running the plate'.**

Of course PC Payne told Sgt. Flindall about me running the plate! Who else could it have been?

In the beginning of Sept, the 3rd I believe, the licence plate matter was brought up again, which reminded me to make a request for the tapes. It was also at this time that PC BROCKLEY came forward about the details of the photograph in January. He provided me with the details of the RCMP project and the 2 males affiliation with [REDACTED] drug running. He advises that each matter alone, didn't cause him concern, but it was the pairing of the two that caused him to take notice. He advised that he was concerned about the integrity of the project and felt that had any information been discovered about PC JACK it would have been brought forward.

Please note the excerpts:

- **'the license plate matter was brought up again'**

- *It was also at this time that PC BROCKLEY came forward about the details of the photograph in January'.*

Note the flow of information between the common-law spouses (PC Payne and PC Brockley). Why was Sgt. Flindall being vague about who brought the license plate matter again to his attention? Was it PC Payne? Was it PC Filman?

**(September 15, 2009) (Volume 1, G) Sgt. Flindall's e-mail to Insp. Johnston:**

In all accounts, PC JACK's affiliation with the 2 males at the gym seemed innoquous enough to PC BROCKLEY given the manner in which the information was provided by PC JACK. It wasn't until the incident at the end of July when PC JACK ran a suspected [REDACTED] that PC BROCKLEY started piecing together a potential conflict. Had I the information about the Albanian connection, I would have prioritized obtaining the PCC tapes to see if in fact it was an [REDACTED] that PC JACK had run. Once the totallity of the information was learned, S/Sgt. CAMPBELL was immediately notified.

I hope this provides clarification as to the timing of events. As they say, timing is everything. Further clarification should be obtained from PC BROCKLEY, PC FILMAN and PC PAYNE for further, finer details.

**(September 15, 2009) (Volume 1, G) Sgt. Flindall's e-mail to Insp. Johnston:**

an ear to the radio. PC BROCKLEY has advised me today that PC JACK was spoken to by PC PAYNE [REDACTED] He wasn't 100% certain as he only had half and PC FILMAN about 2 hours after the plate had been run, and PC JACK advised he didn't recalling running the plate nor had anything in his notebook about it. PC BROCKLEY advised that this was odd, and thought back to the photograph that PC JACK produced back in January.

I was questioned by PC Payne at the end of the same shift regarding the license plate, but I do not remember whether it was day shift or night shift. My memory tells me she questioned me at the end of a day shift, but I might be wrong. I do clearly remember that I wondered at the time why she questioned me about it. I thought she was trying to find yet another fault with me. I thought she was going to negatively document me for not writing the queried plate in my officer notebook. The manner in which I was questioned, which was akin to an interrogation, made me very cautious. Cautious over nothing as it later turned out. The truth, much later on revealed that the dispatcher had entered the wrong plate and it was the result of querying the wrong plate that gave everyone this premature excitement. However, the damage had already been done as the false complaint against me had already been filed and I was viewed as an "Undesirable" and the new platoon I started on was viewed as the 'laughing stock' of the entire detachment.

## 15Sep09 - PC Nie

- didn't offer to back up his zone partner on a 911 call – admitted he heard the call but didn't think he needed to go – blamed it on past calls he saw on his shift where officers went alone to 911 calls – explained to him how each call his different, can't make a standard set of rules
- PC Jack asks me last name of recruit that I coached named Al
- stand-by keep the peace – he was unable to speak with the complainant or the homeowner so we attended the residence anyways – no one was present so he contacted dispatch and advised them to send the complainant to get her belongings – told him to stop and explained that it was not logical at all to have someone take belongings without the other half present – told him we could not do it that way – said he understood now why it could be an issue – again tried to excuse his decision based on a previous call and what he had seen – we discussed how the details were different
- 2130hrs – told him he needs to be more proactive – spending too much time in the office on paperwork, also that he needs to improve on his driving, again told him to stop blaming others for his mistakes – told him mistakes are understandable but to stop blaming everyone else

My responses to the above 4 bullet point entries are as follows:

- I hope the Tribunal will see the pattern in PC Nie's documentation of my explanations. Whenever I offered an explanation of my rationale for doing what I did, PC Nie documented it as '**me blaming it on others**'. It is only natural that a probationary recruit will often talk about previous calls he/she has been on. However, whenever I mentioned previous calls I was documented as trying to shift blame on others.
- I think I did ask PC Nie about Al on that date. I do not remember. If I did then I was just curious at the time. Somebody must have mentioned to me something about PC Nie's coaching of Mr. Harry Allen Chase. But it was later that I learned that not only PC Nie coached Harry Allen Chase, but also had him terminated. Hence, later PC Nie and I had another discussion about Mr. Harry Allen Chase.

Response to the 3<sup>rd</sup> bullet point entry is as follows:

I was unable to speak with the complainant or the homeowner because no one answered the phone. Again, when I explained my rationale, PC Nie documented it as '**me trying to excuse my decision based on a previous call**'.

## Rebuttal to PCS-066P (Month 9) (Exhibit 59):

Resolution

Rating: Does Not Meet Requirements

From the first hour of my work on Platoon 'D' shift Cst. Nie started constantly finding faults with me and meticulously documenting them in his notebook and in my monthly performance evaluations. Regardless of what I did or how I did it I was almost always wrong in Cst. Nie's eyes. He constantly made me feel as a misfit and as a failure. Having said that, how long would it take for one to lose confidence in trusting one's decisions and wait to be told what to do?

The example referring to the stand-by keep the peace is true.

### Response to the 4<sup>th</sup> bullet point entry is as follows:

PC Nie did not do any paper work at the time. I was responsible for doing all the paperwork. PC Nie's job was to watch my every move and to negatively document me as much as possible. If, as PC Nie puts it, '*mistakes are understandable*' how come every mistake I made no matter how insignificant it may have been (mere use of my cellular phone during a paid duty was viewed as '*playing with his phone instead of doing his job*' were viewed as major mistakes that were worth documenting. Furthermore, in light of PC Nie's comment the following deserves mentioning:

- PC Payne's entire special duplicate notebook (**Re PC Jack**), which was only about me, contains nothing, but negativity,
- Everyone's entries in the point form chronology about me were nothing, but negative,
- Overall, nearly all e-mails contained in this disclose from the Respondent regarding me are nothing, but negative,
- Though I sent a number of e-mails during prior to my commencement of duty at the Peterborough County OPP Detachment and numerous e-mails during my tenure there the entire disclosure from the Respondent fails to show evidence of such.

## Rebuttal to PCS-066P (Month 9) (Exhibit 59):

During my training with Cst. Nie I was responsible for handling and documenting all the calls I took, as it should have been happening of course. When I had to stay at the detachment to complete my paper work Cst. Nie reprimanded me for it. Out of the 2 community policing offices in our patrol zone, only one had a working computer at the time. To combat the problem, I started taking paper work home and continued coming to the detachment on my time off duty to complete paper work so I could have a fresh start each shift and spend more time on the road. In one of my subsequent evaluations Cst. Nie negatively rated me for doing that.

**(September 16, 2009) (Volume 2, N-13):**

**From:** McNeely, Dave (JUS)  
**Sent:** Wednesday, September 16, 2009 1:01 PM  
**To:** Campbell, Ron (JUS)  
**Subject:** Ron - can you advise if everything is a go for Friday Driving assessment with Michael Jack

Hello Ron

Just checking on the above - I am going to be away from the office tomorrow and stay in Kingston Friday to conduct the assessment.

Dave  
503-4561

**(September 16, 2009) (Volume 2, N-13):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 16, 2009 2:28 PM  
**To:** McNeely, Dave (JUS)  
**Cc:** Postma, Jason (JUS); Butorac, Peter (JUS); Nie, Richard (JUS); Johnston, Mike P. (JUS)  
**Subject:** RE: Ron - can you advise if everything is a go for Friday Driving assessment with Michael Jack

Dave as far as I know everything is a go. Mike Jack is scheduled 10 to 2200 to avoid any issues and is to take the plain black Ford.. Ron

**(September 17, 2009) (Volume 3, V-3):**

**From:** Thompson, Tym (JUS)  
**Sent:** September 17, 2009 6:01 PM  
**To:** Flindall, Robert (JUS)  
**Subject:** Com Centre

Sgt. Findall,

I have been assigned to follow up on P/C Jack. I understand you requested the logger tapes

concerning the [REDACTED] date. Have you received the recording yet? I would like a copy, but didn't want to put in a second request for the same thing.

Tym

**Tym Thompson**

Detective Sergeant  
Professional Standards Bureau  
Ontario Provincial Police  
desk-(705) 329-6473  
cell-(705) 238-7107  
fax-(705) 329-6050  
vnet-518-6473

**(September 17, 2009) (Volume 3, V-3 and V-13):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 17, 2009 6:09 PM  
**To:** Thompson, Tym (JUS)  
**Cc:** Johnston, Mike P. (JUS)  
**Subject:** RE: Com Centre

Hello Tym,

Smith Falls PCC was in contact with me today via email indicating they were hoping to get the logger tape completed today. I'm heading into 2 weeks of nights so I've requested they forward the DVD to Inspector Johnston. I've included the Inspector in this email so he has your contact information on where to send the logger tape to.

Anything else I can do to assist, please don't hesitate to ask!

Best regards,

Robert Flindall  
Sgt. 9740

Please note the differences in addressing each other in their e-mail correspondence: D/Sgt. Thompson addressed Sgt. Flindall as '**Sgt. Flindall**' while Sgt. Flindall addressed D/Sgt. Thompson as '**Hello Tym**'. Interesting, isn't it? This way of addressing a Professional Standards Bureau Detective Sergeant suggests that Sgt. Flindall must have been on the phone with D/Sgt. Thompson prior to that and felt comfortable addressing D/Sgt. Thompson simply as '**Hello Tym**'.

**(September 17, 2009) (Volume 3, V-3):**

**From:** Thompson, Tym (JUS)  
**Sent:** September 17, 2009 6:17 PM  
**To:** Flindall, Robert (JUS)  
**Subject:** RE: Com Centre

Thank you very much, I will probably need a will say from you at some point, but don't worry about it until I ask.

Tym

**(September 18, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:**

PM 18-SEP-09  
OK ON IT  
S [REDACTED]  
GIA 9 STOR PON  
TRANSAC  
DRIVING ASSESSMENT  
ONE PAST  
BELVILLE, SWINCH  
TO 2 OPS 32  
10:08 10-8  
MIL 147046 147453  
GAS 1/2 TANK

12:30  
[REDACTED]

13:00 TIM KOTOLSK  
MEET WITH  
DAVE MCNEELEY  
STARTED ASSESSMENT  
DRIVING ASSESSMENT  
COMPLETED  
REACH @ TIM KOTOLSK  
INNOVATION DRIVE  
WEBSYMPOSIUM BREAK 5

(September 18, 2009) (Volume 2, L-5, Volume 2, N-14 and Volume 3, W-9):

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 18, 2009 8:25 AM  
**To:** Nie, Richard (JUS)  
**Cc:** Butorac, Peter (JUS); Postma, Jason (JUS); Chapman, Kathy (JUS)  
**Subject:** P/C Jack

Rich

Sgt Flindall has given me Cst Jack's most recent PCS066 and the development plan. It is signed off by all including myself. Can you present to him, and get him to sign.

The other envelope is a copy for Cst Jack. Both envelopes are in your mail slot

The signed original should go to Kathy Chapman for submission to Region

## Thanks

Mike L

While S/Sgt. Campbell's signature is present on my Month 8 PER (Exhibit 27, pages 11 - 12), there is no Insp. Johnston's signature as he stated in his e-mail to PC Nie. The manner of presentation of this PER as directed by Insp. Johnston was in direct contravention of Ontario Provincial Police Orders. The Inspector and everyone else contravened Police Orders and they obviously expected me sign that fraudulent PER?

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

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

RE:  
Probationary Constable: Michael Jack  
Detachment Peterborough County  
ERHQ File# 291

On Friday 18 September 2009 I conducted a "Driver Competency Assessment" on Probationary Constable Michael Jack.

This assessment took place in the City of Kingston using an unmarked Chevrolet Malibu. A

place. I will say that I found CST Jack to be cooperative but felt that he truly was under a fair amount of stress. There were a few situations that presented themselves during the

18Sep09 - PC Nie

- at start of shift were sent to PD MVC - enroute were asked to attend MVC scene with zone partner who had impaired driver – he told PCC that we already had a call but would attend the impaired accident – I then made arrangements for other officers to cover the original call we had, PC Jack had no idea what everyone else was doing because he wasn't listening to the calls – I explained that on officer was doing a stand by call for us and now another was doing an MVC
- approximately 10 minutes from the MVC we were sent to a sudden death and he decided to re-route from the MVC but asked for another officer to take that call – I explained to him how if he was listening he would have known that there was no one else available – also that since we were closer to the MVC, we would stop quickly, get the drivers information and tell him the officer would call him later – he said he thought sudden death was more important – I agreed but explained he needed to be able to deal with both calls quickly knowing that EMS were already ahead of us to the sudden death as the call came from them
- at the sudden death, he was unable to gather basic information right at beginning from the park owner to relay to the Sgt who was on his way – showed him what was required for a quick update – the park owner had no idea what PC Jack was asking until I stepped in to clarify – it was his first sudden death call though
- when attending hospital he was having difficulty deciding where to park in an empty lot – very nervous/indecisive, couldn't use common sense to park near emergency - said it was because he had never been there before but agreed patients are always taken to emergency at hospitals
- when leaving hospital a kid on a bike with no lights and no helmet drove right onto road in front of us behind our zone partner who had just passed – it was dark so the kid couldn't see we were police – PC Jack braked hard and then continued on – we finished our conversation about the call and then I asked why he didn't stop the bike – I asked him if he knew the two offences and he did, but when I asked why no stop he said he wasn't thinking like a police officer mind set – told him he was working the full 12

hours and that he needs to be able to multitask – just because we're talking doesn't mean we can't stop to deal with an offence – confirmed that this now did not mean to stop every kid on a bike with no helmet or light, this was specific because he rode out in front of us – addressed multitasking skills again

- when back at office I told him to contact a fraud complainant that had called earlier in the night - as it was now 2330hrs or so, I told him to either explain that we would call back the next night at 1800hrs, or he could have an officer call her in the morning – I told him to take two minutes and quickly deal with it so we could work on the sudden death report, as he was already on overtime from his driving assessment – he spent over 20 minutes on the phone taking all the details of the call – told him that was not what I had instructed him – said he was not able to get her off the phone and I told him that he is the officer and can dictate how the call goes – be more assertive
- while driving to the sudden death call, he missed a turn because he relies solely on his GPS unit to get him to calls – I force him to read the map but he still inputs the address and watches the screen, often missing turns and having to circle back
- prior to writing sudden death report he said it won't be good because he is tired and exhausted – told him not to make excuses again because we have all been in the same situation and no one else says anything – especially new recruits

**My responses to the above 8 bullet point entries are as follows:**

I started my shift approximately at 9:00 am, drove to Kingston where I had a very stressful driving assessment. By evening time I was too exhausted to function adequately. PC Nie failed to mention that the sudden death call came in at 18:51 hrs. Furthermore, I hope the Tribunal will note how over a period of 6 hours (from 18:00 until midnight) PC Nie “found” and thoroughly documented 8 problems with me. It was a very successful “fishing evening” for PC Nie.

185) SP09218593	OPP	Sudden death	2009/09/18	POLICE)
			18:51	Complete - solved (non-criminal) - 885 RIVER RD, ASPHODEL-NORWOOD

place. I will say that I found CST Jack to be cooperative but felt that he truly was under a fair amount of stress. There were a few situations that presented themselves during the

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):****Radio Communications**

Rating: Does Not Meet Requirements

The first example is true. I feared Cst. Nie's presence. As a result, the major part of my mental and emotional focus was redirected from the tasks at hand to staying focused on my every action and constantly measuring how I was perceived by Cst. Nie.

The second example is also true. At the time, I could not keep track of what everybody else was doing on top of my personal duties. I thought monitoring officers' calls was the job of the dispatcher.

Furthermore, why is Cst. Nie referring to my ability to listen on the radio negatively? Does he not remember he has just rated me in the area of my listening skills as meets requirements?

Again the credibility of my coach officer is brought to question.

What needs to be pointed out is that I was very conscious of my accent being thick. I was reminded that I spoke with a funny accent. I was also asked if I could speak with a Canadian accent. So naturally all of this had a cumulative effect on my communications category and radio communications category.

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):****Police Vehicle Operations**

Rating: Does Not Meet Requirements

The comments are true. After being charged by Sgt. Flindall under the HTA on August 15, 2009, and subsequently disallowed to work on my own I lacked confidence in driving. I subsequently drove slower and more cautiously. Also, when I attended remedial driving sessions with Sgt. Kent Taylor in the fall of 2009 he specifically instructed me that safe driving should take precedence over other tasks when one is behind the wheel of a motor vehicle.

With respect to the youth riding a bicycle on the side walk with no helmet or light I did not notice any wrongdoing on his part. I did not notice that the youth had no helmet or light on and trusted Cst. Nie's observation after he had pointed them out to me. First, I was 12 hours on the job and was getting tired. Second, I would like to stress that by that point in my monthly evaluations I had become so concerned about the future of my career based on how I was being targeted and treated that I was constantly on pins and needles. Whenever any officer spoke to me, be it my supervisor, coach officer or another platoon member I wanted to digest the information completely and try to wholly please them. Naturally such a process of constant analysis would have an adverse effect on one's ability to multitask. This careful documentation of Cst. Nie actually serves as an example of how the constant discrimination I was being subjected to was affecting my work.

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):****Analytical Thinking****Rating: Does Not Meet Requirements**

The comments are true. How could I have remained dynamic in dealing with individual situations if almost everything I had done was rated as "bad or wrong" by my coach officers and by my supervisors? Of course, not knowing any better, I was trying to pattern handle new calls after calls handled successfully without any reprimands.

As later pointed out by Cst. Tapp this category should have been rated with Meets Requirements. There was no specific incident to offer a rating in this category. There was also absolutely no basis for referring to the youth on the bicycle incident since there was no similar incident worth identifying for this category other than Cst. Nie's belief that I have trouble connecting the dots or piecing together the key elements to develop a solution. I guess all of my educational qualifications and skills so far just did not cut it.

Again one has to question the credibility of the evaluator and the evaluation.

For my rebuttal regarding the incident with the youth on the bicycle, please refer to the Police Vehicle Operations section in this performance evaluation.

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):****Oral****Rating: Does Not Meet Requirements**

The comments are true. I can only say in my defence that first, it was my first sudden death call and second, being accompanied by the Big Brother Cst. Nie severely eroded my independent judgment. Also, in another occurrence on September 19, 2009, in which a senior citizen complained about being taken advantage of by a concrete work contractor after I have interviewed her Cst. Nie reprimanded me for taking too long to conduct the interview and asking too many unnecessary questions.

The bottom line is whenever I took my time to elicit all the pertinent information I was reprimanded for taking too long. I was also reprimanded for asking too many questions and whenever I was brief I was reprimanded for not covering the relevant points. With my accent I feel the appropriate level of understanding was not given me by my coach officer. It is common knowledge that a person with an accent can take longer to achieve that which a person without an accent would. It is also common knowledge that everyone learns at their own pace and not at another's pace. Furthermore, any mature and impartial coach officer would know that a rookie will often ask too many so called unnecessary questions but that rookie's quality of interviews would naturally improve over time. Not so for me. I was expected to conduct an interview at the standards of an experienced officer immediately. If anything, such a lack of understanding on the part of a coach officer speaks to the coach officer's inability to conduct an unbiased evaluation

Again the credibility of my coach officer is brought to question.

What needs to be pointed out is that I was very conscious of my accent being thick. I was reminded that I spoke with a funny accent. I was also asked if I could speak with a Canadian accent. So naturally all of this had a cumulative effect on my communications category and radio communications category.

(September 19, 2009) Counsel's additional disclosure (January 27, 2012), Sgt. Butorac's notes:

<p>SAT 19 SEP 09</p> <p>on - 1700</p> <p>off - 0500</p> <p>?A - 1-071</p> <p>SM -</p> <p>EM -</p> <p>W -</p> <p>[redacted]</p>	<p><b>SAT 19 SEP 09</b></p> <p>on - 1700</p> <p>off - 0500</p> <p>?A - 1-071</p> <p>SM -</p> <p>EM -</p> <p>W -</p>
<p>1810 Shift briefing - Spoke to Nie + Jack about assignment I left in Rel. To write down what he thought his issues were + how he would propose to fix them</p> <p>[redacted]</p>	<p>[black]</p> <p>1810 Shift briefing</p> <p>Spoke to Nie + Jack about assignment I left in Rel. To write down what he thought his issues were + how he would propose to fix them</p> <p>[black]</p>

(September 19, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

<p>SAT 19 - SEP - 09</p> <p>MET WITH SGT BUTORAC TO DISCUSS</p> <p>BUDGET TO PULL</p> <p>DEFENSE AS</p> <p>PC &amp; SGT BUTORAC</p> <p>REDUCE MEAS</p>	<p>I RECEIVED PEG</p> <p>I FEEL UNCOMFORTABLE</p> <p>AND COULD USE</p> <p>SOME HELP</p> <p>EXPANDED MY</p> <p>POINT OF VIEW</p> <p>TO BE CONTINUED</p>
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<p>8/21/1987 POA</p> <p>1855 - Shutterae &amp; A. Jack      - he described what his      struggle are</p> <p>(1) Repression - learning      police info - what to      write &amp; how long it takes</p> <p>(2) says his mind is      structured as independent      from last 8 yrs office      environment - doesn't      see things as a team</p> <p>(3) foreign language      - never worked in real      world - always academic</p> <p>(4) can't use his previous      computer skills - thinks he      was hired for them but</p>	<p>can't use them - thinks      his skills are useless</p> <p>(5) indecisive when with      senior officers</p> <p>(6) under-pressure - also in      the country - stress from      being closely watched -      living alone - bills to pay</p> <p>(7) trouble seeing help people      vs. charge people - thinks      up police were bad</p> <p>SAT 1987 POA</p> <p>- trouble adjusting his      mind set</p> <p>- never focused on anything      in his life - pressure</p> <p>- common sense for others      is not common for him</p> <p>- self-confidence is low      as he is afraid of      losing his job</p> <p>1915 - cheer</p>
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19Sep09 - PC Nie

- Baker Street fraud call – the complainant was trying to tell him that we were no longer required and he didn't listen and just took a full report – he spent 45 minutes on a call that could have been 5 minutes – time management addressed
- Upon leaving, he observed a male pedestrian who he thought was drunk, in his words, because he was walking with a drink in his hand (Tim Hortons' coffee) – he drove past the male and rolled down my window which I stopped him and told him to get out to approach the male – he left the car completely blocking the northbound lane of traffic with no emergency lights activated – traffic was not busy but those that came had to go into oncoming lane to go by - his approach with the male was very interrogative and the man asked if he was doing something wrong by walking with his coffee (he was obviously concerned about why he was stopped) – spoke with PC Jack about vehicle position, lights, tactics, etc. then asked why he didn't make a notebook entry – told me that he was still going to but we were talking – told him that wasn't true as we were 15 minutes down the road – he said that PC Crowder had told him that he didn't need to make his notes at the time of the call and that other times PC Filman was three hours behind in his notes – I asked him what his normal procedure was and he just again talked about the other officers – I sternly told him to stop playing games and to answer the question – When you stop someone for speeding, do you make your notes right away or drive down the road 15 minutes and then stop to do your notes. He got mad and wouldn't answer so I pushed again for a response and he said he was thinking – he then said that he does each method 50% of the time – I told him this was a simple exercise to show him when he should make his notes – he said he didn't want to lie to me and I told him once again he was trying to set things up to blame someone else and he nodded in agreement
- Shortly after we stopped a speeder – he told me he didn't know how to fill in the township or where to sign the ticket – I told him to stop playing games with me, that after 8 months on the job he knew the answers – told him to look on his map for the township if he didn't know, and I told him to sign the tickets the way he always had – he said that he had been showed two different ways – I told him that I knew he wanted me to tell him how he should do it just so he could blame someone else if it was different than what I taught – he chuckled at me when I said this – it was very clear that he knows the games he is playing and I assured him I would point this out every time it happens

- Met with Sgt. Butorac and PC Jack to discuss issues to date – PC Jack lists what he believes to be his problems: (1) Paperwork – learning police lingo (2) His mind is structured as independent from 8 years of office environment – doesn't see things as a team (3) Foreign language – he has never worked in the real world, only in academic environment (4) Not using his prior computer skills – thinks he was hired for them but can't use them (5) Indecisive with senior officers around him (6) feels under pressure – alone in this country, stress from being closely watched, living alone, has bills to pay (7) trouble looking at things from helping people vs. charging people perspective – police were bad growing up and he has to adjust his mindset (8) never failed at anything in his life – what is common sense for others is not common for him (9) low self-confidence as he is afraid of losing his job.

**My responses to the above 4 bullet point entries are as follows:**

**Response to the 1<sup>st</sup> bullet point entry is as follows:**

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):**

The bottom line is whenever I took my time to elicit all the pertinent information I was reprimanded for taking too long. I was also reprimanded for asking too many questions and whenever I was brief I was reprimanded for not covering the relevant points. With my accent I feel the appropriate level of understanding was not given me by my coach officer. It is common knowledge that a person with an accent can take longer to achieve that which a person without an accent would. It is also common knowledge that everyone learns at their own pace and not at another's pace. Furthermore, any mature and impartial coach officer would know that a rookie will often ask too many so called unnecessary questions but that rookie's quality of interviews would naturally improve over time. Not so for me. I was expected to conduct an interview at the standards of an experienced officer immediately. If anything, such a lack of understanding on the part of a coach officer speaks to the coach officer's inability to conduct an unbiased evaluation

**Response to the 2<sup>nd</sup> bullet point entry is as follows:**

**Decisive Insight**

**Rating: Does Not Meet Requirements**

The example referring to stopping a pedestrian is true. First, it was late at night and I did not clearly see the object the male was holding in his hand. From a distance the object appeared as a container to me. Second, after being reprimanded by Cst. Nie on September 18, 2009 for not stopping a youth riding a bicycle with no helmet or light, as mentioned in the *Police Vehicle Operations* section in this performance evaluation, I started paying particular attention to the pedestrians around me. That was the reason I stopped the pedestrian to verify he was not consuming alcohol in a public place. I felt that if I did not stop to inquire about the object the pedestrian had in his hand, I would be criticized and the incident would eventually be reflected in my next monthly evaluation. So I checked on the pedestrian and still got criticized.

It is also noteworthy to mention that when I attempted to roll the passenger side window down to ask the pedestrian a question from inside the cruiser, Cst. Nie, who was the passenger, immediately and abruptly rolled it up and in an angry voice and manner said to me, "You just killed me. What if he had a knife? You should always step out of the cruiser when dealing with pedestrians." I understood Cst. Nie's perspective and his attempt to emphasize the importance of officer safety techniques and being vigilant at all times, but not to the point of ridicule. I was just going to ask a peacefully walking pedestrian a simple question.

**Response to the 3<sup>rd</sup> bullet point entry is as follows:**

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

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

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

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

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):**

**Personal Accountability**

**Rating: Does Not Meet Requirements**

On September 19, 2009, in yet another attempt to follow Cst. Nie's rules to the letter, I asked him how he wanted me to sign a ticket. He immediately accused me of trying to set him up and playing mind games with him. No matter what I did or how I did it, Cst. Nie almost always found a problem with me. I was fearful of asking him questions. Every time I asked a question, I anticipated he would find something wrong with it. There was that constant perception on his part that I was playing mind games with him. To date I am not certain if that perception was real or deliberately fabricated to oppress me.

I am glad that Cst. Nie was able to note that I show no ability to accept responsibility for my action because it is also evident that due to the constant racial discrimination I was being subjected to my employment was being affected.

**Response to the 4<sup>th</sup> bullet point entry is as follows:**

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):**

**Respectful Relations**

Rating: Does Not Meet Requirements

How can one truly maintain respectful relations with individuals that are referring to you (in your absence) as a "Crazy Ivan"?

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

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

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

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

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

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

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

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):**

**Self-Confidence**

Rating: Does Not Meet Requirements

I did not have much confidence left when I reported to Platoon 'D' shift. The rest of the confidence was quickly eroded by Cst. Nie's accusations of me lying to him, playing mind games with him, not doing anything properly, not accepting personal responsibility for my mistakes, etc. I was literally being made to feel like I was a puppet on Cst. Nie's string and hence the string of the Ontario Provincial Police and the Ontario Public Service.

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

**I accept this rating wholeheartedly since it is a proof of how my level of self-confidence was completely eroded by those who were supposed to develop me.**

**(September 20, 2009) (Volume 2, L-1 and Volume 3, W-14):**

**From:** Nie, Richard (JUS)  
**Sent:** September 20, 2009 3:25 AM  
**To:** Butorac, Peter (JUS)  
**Subject:** PC Jack's 8mth evaluation

Pete - I was just reviewing the 8mth evaluation (09AUG-09SEP) for PC Jack that was in my diary slot from the Inspector. I wanted to read it over prior to disclosing it as requested and I found the following.

There are 17 categories that show Does Not Meet Requirements, up from only 10 categories the month before. The problem is that when you look at the Work Improvement Plan, it only addresses 10 of the 17 issues, and it needs to address all 17. Also, Federal Statutes shows as Meets Requirements on the evaluation, which is a category change from the evaluation before. If this is the case, it needs to show up under the Results Achieved category on the Work Improvement Plan. It currently shows up as an item that still needs a Work Improvement Plan, which doesn't match with the evaluation.

I have no problem giving him the evaluation but I thought it would be better to have everything done properly given the circumstances. I will keep it until you let me know, Rich.

**(September 20, 2009) (Volume 3, X), S/Sgt. Campbell's notes:**

<p>Sun 20 Sep 09 1814. Rest Day contacted by Sgt Butorac RE: WIP only address 10 of 17 areas needs fixed advised to send to Colleen Kohen &amp; Flindall with comments prior to disclosure.</p>	<p>Colleen Kohen &amp; Flindall wtr. comments prior to disclosure. Mon 21 Sep 09</p>
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**(September 20, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:**

**20 Sep 09**

**1814**

Rest Day contacted by Sgt Butorac RE: WIP only address 10 of 17 areas needs fixed advised to send to Colleen Kohen & Flindall with comments prior to disclosure.

**(September 20, 2009) (Volume 2, N-15, Volume 3, W-7):**

**From:** Butorac, Peter (JUS)  
**To:** Johnston, Mike P. (JUS); Nie, Richard (JUS)  
**Cc:** Chapman, Kathy (JUS)  
**Sent:** Sun Sep 20 18:32:55 2009  
**Subject:** RE: P/C Jack \*\*URGENT\*\*

Inspector

I spoke to Ron yesterday about the issues in this evaluation. He suggested I send back to you to give to Rob and Koleen. If she has already approved as such we will serve. I just wanted to ensure that everything was as it should be.

Rich did bring up good points.

Thanks

Pete

---

From P/C Nie's email...

Pete - I was just reviewing the 8mth evaluation (09AUG-09SEP) for PC Jack that was in my diary slot from the Inspector. I wanted to read it over prior to disclosing it as requested and I found the following.

There are 17 categories that show Does Not Meet Requirements, up from only 10 categories the month before. The problem is that when you look at the Work Improvement Plan, it only addresses 10 of the 17 issues, and it needs to address all 17. Also, Federal Statutes shows as Meets Requirements on the evaluation, which is a category change from the evaluation before. If this is the case, it needs to show up under the Results Achieved category on the Work Improvement Plan. It currently shows up as an item that still needs a Work Improvement Plan, which doesn't match with the evaluation.

I have no problem giving him the evaluation but I thought it would be better to have everything done properly given the circumstances. I will keep it until you let me know, Rich.

Please note PC Nie's comment, ***'I thought it would be better to have everything done properly given the circumstances.'***

**Sgt. Jason Postma's revelation (August 24, 2009) (Volume 2, L-12):**

**Coaching:** Rich is a good officer, but he has been in this coaching roll way to long. He needs a few years of no recruits to get that front line grove back (my opinion). I don't want him to burn out if Mike requires extra documentation and process. He will do the job and will do it right, but I'm sensing the negative side of him of late.

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.

In summary of all the collusion going on just to present me with my Month 8 fraudulent PER all I can say is **mafia!**

(September 20, 2009) (Volume 3, BB) Point Form Chronology:

**20Sep09 - PC Nie**

- he asked me how to do a traffic report and provide the information to those involved – I told him to do what he was taught by PC Filman – again we discussed how it is completely inappropriate for him to set me up for a new answer to something he already knows and then blame another officer when it is different and he agreed – we discussed how there are several methods to provide traffic report information

(September 20, 2009) (Volume 2, L-6, Volume 2, N-16, Volume 3, W-8):

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 20, 2009 10:58 PM  
**To:** Butorac, Peter (JUS); Nie, Richard (JUS); Campbell, Ron (JUS)  
**Cc:** Chapman, Kathy (JUS); Flindall, Robert (JUS)  
**Subject:** Re: P/C Jack \*\*URGENT\*\*

Rich

Thanks for advising.

Rob, can you review please prior to it being presented to Cst Jack.

Thanks

Mike

(September 21, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

	MON 21-SEP-09
	<p>04:00 CONVERSATION WITH Sgt BURDINE AND PC MIC NIE: 1) PROFESSIONAL DEVELOPMENT - ISSUE IDENTIFICATION - ISSUE RESOLUTION PLAN - FOLLOW UP PLAN</p>

**(September 22, 2009) (Volume 3, V-12):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 22, 2009 3:52 AM  
**To:** Thompson, Tym (JUS)  
**Cc:** Johnston, Mike P. (JUS)  
**Subject:** RE: Com Centre

I have received the Smith Falls PCC Tape for the evening in question. Sgt. POWERS in Smith Falls prepped the tape and even located the vehicle stop in question.

On the tape, PC JACK runs [REDACTED] which the dispatcher runs and returns the RO of the vehicle to be [REDACTED]. This is what the other officers heard over the radio. PC JACK asks for clarification and provides the licence plate again. The dispatcher then discovers that she had input an incorrect plate of [REDACTED] which comes back to [REDACTED]. The plate PC JACK ran came back to a private individual.

At the end of the day, the officers were correct in hearing [REDACTED] attached to a vehicle, it was just the wrong vehicle that the dispatcher had run through MTO.

Regards,

Robert Flindall  
Sgt. 9740

It was too late to do damage control. The damage that had been done was beyond repair. The rush to judgment by the prejudiced and targeting minds of the participants towards me made me and the platoon I was switched to as the '*laughing stock*'. Regardless of the mistake being that of the dispatcher I was already viewed as an "Undesirable".

**(September 22, 2009) (Volume 3, V-3):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 22, 2009 11:51 AM  
**To:** Flindall, Robert (JUS)  
**Subject:** RE: Com Centre

Rob

So I am clear then it appears P/C Jack did not run the plate associated to [REDACTED]

Mike

You DAMN right I did not! I was maliciously labeled and black-balled with the sole purpose to terminate me as due to my foreign background and race I was not accepted by the local mafia of racists!

**(September 22, 2009) (Volume 3, V-3):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 22, 2009 6:02 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** RE: Com Centre

That is correct. PC JACK provided a plate to run and the dispatcher hit the wrong letter when she was entering it. The officers did hear [REDACTED] but it was the wrong plate the dispatcher entered.

**Robert Flindall**  
**Sgt. 9740**

In light of this revelation it is now clear to me why PC Brockley never looked me in the eyes in the fall of 2009 whenever we happened to be in proximity (Schedule 'A', page 50).

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 52:**

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

Again it is worth mentioning that the damage had already been done and though it was found to be unsubstantiated the actions of the participants served to further racially marginalize me at the Detachment.



Ontario  
Provincial  
Police

**COMPLAINT INTAKE FORM  
RECEIVED**  
PROFESSIONAL STANDARDS BUREAU

GHQ File #

SEP 22 2009

**Source and Type of Complaint**

ORILLIA POLICE  
ORILLIA, ONTARIO

Complaint Source	Complaint Type	Employee Type
Public	Conduct <input checked="" type="checkbox"/>	Civilian
Internal <input checked="" type="checkbox"/>	Service	Uniform <input checked="" type="checkbox"/>
Other Source	Local Policy	FNC
	Provincial Policy	OGPS
	Administrative	Auxiliary
	WDHP: Follow Policy in Chapter 6 of Police Orders.	

**Complainant Information**

Surname: GRAHAM	First Name: MARTIN
Badge/Employee #: 8160	Rank/Position Title: Sergeant Major
Street Address: 777 Memorial Ave	Suite/Apt:
City: Orillia	Province: Ontario
Home Tel: ( )	Postal Code: L3V 7V3
	Business Tel: ( 705 ) 329- 6059
	Ext:

**How and When Received**

How Reported	Date Received	Time Received
by letter	11SEP2009	1641 hrs
by fax		
in person <input checked="" type="checkbox"/>	Date any OPP supervisor first aware of substance of allegations:	
	11SEP2009	

**Received By**

Last Name: Thompson	First Name: Tym	Middle Name:
Badge #: 7775	Rank: D/S	Location: Professional Standards- Orillia

Last Name	First Name	Initial	Rank or Position	Badge #	Location
JACK	Michael		Provincial Constable	12690	Peterborough County OPP

#### Incident Details

Date: 11SEP2009

Time: 0 am  
0 pm

Location: Peterborough County OPP  
Detachment

Detachment: Peterborough County OPP

#### Summary of Incident/Action Taken:

Information below was received by PSB on September 11, 2009 via e-mail from P'Boro Det

- PC JACK arrived at Detachment in January 2009 as a new officer.
- Sometime after he arrived (no date id's) JACK showed a picture of himself with a number of individuals
- JACK was described as being in the picture with three individuals who are known Criminals.
- Allegation is that PC JACK may be associating with undesirables ie known criminals

Signature:

Date: [d/m/y]

22SEP2009

Page 2 of 2

**Comments:**

Signature:

*Mark Lake*

Date: [d/m/y]

22 SEP 09

**Activities**

<b>Member Notified?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Region Commander Remarks and/or Recommendations?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Informal Resolution Attempted?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No Not Appropriate <input type="checkbox"/> Attempts Continuing? <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Informal Discipline Applied?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No

**Attachments**

<b>Letter/statement of complaint</b>	
<b>Medical report</b>	
<b>Photographs</b>	
<b>Acknowledgement letter to complainant</b>	
<b>Comments of recipient</b>	
<b>Regional Commanders Remarks and/or Recommendations</b>	
<b>Relevant Local Policy</b>	
<b>Informal Discipline Record</b>	
<b>Withdrawal of Complaint</b>	
<b>Others (specify):</b>	

Page \_\_\_\_ of \_\_\_\_

[OPP September 2002]

Please note the dates in the complaint intake form (including the date stamp up on the first page). They are all September 22, 2009 – the same date the Respondent learned that I did not query the OPP surveillance vehicle.

Please note the date in the complaint intake form when **any OPP supervisor** first aware of substance of allegations: **September 11, 2009**:

<b>How Reported</b>	
<input type="checkbox"/> by letter	
<input type="checkbox"/> by fax	
<input checked="" type="checkbox"/> in person	X

**Date Received**

11SEP2009

**Time Received**

1641 hrs

Date any OPP supervisor first aware of substance of allegations:

11SEP2009

Please note the date in the point form chronology when **S/Sgt. Campbell** was allegedly first made aware of substance of allegations: **September 3, 2009**.

**03Sep09 - S/Sgt Campbell**

- 1650hrs - S/Sgt. Campbell met with Sgt. Flindall to discuss performance issues
- 1720hrs - Sgt. Flindall discloses that PC Jack is involved with [REDACTED] Organized Crime and is running OPP under cover cars involved in an ongoing investigation. Sgt. Flindall advises information came from a gym photo shown by Jack to other shift members in the spring. Sgt. Flindall advised to confirm his information and put it in writing. Sgt. Flindall advised to forward these to Inspector Johnston as S/Sgt. Campbell was away 04 Sep 09.
- Sgt. Flindall and S/Sgt. Campbell discussed earlier comments made by Sgt. Flindall WDHP and the vulnerability of probationary, immigrant and language difficulties.

Please note the date **S/Sgt. Coleen Kohen** was first made aware of the PSB complaint against me: **August 31, 2009**:

<b>(August 31, 2009) (Volume 4, 24) (Transcribed), S/Sgt. Coleen Kohen's notes:</b>		
Mon 31 Aug 2009	0715	On Duty
1400   Conf call re Prob Jack on conf call was Dave Lee, Ron Campbell, Cst Filman, Sgt Fidley, Sgt Postman, Cst Neal Summary Month 1, 2, 3, 4, 5 no concerns. Month 6 & 7 which are a combined PCS66P issues start to be raised. The same Prob who called me when Sgt told him he could be losing his job and also have a PSB investigation against him. Sgt Fidley seems to take lead on the perf issues and has a strong dislike for Prob Jack as he does not own up to his errors. SS also appears months 6& 7 PCS66P has been given to him but not any WIP. PCS66P 6 & 7 given to	<p><i>'The same Prob who called me when Sgt. told him he could be losing his job and also have a PSB investigation against him'</i></p> <p><i>'Sgt. Flindall seems to take lead on the perf issues and has strong dislike for Prob Jack'</i></p>	

Of particular interest, however, is the following question: How could S/Sgt. Kohen know about the PSB investigation on the date of the conference call (August 31, 2009) when according to S/Sgt. Campbell's entry in the point form chronology the PSB matter was brought up to his attention by Sgt. Flindall on September 3, 2009, and it is evident from an e-mail sent by Insp. Johnston to S/Sgt. Campbell and Sgt. Flindall on September 11, 2009, (Volume 2, L-9) that they were to stand down and that the PSB was going to investigate the allegations. Hence, how could they know on August 31, 2009, that PSB was going to investigate the matter? The only person who could advise S/Sgt. Kohen about the PSB matter was Sgt. Flindall since it was his intention to discredit me as much as possible.

Please note the names of the officers who were made aware of the PSB investigation against me: Insp. Dave Lee, S/Sgt. Kohen of the OPP's Human Resources, S/Sgt. Ron Campbell, Sgt. Robert Flindall, Sgt. Jason Postma, PC Shaun Filman, and PC Richard Nie. This action by S/Sgt. Flindall poisoned the minds of the participants. While one could say, 'So much for the confidentiality of an internal investigation', that would be a false assertion to make since the PSB investigation was fabricated with the sole purpose to terminate me. Hence, Sgt. Flindall deliberately brought the PSB investigation matter up during the conference call to alienate Regional Command Staff against me. It was Sgt. Flindall's racial disdain towards me and his neglect of duty with respect to looking after me. Hence the only way he could walk on water was to have me terminated. No man, no problem. Furthermore, it is evident from an e-mail sent by Insp. Johnston to S/Sgt. Campbell and Sgt. Flindall on September 11, 2009, (Volume 2, L-9) that they were to stand down and that the PSB was going to investigate the allegations. Hence, how could know on August 31, 2009, that PSB was going to investigate the matter?

In any case, I am amazed at how much energy and resources the Respondent expended in order to get rid of me. I am amazed at how inconsistent and contradictory the so called evidence in the Respondent's disclosure is. Why on God's Green Earth did the Respondent offer me employment in the first place? To destroy me and force me leave Canada?

**(September 22, 2009) (Volume 1, I-115 and Volume 3, Y-2):**

**From:** Payne, Jennifer (JUS)  
**Sent:** September 22, 2009 6:51 PM  
**To:** Flindall, Robert (JUS)  
**Subject:** Read this occurrence tonite  
  
**Importance:** High

SP05112642

And yes it is who you're thinking it is.....he worked there. But he was never linked to the occurrence. So when doing his background this would have never come up or been found!

Jen:)

PC Payne was on a "fishing trip" to dig as much potentially discreditable material on me as possible. Furthermore, PC Payne frequently appended a smiley/happy face emoticon after her name in her e-mail correspondence to Sgt. Flindall ONLY. The Tribunal may wonder what sort of a relationship the two had. Of importance is the fact that this e-mail was sent on the day they found out that the allegation of me running an undercover police vehicle plate was unsubstantiated. This new occurrence falsely implied that I trivialized a theft call at Burleigh Island Lodge while I was employed as a security guard and its revelation prejudiced the mind of Superintendent Hugh Stevenson to the point of him making a negative comment about my character.

## Occurrence summary

Ontario Provincial Police

Printed: 2011/01/28 14:07 by 9931

Occurrence: SP05112642 Police information @2005/07/04 08:11

Date/Time: between.... 2005/07/04 03:35 and 2005/07/04 04:45

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Clearance status: Complete - unsolved

Involved person(s): 1) [Complainant]  
2) [Suspect]

Involved address(es): 1) [Dispatch address] 4791 28 HWY, NORTH KAWARTHA TWP, ON Canada (BURLEIGH ISLAND LODGE) (Area: 3120, Duty locn: 1I21, Beat: 20, ESZ: 15038)

Involved vehicle(s):

Involved officer(s): 1) [REDACTED] GLADU, N. (CAD operator)  
2) #10532 McDermott, M. (Dispatched officer; Reporting officer)

Flag(s):

Summary: Reportable McDermott - NO EVIDENCE FOR CHARGE BUT REPORT TO BE ADDED :CCE (3 MALES 1 FEMALE STOLE BOTTLES OF ALCOHOL FROM THE BAR AREA LAST NIGHT ) (CLR'S NIGHT MANAGER SAW THESE PPL DO THIS ) (THEY ARE STILL IN ROOM 201 ) (AND ARE NOT ANSWERING THE DOOR ) (\*\*\* )  
[REDACTED] (THEY ARE TO CHECK OUT THIS AM SHORTLY ) (REPORT )

Remarks:

Printed by: 9931 Date: 2011/01/28 14:07

## General Occurrence Report

Ontario Provincial Police

Printed: 2011/01/28 14:07 by 9931

Occurrence: SP05112642 Police information @2005/07/04 08:11

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Author: #10532 McDermott, M.

Report time:

Entered by:

Entered time:

Remarks:

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**BENCHMARK:** No

**COMPLAINT:** Security guard Michael Jack heard noise in the bar area, when he went to investigate he observed a male party run from the bar area with bottles of alcohol in his possession. The guard could not identify the male party and did nothing about it. The guard filed a nightly report making a joke of the situation and when the day manager came in she contacted police.

**INCIDENT LOCATION:** Burleigh Island Lodge 4791 Highway 28, North Kawartha

**HISTORY:** A group of young people rented room 201 in the Burleigh Island Lodge without identification or a credit card to guarantee the room. The room was the source of considerable noise throughout the night, and was a complete mess at the end of the evening. When the group checked out, the manager took cash payment for the room and information from one male party who denied the theft. That male party was identified to the manager as [REDACTED] by way of photo driver's licence.

**INVESTIGATION:** P/C McDermott attended the location and spoke to the manager and read the night security guard report. It is obvious that the night guard did not take the theft seriously as the heading to that part of his report began as follows: **And now THE BIG and EXTREMELY EXCITING night adventure. Hold your breath ladies and gentlemen, it is not about the ghost....It is about the thieves!** P/C McDermott attended the room that the youths had been occupying and there was no sign of the liquor bottles that had been stolen. The stolen bottles were as follows:

1 750ml bottle of Wild Turkey

1 750ml bottle of Disaronno Amaretto

1 750ml bottle of Phillips Butter Ripple

The only descriptor that the security guard observed of the male who took the liquor was that he was short wearing shorts, a dark grey or green t-shirt and a cap. Had he contacted police at the time, then possibly police could have used the information to identify the party, but he chose not to.

Printed by: 9931

Date: 2011/01/28 14:07

Although all information points to the young people from room 201 committing the crime, the night security guard could not even identify the party as entering the room.

The manager was told that had her security guard acted promptly and properly, then by all means this situation could have been solved, however due to his inaction, there was no reasonable prospect of conviction of the one male party who happened to hand over his identification when requested in the morning.

**WITNESS STATEMENTS:** Nil

**SUSPECT(S) / SUSPECT VEHICLE:** Nil

**PROPERTY:** Nil

**SUPPORT UNITS:** Nil

**C.P.I.C.:** Nil

**NOTIFICATION:**

**DISTRIBUTION:** Nil

Printed by: 9931

Date: 2011/01/28 14:07

Page 2

I hope the Tribunal will take note of the date of printing of this report. Coincidentally, it is the same date the Respondent alleged that a Welcome letter was sent to me on December 24, 2008, as an attachment named WELCOME JACK.doc:

28/01/2011

Interesting, isn't it?

**(September 22, 2009) (Volume 1, I-46):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 22, 2009 9:18 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** Old occurrence involving PC JACK

Inspector,

I'm not sure that this has any bearing on PC JACK's current situation, but please read this occurrence dated from 2005 - SP05112642 . Shaun was looking up a suspect who happened to be involved in this occurrence. Michael Jack was also involved, but was never linked to the occurrence as an involved person. As a result, I'm sure this never made it into his background investigation. It certainly seems to be congruent with the issues we are currently facing with him now.

Regards,

Robert Flindall

## General Occurrence Report

Ontario Provincial Police

Printed: 2011/02/03 12:40 by 9740

Occurrence: SP05112642 Police information @2005/07/04 08:11

Author: #10532 MCDERMOTT, M.

Report time:

Entered by:

Entered time:

Remarks:

Printed by: 9740

Date: 2011/02/03 12:40

All these e-mails and this occurrence serve to show the OPP's insatiable appetite for any and all information about me to justify the forced termination of my employment. Please note that the report was first printed by PC Payne (her badge number is 9931) on January 28, 2011, and then by Sgt. Flindall (his badge number is 9740) on February 03, 2011.

### **Anyway, here is the story:**

In the summer of 2005 I held a part time job of a bouncer and a night security guard at the Burleigh Island Loge in Burleigh Falls, Ontario. I only worked for two nights a week at the most.

The lodge was rumored to be haunted and many staff members believed in the presence of the ghost in the building. I personally never believed in ghosts, but some staff members were so fearful of it that on a few occasions they asked me to escort them to the basement of the building to keep them safe from the ghost. In short, some staff members believed in the ghost while others did not and those who did not frequently joked about it.

Also, in the summer of 2005 there was a Hollywood movie being filmed in Burleigh Falls – Cheaper by the Dozen 2 (Exhibit 113). The filming of the movie in Burleigh Falls took place over a period of six weeks and then the filming continued in a movie studio in Toronto for another 6 – 8 weeks. As the result of the filming the lodge was filled with actors, their personal assistants and body guards, costume and makeup artists and various movie crew personnel. We had Piper Perabo, Carmen Electra, Tom Welling, Jaime King and other celebrities staying in the hotel.

Note: Steve Martin, Eugene Levy, Bonnie Hunt and Hilary Duff were staying in privately reserved cottages in the Stony Lake area. One evening Bonnie Hunt came in to the front desk to check e-mails on my computer. As we spoke I was surprised to learn that as reserved and old fashioned as she was in her movie roles that I knew, that evening she was an easygoing and quite humorous person.

And we had children actors along with their parents and even their friends staying and visiting at the hotel. During those six weeks there was an atmosphere of comedy and frequent parties that were held in the evenings on hotel premises.

During one of those nights when I heard a strange noise coming from the bar area and promptly went to investigate it I observed a male party run from the bar area towards the kitchen with what appeared to be bottle in his hand. I shouted, "Stop!" and pursued him. When he ran through the kitchen doors he dropped a bottle on the floor and when I reached the kitchen doors I slipped on the floor and fell. By the time I got up and got to the kitchen he had already gone upstairs through the back door and by the time I ran upstairs he had already entered one of the rooms. I searched the hotel floors for any clues as to where he might have gone with negative results.

At that time I pondered what to do. On one hand I had a perpetrator who stole some alcohol from the bar. On the hand I had Hollywood actors and personnel who had been known to party a lot. I weighted the pros and cons of calling the police right away and decided to wait till the morning to let the hotel manager decide what to do.

I recovered one of the bottles (by the way the bottles that were reported stolen were not full bottles), wiped the floor clean in the bar area, secured the doors and wrote that funny report about the occurrence in the spirit of good humor and information that only hotel staff were privy to, i.e. the ghost.

I was later commended by the hotel owner for having the decisive insight not to call the police in the middle of the night due to the abundance of Hollywood guests in the hotel. The last thing they wanted was police involvement which could have jeopardized hotel business for something minor like that incident. I do not know if the day time manager was commended or reprimanded for calling the police.

PC McDermott's failure to add my report to the Niche RMS as a witness statement coupled with his neglect to speak with me directly about the incident attests to his neglect in the investigation of the incident. Had PC McDermott spoken with me (the only witness to the incident), as opposed to just taking a header from my report and plugging it into his, he would have been privy to the background story, my rationale for doing what I did, and the hotel owner's position with respect to the incident. But he chose not to!

I do know that PC Shaun Filman worked a few paid duties on site at the time. In light of that fact, please consider the following:

First, when PC Filman came across the report, instead of asking me about it, he maliciously forwarded it to PC Payne so she could use it against me. One has to admire their information sharing. Second, when PC Payne learned about the report, she forwarded it to Sgt. Flindall as an urgent e-mail with the subject line '**Read this occurrence tonight**'. Furthermore, when Sgt. Flindall learned about the report he could have investigated the matter by himself, but that would have defeated the purpose of his mission to terminate me. In short, all they had to do was to ask me about it. None of them chose to simply approach me and ask me about it, because the mafia had an objective of paramount importance to get rid of me. So they maliciously forwarded it to the Detachment Commander Insp. Johnston who in turn forwarded it to S/Sgt. Coleen Kohen and to Superintendent Hugh Stevenson, who in turn lacked any decisive insight whatsoever and added his unsubstantiated comment about my character. Their actions clearly attest to the amount of animosity and hatred they had towards me and a total lack of any decisive insight on their part whatsoever.

Again, their insatiable appetite for any information that could have been viewed as cause for concern was paramount and in turn further fed their prejudices towards me.

- PC Payne's comment: '***And yes it is who you're thinking it is....'***
- Sgt. Flindall's comment: '***congruent with the issues we are currently facing with him now'***
- Superintendent Hugh Stevenson's comment: '***This information speaks to the character of this member'***

Superintendent Hugh Stevenson's comment speaks volumes of the tendency of the Upper Echelon of the OPP to just rubber stamp everything that comes up without asking questions. Superintendent Stevenson ought to have asked or directed Insp. Johnston to question me about it, but he chose not to!

**(September 23, 2009) (Volume 1, I-45):**

**From:** Flindall, Robert (JUS)  
**Sent:** September 23, 2009 5:50 AM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** RE: P/C Jack \*\*URGENT\*\*

Insp,

I've sent the docs to my house for review on Wednesday. As the PCS66 and WIP sits, they were approved by Colleen, however I will review today and send an email response back.

Regards,

**Robert Flindall**

S/Sgt. Colleen Kohen approved my fraudulent PER. Neither she nor anyone else from the Human Resources nor anyone else from the OPPA (despite my correspondence to them, Exhibit 26b) contacted me to inquire about my Month 5 PER being overdue by more than 2 months, a sudden and steep increase in the negative ratings in my Month 6 & 7 and Month 8 PERs nor about my alleged refusal to sign them. In short, no one contacted me to speak about what was going on. I must have been viewed as an "Undesirable" which is why no one wanted to be "found guilty by association" with me.

In any case, I conclude that they either trusted my coach officers and my supervisors, who lied to them, or they did not care about me, which means they were in neglect of their duty. I am of the belief that the latter applies which makes them accomplices to numerous violations under the Ontario Provincial Police Orders and the Ontario Human Rights Code.

(September 23, 2009) (Volume 3, V-3):

From: Johnston, Mike P. (JUS)  
Sent: September 23, 2009 8:35 AM  
To: Stevenson, Hugh (JUS)  
Subject: FW: Com Centre

Hugh

We have followed up the issue with P/C Jack surrounding the possible querying of an under cover vehicle. It appears that the Dispatcher ran the wrong plate, which came back to [REDACTED] (a vehicle that is used in under cover investigations).

I still feel uneasy about the whole thing however.

Mike

Even though I ran the plate in the lawful execution of my duties and their suspicion of my motives turned out to be totally false, Insp. Johnston still felt uneasy about the whole thing! The truth of the matter is that by September 23, 2009, the Respondent knew that I had not queried the surveillance vehicle plate on purpose. And even if I had queried the surveillance vehicle plate, there was absolutely nothing wrong with that because it was my duty to query plates during routine traffic patrols. Moreover, if I wanted to query the surveillance vehicle plate with malicious purpose would I really be that stupid to run it on the air over the police radio with my thick Russian accent for everybody to hear that? And even if I was that stupid and had a malicious intent then what information could have I possibly obtained by running it? It would come back as registered to a rental company or the Province of Ontario. **Another truth is that at that time I was not even aware of the existence of undercover surveillance vehicles, let alone about the undercover registration company that the OPP used to register their surveillance vehicles with.** However, no one did anything to stop the unsubstantiated and false complaint to the Professional Standards Bureau against me! Is this what Sgt. Flindall called, '**every opportunity to succeed**'?

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 52:**

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

**In reality, initiating the false complaint against me was a scheme by local mafia to oppress, malign, isolate, discredit and terminate me!**

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 45:**

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

**(September 23, 2009) (Volume 3, V-7):**

**From:** Johnston, Mike P. (JUS)  
**To:** Campbell, Ron (JUS)  
**Cc:** Kohen, Colleen (JUS)  
**Sent:** Wed Sep 23 08:37:23 2009  
**Subject:** FW: Old occurrence involving PC JACK

Ron/ Colleen - Confidential

FYI

Mike

---

**From:** Flindall, Robert (JUS)  
**Sent:** September 22, 2009 9:18 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** Old occurrence involving PC JACK

Inspector,

I'm not sure that this has any bearing on PC JACK's current situation, but please read this occurrence dated from 2005 - SP05112642 . Shaun was looking up a suspect who happened to be involved in this occurrence. Michael Jack was also involved, but was never linked to the occurrence as an involved person. As a result, I'm sure this never made it into his background investigation. It certainly seems to be congruent with the issues we are currently facing with him now.

Regards,

Robert Flindall  
Sgt. 9740

The above e-mail is just another piece of evidence of Sgt. Flindall's targeting of me.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 45:**

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

**(September 23, 2009) (Volume 3, V-7):**

**From:** Kohen, Colleen (JUS)  
**Sent:** September 23, 2009 8:39 AM  
**To:** Johnston, Mike P. (JUS); Campbell, Ron (JUS); Lee, Dave E. (JUS)  
**Subject:** Re: Old occurrence involving PC JACK

I will do some inquiring in hr

I would like to know how the sgt found this info ?

Colleen

**(September 23, 2009) Counsel's additional disclosure (April 5, 2012):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September-23-09 8:52 AM  
**To:** Kohen, Colleen (JUS); Campbell, Ron (JUS); Lee, Dave E. (JUS)  
**Subject:** RE: Old occurrence involving PC JACK

He references one of his platoon members querying a bad guy, and this incident came up. I am assuming the involved member brought it to his attention. Do you want me to look into further???

**(September 23, 2009) (Volume 3, V-7):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 23, 2009 8:54 AM  
**To:** Stevenson, Hugh (JUS)  
**Subject:** FW: Old occurrence involving PC JACK

Hugh

Forwarded so you are aware of another issue with Probationaey Jack. Please read the NICHE report indicated below. This is a "dated" incident.

Mike

**(September 23, 2009) Counsel's additional disclosure (April 5, 2012):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 23, 2009 8:55 AM  
**To:** Kohen, Colleen (JUS)  
**Subject:** RE: Old occurrence involving PC JACK

Colleen

I have updated Supt Stevenson on this recent information on P/C Jack.

Mike

(September 23, 2009) (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 occurrence 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 the niche occurrence 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 a vexatious comment and a conclusion. His mind was now poisoned towards me and believed I was an "Undesirable" that slipped in through a crack in the OPP's applicant screening process. He believed it worthy of mentioning to the Chief Superintendent Mike Armstrong and the Detective Sergeant Major of the Professional Standards Bureau Martin Graham who oversaw the investigation involving the fabricate internal complaint against me.

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 me.

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'***

**(September 23, 2009) (Volume 1, I-93):**

**From:** Crawford, Anna (JUS)  
**Sent:** September 23, 2009 3:42 PM  
**To:** Johnston, Mike P. (JUS)  
**Subject:** 2545009-0173 Internal Complaint - PC Jack  
**Importance:** High

**INTERNAL COMPLAINT NOTIFICATION TO RESPONDENT OFFICER**

**FILE NUMBER: 2545009-0173**

The attached Internal complaint notification is to be disclosed forthwith to the respondent.

Print the attachment and distribute.

Please respond to me by email indicating time and date of disclosure to the noted respondent.  
Thank you. Anna

<< File: Notification - Jack.pdf >>

Anna Crawford  
Complaints Intake Officer  
Classification & Analysis Unit  
Professional Standards Bureau  
705 329-6067 Telephone  
705 329-6069 Fax

**(September 23, 2009) (Volume 1, I-93):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 23, 2009 3:49 PM  
**To:** Butorac, Peter (JUS)  
**Cc:** Flindall, Robert (JUS); Campbell, Ron (JUS)  
**Subject:** FW: 2545009-0173 Internal Complaint - PC Jack  
**Importance:** High

Peter

Please serve Cst Jack as per the directions below.

Thanks

Mike J.

Ontario  
Provincial  
Police

Police  
provinciale  
de l'Ontario



Professional Standards Bureau  
Bureau des normes professionnelles

777 Memorial Avenue      777, avenue Memorial  
Orillia ON L3V 7V3      Orillia ON L3V 7V3

Tel: (705) 329-6051      Fax: (705) 329-6050  
File reference: 2545009-0173

September 23, 2009

## MEMORANDUM TO:

Provincial Constable Michael JACK #12690  
1100 - PETERBOROUGH COUNTY (CENTRAL REGION)

Re: Notice of Internal Complaint

Date of Incident:      Unknown

Date of Complaint:      September 11, 2009

Summary of Complaint:      It is alleged you have been associating with undesirables.

This is your notification pursuant to subsection 56(7) of the Police Services Act that an internal complaint has been commenced against you. You will be contacted in regard to this matter.

If you have any questions about this matter or the complaint process, please contact this Bureau.

A handwritten signature in black ink, appearing to read 'Chris Newton'.

Chris Newton  
Staff Sergeant  
Manager  
Classification & Analysis Unit

amc  
c: Detachment Commander, 1100 - PETERBOROUGH COUNTY

It is so alarming that no words can adequately describe my feelings. On September 22, 2009, it was realized by the OPP that the dispatcher had ran the wrong plate and this realization was communicated by Sgt.

Flindall via e-mail to D/Sgt. Thompson of the Professional Standards Bureau and to Peterborough County OPP Detachment Commander Insp. Mike Johnston – hence the OPP.

**From:** Flindall, Robert (JUS)  
**Sent:** September 22, 2009 3:52 AM  
**To:** Thompson, Tym (JUS)  
**Cc:** Johnston, Mike P. (JUS)  
**Subject:** RE: Com Centre

I have received the Smith Falls PCC Tape for the evening in question. Sgt. POWERS in Smith Falls prepped the tape and even located the vehicle stop in question.

On the tape, PC JACK runs [REDACTED] which the dispatcher runs and returns the RO of the vehicle to be [REDACTED]. This is what the other officers heard over the radio. PC JACK asks for clarification and provides the licence plate again. The dispatcher then discovers that she had input an incorrect plate of [REDACTED] which comes back to [REDACTED]. The plate PC JACK ran came back to a private individual.

At the end of the day, the officers were correct in hearing [REDACTED] attached to a vehicle, it was just the wrong vehicle that the dispatcher had run through MTO.

Regards,

**Robert Flindall**  
**Sgt. 9740**

However, the allegation of me associating with “Undesirables” was still moving ahead. Hence, the only way it was moving ahead was because of the photograph that I showed to PC Filman and PC Brockley earlier in the year. They were out to get me no matter what. All I can say about them is **mafia!**

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

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

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

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

**(September 23, 2009) Counsel's additional disclosure (April 3, 2012), PC Jack's notes:**

WED 23-SEP-09	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
17:52	INTERVIEW WITH D/CST VIG GRIMMIG FROM PSC
17:59	INTERVIEW OVER

**(September 23, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:**

	WED 23-SEP-09
NAME	1-235
SORT	11-202
18:10	CONVERSATION WITH SST BUDOMAC RE: NOTICE OF HUMANIC COMPLAINT [REDACTED] AG
23:10	UV STOP - 1 BEGA D1 [REDACTED]
23:12	READ THE DEMAND FOR PROTEST
23:18	ADMINISTRATIVE PROTEST. REBILIG: 000 9,880 CONTAINING 2,116
23:57	W.H.C. OVER
24:12	10-16
24:18	H/C UNWANTED

**(September 23, 2009) Counsel's additional disclosure (January 27, 2012), Sgt. Butorac's notes:**

<i>WED 23 SEP 09 on - 1700 off - 0500 [black]</i>  <i>1700 Shift prep 1810 Served Jack, M P/C with internal complaint # 2545009-0173 paperwork/RMS/DAR 0500 OD</i>	<b>WED 23 SEP 09</b> on - 1700 off - 0500 [black]  1700 Shift prep 1810 Served Jack, M P/C with internal complaint # 2545009-0173 paperwork/RMS/DAR 0500 OD
--	--

Serving me with the Notice of Internal Complaint must have been the highlight of the shift as no other meaningful entries were made during the entire shift.

**(September 23, 2009) (Volume 1, I-93 and Volume 6, 58):**

**From:** Butorac, Peter (JUS)  
**Sent:** September 23, 2009 7:16 PM  
**To:** Johnston, Mike P. (JUS); Crawford, Anna (JUS)  
**Cc:** Flindall, Robert (JUS); Campbell, Ron (JUS)  
**Subject:** RE: 2545009-0173 Internal Complaint - PC Jack

Served 23 Sep 09 @ 1810 by Sgt Butorac/6901

I would hasten to say that reading this e-mail made Sgt. Flindall's day.

(September 23/24, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

MY 24-56909  
IN TOXICATION AND  
WOULD NOT  
LEAVE  
+ MOVED [REDACTED]  
OUTSIDE  
29:40 ATS  
SPOKE WITH  
[REDACTED]  
OWNER OF THAT  
RESIDENCE.  
ADVISED HIS SON  
HAD BEEN DESTROYED  
NOT PLACE AND  
THAT NO WORDS  
WERE OUT  
[REDACTED] IS RESIDING  
WITH [REDACTED]  
[REDACTED] IS VERY  
VIOLENT AND WHAT  
APPEARED BUT  
WANTS [REDACTED] BLO  
OUT FOR ONE  
NIGHT.  
[REDACTED] IS VIO-  
LENCE, USES STRONG  
LASHES, HUMILIATION,  
SWIFTS, SWEARS  
AT OFFICERS AND  
[REDACTED] BROTHER  
NON-COMPLIANT,  
SWEARS TO IT  
OFFICERS. "SO MUCH  
YOUTH SPENDS"

MY 24-56909  
"GOT LOST",  
"LEAVE ME ALONE"  
[REDACTED] IS VISIBLE  
AGITATED AND  
APPEARS TO BE  
INTOXICATED  
01:03 PLACED  
UNDER BLANKET  
TOH PREVENT  
BREATH OR PEACE  
SEARCHED & LOBBED  
IN PLAIN CLOTHING  
01:13 [REDACTED]  
CAME OUT AND  
ADVISED THAT  
[REDACTED] IS A SOON  
MIST [REDACTED] WOULD  
A FEW BEERS AND  
THAT [REDACTED] IS GOING  
TO ATTEND INTO  
OPP DETACHMENT  
IN THE MORNING  
BROKEN 06:30 AM  
TO PLATE [REDACTED] UP.  
01:16 10-8 Cpl TO 10/14  
01:25 10-19  
[REDACTED] IS SEARCHED  
AGAIN AND LOBBED  
IN CELL 1.  
[REDACTED]  
CANNOT GO ON  
NOTEBOOK NOTES  
COMED HOME IN  
01:30 PHOTOCOPIED NOTES  
FOR DC A. MAYER  
& MENTAL REPORT <sup>33</sup>

2007 097. Dose to [REDACTED]  
 - male party calling to say he wants his brother removed from residence (and - [REDACTED])  
 2008 brother is [REDACTED]  
 - says he is house share with him - he is involved with another male  
 0040 108 - [REDACTED]  
 - not actively by male  
 2008 as [REDACTED]  
 - he spoke with PC Jack - created him Michael & said he remembered him from the gym  
 - said he wants us to tell his brother [REDACTED] to leave but doesn't want him arrested  
 - said that PC Jack knew all of the history  
 - said he doesn't want to feel as what happened, just to give [REDACTED] a wake-up call  
 - he told PC Jack to know everything was being recorded - and he pointed towards his vest

THURSDAY  
 - PC Jack just snatched & shake his head  
 - PC Jack attempted to get more info but was just told about who was in the house  
 - I then explained the options to [REDACTED] - that we can't him & how around - he brang if recording again  
 - I told him I wasn't recording anything & then why does he think PC Jack is  
 - he again said "from the gym" - PC Jack snatched & acted like he didn't know what was going on  
 [REDACTED] said he called police from [REDACTED] phone  
 - he went in to speak with his brother - asked us to wait outside  
 - shortly after [REDACTED] one to door - drank & belligerent - told us to fuck off & leave  
 - explained that his brother wanted him to stop causing problems  
 - kept telling us to leave then turned towards his brother aggressively yelling at him

0103 - PC Taek arrested [REDACTED]  
to prevent breach of  
peace  
- noticed he had small  
dried blood mark above  
right eye & small burns  
- 1092 kept calling us on,  
warning us to fight  
0110 - he was taken to court  
- identified & searched  
- [REDACTED]  
- advised he would pick up  
[REDACTED] in the morning  
0115<sup>th</sup> - transported to PCT  
0125 ATB- PCT  
- lodged in cells by  
PC Taek  
- ~~Rufus~~ advised Sgt. Butforne  
he prior act to load  
- completed report

0125<sup>th</sup> - T142488P09  
0210 - spoke with PC Taek  
re: voice recording  
- advised him re: call  
at [REDACTED] house - advised  
why male advised he  
knew he was being  
recorded  
- denied any knowledge of  
17 - Said maybe he  
met him at [REDACTED] last  
doesn't remember  
- advised - tell him if I ever found  
him + he was recording me  
- he could find another co-sh  
0225 - talk with Butforne about same re: [REDACTED]

23Sep09 - PC Nie

- PC Jack was served with an internal complaint about associating with undesirable people – he asked what he should do and I told him to call the association but I didn't want to know details
- Throughout the night he continued to bring up how he was not associated with those bad guys from the gym – he asked me if I remembered going to the Coffee Time the other night and that it was owned by a drug dealer – asked if I remembered him talking about that guy [REDACTED] who he said had gone to [REDACTED] – I said that I remember telling him I had heard that the owner was into drugs and that I had stopped [REDACTED] for a twelve hour maybe five years ago – he said that he knew all those guys before he was police and hasn't talked to them for over five years – he said once he was police and found out they were bad he stopped going around them
- We attended a call a 920 Kelly Blvd in Bridgenorth, the complainant, [REDACTED] immediately called PC Jack by his first name when we arrived and said "you don't remember me do you" - PC Jack said yes that it was from the gym and they discussed doing handstand push-ups – the complainant was very vague with his information about why he called and said "look Michael, you know all the history here so I don't need to get into it" – he then said that he knew that the conversation was being recorded – I stepped in and assured him that nothing was being recorded and the complainant said that PC Jack knew what he meant – I asked PC Jack was he was talking about and he looked very white and said nothing – I again told the complainant that nothing was being recorded – the brother of the complainant was arrested for prevent breach of peace after it was apparent to me that he would not calm down as he was drunk – I told PC Jack to arrest the male as I had had enough – at no time did he read RTC or Caution – when I brought it up 3.5 hours later he attempted to blame me saying that he was going to but I rushed him saying we needed to get back to the office quickly before the male damaged the cruiser – I explained that all he had to do was admit that he forgot but he kept trying to excuse it by blaming it on being rushed – I said if that was true he could have done it in the car on the way in or at any other time over the 3.5 hours – he said that he didn't do it there because he thought for safety the guy had to be in the car to read his rights because that is what he watched everyone do – again told him to just admit he forgot as that was better than to blame me for it – he just nodded his head but appeared angry
- He left to purchase gas and came back with a name on a piece of paper – he asked me if I knew that a Russian guy owned the Pioneer gas station – I said I had heard that and he showed me the paper and asked me to pronounce the name – I asked why and he said that he was in line to pay and noticed his name on his diploma – he said it was a Canadian version of the Russian name and again asked me to attempt to pronounce it which I did – he then walked away – very odd

My responses to the above 4 bullet point entries are as follows:

Response to the 1<sup>st</sup> bullet point entry is as follows:

I find PC Nie's comment '***I didn't want to know details***' hypocritical yet somewhat amusing because according to S/Sgt. Coleen Kohen's notes PC Nie was a participant in the teleconference call where the PSB investigation against me was brought up:

(August 31, 2009) (Volume 4, 24), S/Sgt. Kohen's notes (Transcribed):		
Mon 31 Aug 2009	0715	On Duty
<p>1400   Conf call re Prob Jack on conf call was Dave Lee, Ron Campbell, Cst Filman, Sgt Fidley, Sgt Postman, Cst Neal Summary</p> <p>Month 1, 2, 3, 4, 5 no concerns.</p> <p>Month 6 &amp; 7 which are a combined PCS66P issues start to be raised.</p> <p>The same Prob who called me when Sgt told him he could be losing his job and also have a PSB investigation against him. Sgt Fidle seems to take lead on the perf issues and has a strong dislike for Prob Jack as he does not own up to his errors.</p> <p>SS also appears months 6&amp; 7 PCS66P has been given to him but not any WIP.</p> <p>PCS66P 6 &amp; 7 given to</p>		

Response to the 2<sup>nd</sup> bullet point entry is as follows:

Two observations noteworthy of special attention could be made from this entry.

- How could have I known on the day the Notice of the Internal Complaint was served to me that it was in reference to the guys ("Undesirables") I worked out in the gym? The answer is very simple: Because when Sgt. Butorac served me with the notice he told me to that it was in reference to some guys I worked out in a gym and that I should be embarrassed about it. I immediately recalled showing the photograph to PC Filman and PC Brockley back in the winter of 2009 and understood what it was about.
- PC Nie contradicts himself as how could have I stopped going around them once I became a police officer in 2009 when I had not spoken with two of them for over five (in actuality six) years?

**Response to the 3<sup>rd</sup> bullet point entry is as follows:**

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

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

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):**

**Federal Statutes**

**Rating: Does Not Meet Requirements**

First, it is true that I was hesitant in arresting the male. By that time into my probationary period my self confidence and belief in what I was doing and how I was doing it were severely damaged to the point that I constantly doubted myself. To add insult to injury, on the evening of the event (23-Sep-09) I was served with a Notice of Internal Complaint that on September 11, 2009, a complaint was commenced against me alleging that I was associating with undesirables and that I was under investigation by the Professional Standards Bureau (PSB) of the OPP (Exhibit 39). That certainly did not help to raise my morale or boost my spirits. Second, the arrested male was acting up and Cst. Nie ordered me to proceed quickly with both the arrest and with transporting the male to the detachment. After the male had been lodged in the rear of the cruiser, Cst. Nie literally pressured me to depart from the scene promptly. While I was driving, Cst. Nie kept the male occupied by having a meaningless conversation with him. By this time in my probation I was subject to so much humiliation and ridicule from my new coach officer that I was literally scared to say excuse me to read him his rights. However, the fact is, based on everything that was happening to me reading him his rights did not enter my mind. Then again, why did not Cst. Nie read him his rights? He was present for his arrest. It does not have to be the arresting officer that has to read the accused his rights. It can be done by any officer associated with the arrest or the circumstances of the arrest. Cst. Nie obviously was aware of the fact that the accused was not advised of his rights to counsel all the time yet he kept quiet. He did not even advise the accused of his rights himself. To use this as an example to justify a Does Not Meet Requirements rating was extremely shallow in judgment. The previous evaluations showed that I met the requirements in this field so this had to be an isolated case. So it is clear that Cst. Nie was looking for any opportunity to justify as many such negative ratings as possible. Though I was not reminded of failing to read the rights to counsel by Cst. Nie at the detachment I was negatively rated in my Month 9 performance evaluation.

Note: It is noteworthy to mention that the complainant in the unwanted person call knew me by my first name. He stated that he recognized me from the Nu Bodies gym where I used to be a member. I vaguely recalled speaking with him in the past at the club but that was all I remembered. We must have introduced ourselves by first names and that was how he knew my name. Had he not brought it up first, I doubt I would have recognized him at all. At one point during the conversation with us outside of his house, he looked at me and said, "I know, Mike, you are recording everything, right?" I did not take any note of it as it was not the first time I was told by a member of the public that police record conversations. Eventually, the matter was resolved and we departed from the scene.

**Response to the 4<sup>th</sup> bullet point entry is as follows:**

The story is true. The point I was making was more of a consolation to myself (because of the discrimination I was being subjected to) and my desire to make PC Nie aware of another person who might look like a white Canadian because he had an English name, but was in fact Russian. This incident was a vain attempt on my part to elicit some acknowledgment that I was trying so hard to just be accepted and to demonstrate to PC Nie that it is not easy to master a foreign language (PC Nie could not even pronounce the Russian name properly). PC Nie's documentation of this point with the notation of '**very odd**' is evidence of his narrow-mindedness and his mission to document anything and everything concerning me no matter how insignificant it might have seemed to have been.

**(September 24, 2009) Counsel's additional disclosure (April 5, 2012):**

**From:** Kohen, Colleen (JUS)  
**Sent:** September-24-09 9:10 AM  
**To:** Johnston, Mike P. (JUS); Stevenson, Hugh (JUS)  
**Subject:** RE: Old occurrence involving PC JACK

Good Morning

I don't know if you have an opportunity to read the occurrence report . Is this something Region wants me to explore ? This was 4 years ago and we don't even know if the security company that employed Prob Jack did any documentation and if so ... how would this assist us in his new role ? . He was acting in his previous employment and is not an accused .. in saying that, I agree he did not make the right choice back then but should that influence us now in his new role ?

Unless I am missing something ... Let me know

Colleen

**(September 24, 2009) Counsel's additional disclosure (April 5, 2012):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September-24-09 9:40 AM  
**To:** Kohen, Colleen (JUS); Stevenson, Hugh (JUS)  
**Cc:** Campbell, Ron (JUS)  
**Subject:** RE: Old occurrence involving PC JACK

Colleen

The information was forwarded to Region for their knowledge. I was clear that information was "dated". My position was that with the present issues we are experiencing presently with this officer, this information should be passed on.

I agree with your assessment below.

Mike

(September 24, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

	<p>THU 24- SEP-09 17:00 SPOUSE WITH OPPA NCP - RE: MY NOTICE OF INTERNAL COMPLAINT AND COUNSEL ADVISED ME TO CONTACT OPPA 8TH BRANCH<sup>34</sup></p> <p>THU 24-SEP-09 PRESIDENT: KAREN GEMAN A SGT TONIGHT AND ALSO SEEK LEGAL AND FAIR OPPA AS ADVICE 17:10 MET WITH SST BUTONAC AND NCP HAD COUNSEL IN THE SGT OFFICE TO DISCUSS COMPLAINT OR ACTION ADVICE WAS GIVEN TO ATTEND OPPA MEETING TONIGHT IN BRIGADELOGY AND ADVISE KAREN GEMAN OR THE COMPLAINT POINTS OR CONCERN. - POISONED WORK ENVIRONMENT - STRESS - ESTATE M.B.</p>	
		<ul style="list-style-type: none"> <li>- KEY POINTS:</li> <li>- NAME OPPA REP PRESENT AT MEETING</li> <li>- ASK IF MEETING WILL BE TAPED, THEN IF MEETING SEEK LEGAL COUNSEL IMMEDIATELY</li> <li>- AUDIO TAPE MEETING</li> <li>- SEND EMAIL TO OPPA COUNSEL</li> <li>- DRAFT REPORT THAT BE COMPLETED WITHIN 10 DAYS<sup>35</sup></li> </ul>
		<p>THU 24- SEP-09 22:42 10-8 23:05 10-19 23:10 100% A SNACK - PIZZA 23:50 SUBMITTED MY NCP SPOUSE TO PCS-DEGP FOR WORK 6 X 7 TO SST BUTONAC + MY RESUME &amp; UNIVERSITY TRANSCRIPTS</p> <p>[REDACTED]</p>
		<p>02:40 MET WITH SST BUTONAC AND PCNIE RE: MY PROGRESS FINISHED THE FINISHED REPORT</p>

(September 24, 2009) Counsel's additional disclosure (January 27, 2012), Sgt. Butorac's notes:

<p>THU 24 SEP 09 on - 1700 off - 0500 ?A - 1-075 [redacted]</p> <p>1700 Shift prep 1800 Shift meeting Met with P/C Jack + Nie &amp; Jack presented with last evaluation of Flindall &amp; Filman. He asked to sign his last eval + attach rebuttal. but I said that you already signed so I gave rebuttal to Sgt. Campbell tray to send it on.</p> <p>0500 OD</p>	<p><b>THU 24 SEP 09</b></p> <p>on - 1700</p> <p>off - 0500</p> <p>?A - 1-075</p> <p>[black]</p> <p>1700 Shift prep</p> <p>1800 Shift meeting</p> <p>Met with P/C Jack + Nie &amp; Jack presented with last evaluation of Flindall &amp; Filman. He asked to sign his last evaluation + attach rebuttal but I ??? gave already signed so I gave rebuttal to S/Sgt. Campbell tray to send it on.</p> <p>0500 OD</p>
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That is when I was presented with my Month 8 fraudulent PER. On September 24, 2009! Please consider the timing:

- On September 23, 2009, I was smashed with the false internal complaint against me.
- On September 24, 2009, I was smashed with the fraudulent Month 8 PER with 17 'Does Not Meet Requirements' and a falsified refusal to sign it.

Once has to "complement" Sgt. Flindall on his performance! If that is how they fabricate/falsify evidence about a fellow police officer, one has to naturally wonder about the abuse of their authority and power in "serving" the public.

24Sep09 - PC Nie

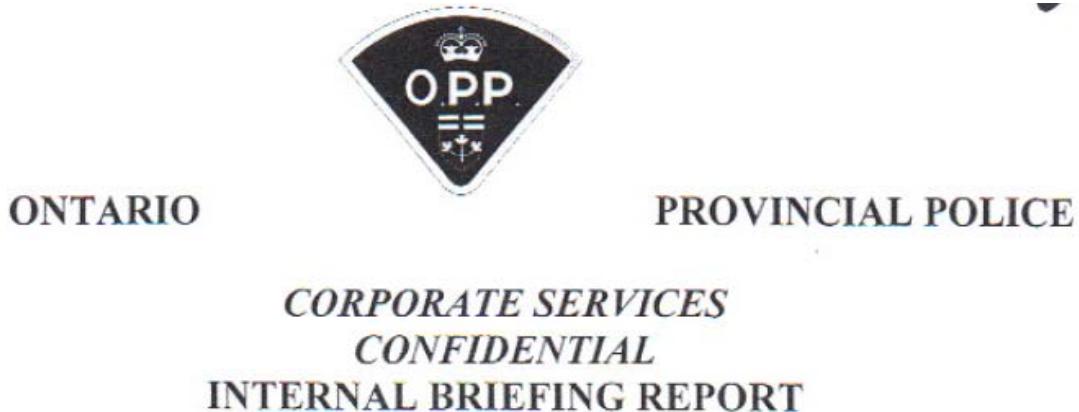
- stopped beside cruiser on shoulder in live lane of traffic – Highway 7 by Norwood – no emergency lights and traffic was coming up behind us
- upon entering EMS base in Norwood, PC Jack spoke with paramedic and had a short conversation which I was not present for all of it – when he left to go to washroom paramedic made symbol of a square and stated that “that guy can’t think outside the box eh?” something he picked up on within a short time frame – also kept rolling his eyes at me listening to PC Jack attempt to clear a call with someone on the phone and get details
- discussed with him the fact I had heard twice about the recording device – denied it outright and had no explanation for call from last night – said it was a mistake that the guy thought he knew him, confirmed he had never been to 920 Kelly before and did not know any history as [REDACTED] had stated – told him it bothered me that I felt like the outsider not privy to details that he and [REDACTED] knew but weren’t talking about – he said [REDACTED] was mistaken – I said I just was asking about what I heard and why he said it – PC Jack said he was probably just talking about police recording things in general and I said no, he was talking directly to you – again he denied knowing any history and had no explanation – told him if I ever found out he was recording me without my knowledge we were finished and he could find a new coach – told him the Sgt. was aware that I was talking to him about this – he became upset and said it was just another thing he was being threatened with – confirmed that I was not threatening him, just giving him facts as I saw them – he said he couldn’t understand why I was asking things, told him I was just connecting the dots that were in front of me and I wanted an explanation

My responses to the above 3 bullet point entries are as follows:

- I do not know what that incident was in reference to. However, the fact that PC Nie failed to bring it to my attention, but chose to document it instead was because it was something “negative” about me that he observed.
- I remember speaking with the paramedic, but I do not remember the context of our conversation. While I am very unpleasantly surprised at the paramedic’s comment (if it did take place) **‘that guy can’t think outside the box eh?’** I am not surprised of PC Nie’s negative documentation of it. The paramedic’s comment and the rolling of his eyes are filled with racial prejudice. The Tribunal can see clearly the racial prejudice of my respondents and consequently the racially charged atmosphere of my work environment at the detachment by the actions of this country paramedic. On the contrary, who was the real person that could not think out of the box? If this was an incident in Toronto there would never have been such a comment and neither such an action of rolling of

one's eyes. PC Nie's comment also says that what the paramedic picked up on within a short time frame, the whole detachment was fully aware of already. It is nothing but a racist view and I thank Counsel for the Respondent for providing me with this crucial piece of evidence.

In regards to the '*that guy can't think outside the box eh?*' comment please consider Sgt. Haennel and Sgt. Whitney's observation of me which they noted in the following report (Volume 6, 55):



**ISSUE:**

It came to the attention of Career Development Bureau – Recruitment Section, that members from Peterborough Detachment had concerns about Michael JACK, a candidate in our recruitment process.

Sgt's Haennel and Whitney noted the following about JACK;

- Socialized outside of Canada
- Raised in a culture of pride
- Performed mandatory Military time in his country of origin
- Very driven and motivated
- Very high level of intelligence
- Some evidence of awkwardness relating to Canadian social cues

**Please further note that it were members from Peterborough Detachment that had concerns about me.**

**Response to the 3<sup>rd</sup> bullet point entry is as follows:**

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

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

**Anticipated evidence of Mr. Steve Ryan (Exhibit 49):**

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

**ANTICIPATED EVIDENCE OF: Steve Ryan**

**April 10, 2010**

\*\*\*\*\*

My name is Steve Ryan. On the evening of September 23, 2009 I called Peterborough County OPP to assist me with calming down my brother, Gary Ryan, who was renting a room in my house in Bridgenorth at the time. Gary had a few drinks and had been disturbing the peace and all my attempts to reason with him -- calm him down -- failed. Upon the arrival of two officers I greeted them outside of my house. I immediately recognized one officer, Cst. Michael Jack, from the Nu Bodies fitness facility in Peterborough where I met him in the summer of 2004, and expressed meeting him there. His colleague, after mentioning this recollection, became very melodramatic: he clutched his hands to his head, looked up into the dark night sky, and uttered "You know this guy?" His face became disdainful, wincing, and grimacing, as I tried to interpret his nonverbal and verbal remark. Though puzzled, I continued explaining the situation and the reason I called the police.

During our conversation outside of my house, I noticed that Cst. Jack had an ear peace plugged in his ear, something one would frequently see secret service personnel wear in Hollywood movies. I made an assumption that it was a recording device and at one point said, "I know Mike you are recording everything, right?" He did not reply to my tag question. I thought nothing of his reticence. However, as I later reflected on this harmless utterance, I know that I was not addressing Mike, personally. Instead, I was addressing a uniformed police officer that I happened to know by first name only.

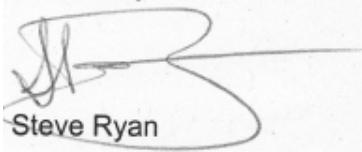
The matter involving my brother was eventually resolved in a professional manner and I was grateful to the OPP for coming to my assistance in the time of need.

I am writing this letter because on March 23, 2010, I was approached by Mr. Michael Jack at the Nu Bodies fitness facility in Peterborough. Mr. Jack greeted me by my first name and asked how my brother was doing. We spoke briefly at which time Mr. Jack inquired why on September 23, 2009 I said, "I know Mike you are recording everything, right?" which I explained to him, as mentioned above. Surprisingly, Mr. Jack went on to further tell me that he had resigned from the OPP and asked me if I could furnish him with my witness statement as to why I assumed he was recording our conversation, to which I agreed and therefore am providing it to Mr. Michael Jack on his request. If you have any further questions, please contact me.

Between September the 23rd, 2009 and March the 23rd, 2010 no one questioned me as to why I asked two uniformed OPP officers (during the course of a conversation on September the 23rd, 2009), "I know Mike you are recording everything, right?"

If you have any further questions, please contact me.

Yours truly,



Steve Ryan

920 Kelly Blvd.

Bridgenorth, Ontario K0L 1H0

Ph: 705-292-0647

(September 24, 2009) (Volume 2, N-17):

**From:** Blue Sky Gear [admin@blueskygear.com]  
**Sent:** September 24, 2009 10:36 PM  
**To:** Nie, Richard (JUS)  
**Subject:** PC JACK WIP  
**Attachments:** PCJACK\_WIP.tmp.doc

Hey Rich,

Please find attached a copy of PC JACK's WIP. If you could please type in the Inspectors comments [REDACTED] you have on the original WIP, onto this one prior to printing that would be great. Also if you don't [REDACTED] proof reading that would be great for errors. Before you bitch about the fact that there is no rhyme [REDACTED] reason to the order of the WIP categories, there is. PC JACK always wants things presented to him [REDACTED] a nice neat little organized package with a bow on it, as you may have already found out. I've done this [REDACTED] purpose to have him work outside his comfort level - policing and investigations never present themselves wrapped with the little bow.

Thanks in advance!  
Rob

Note the '***I've done this on purpose to have him work outside of his comfort level***'. That was a deliberate and malicious act of Sgt. Flindall. There is absolutely no explanation one can provide to justify this action of his to deliberately move me outside of my so called '***comfort level***'. My health was already being impacted on by the racially charged atmosphere of my workplace filled with individuals possessing an insatiable appetite to do me harm and not see me succeed. Apart from this, that statement of Sgt. Flindall is again in dissonance with his officer's notes of July 31, 2009, '***PC Jack going to be afforded every opportunity to succeed***'.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 30:**

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

(September 25, 2009) (Volume 2, L-2 and Volume 3, W-13):

From: Nie, Richard (JUS)  
Sent: September 25, 2009 1:39 AM  
To: Flindall, Robert (JUS)  
Cc: Butorac, Peter (JUS)  
Subject: Jack

Rob - I proof read everything and only found one thing (you probably don't have the electronic version of the actual evaluation anyways so Filman will have to fix this). The evaluation by the rating and the comments shows Federal Statutes as Meets Requirements. The WIP shows it as a deficiency with a plan (which by the way I totally agree with). So, what that means is this:

1. the category for Federal Statutes needs to be changed on the actual evaluation to Does Not Meet so it matches with the WIP (I was going to delete it off the WIP so it matched but on some examples you say "see #2 and #7 so I couldn't do that). Filman will also need to amend his comments as well to support the Does Not Meet - he can probably copy what you wrote in the WIP
2. The category for Department was rated Does Not Meet but it was not on the WIP. I decided to just go ahead and write it in myself on the WIP (this is where the leaf tickets come in) so we could give it all to Jack tonight.

The originals are in your tray for signing by everyone. I would expect that Jack will refuse to sign again until he drafts his response.

Hope it all makes sense,

Rich.

Wow! The amount of collusion in my PER and WIP and the insatiable desire to give me as many negative ratings as possible was even making PC Nie want to change *Federal Statues* rating from a 'Meets Requirements' to a 'Does Not Meet requirements.' PC Nie was actually asking that PC Filman amend his comments to support a 'Does Not Meet Requirements' rating. It was clear that I met the requirements and the comments supported it and hence the WIP for that section was submitted in error. Yet PC Nie requested that the WIP plan for this section be kept and the comments and rating be changed. More alarming is that these racists were gambling for Maple Leaf hockey tickets at my expense.

Please note the excerpt '***this is where the leaf tickets come in***'. This piece of evidence flies in the face of Counsel's Response to the Application that Sgt. Flindal and PC Nie are not "close friends" and do not socialize outside of work.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 30:**

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

## **Further proof that the Respondent contravened the Ontario Provincial Police Orders:**

**(September 18, 2009) (Volume 1, I-45):**

**From:** Johnston, Mike P. (JUS)  
**Sent:** September 18, 2009 8:25 AM  
**To:** Nie, Richard (JUS)  
**Cc:** Butorac, Peter (JUS); Postma, Jason (JUS); Chapman, Kathy (JUS)  
**Subject:** P/C Jack

Rich

Sgt Flindall has given me Cst Jack's most recent PCS066 and the development plan. It is signed off by all including myself. Can you present to him, and get him to sign.

The other envelope is a copy for Cst Jack. Both envelopes are in your mail slot.

The signed original should go to Kathy Chapman, for submission to Region.

## Thanks

Mike J.

While S/Sgt. Campbell's signature is present on my Month 8 PER (Exhibit 27, pages 11 - 12), there is an absence of Insp. Johnston's signature contrary to what he stated in his e-mail to PC Nie. The manner of presentation of this PER as directed by Insp. Johnston was in direct contravention of the Ontario Provincial Police Orders. If the inspector and everyone else could contravene Police Orders, how could they expect me to comply with the Police Orders and sign the fraudulent PER?

(September 25, 2009) (Volume 2, N-2):

From: Nie, Richard (JUS)  
Sent: September 25, 2009 1:39 AM  
To: Flindall, Robert (JUS)  
Cc: Butorac, Peter (JUS)  
Subject: Jack

Rob - I proof read everything and only found one thing (you probably don't have the electronic version of the actual evaluation anyways so Filman will have to fix this). The evaluation by the rating and the comments shows Federal Statutes as Meets Requirements. The WIP shows it as a deficiency with a plan (which by the way I totally agree with). So, what that means is this:

1. the category for Federal Statutes needs to be changed on the actual evaluation to Does Not Meet so it matches with the WIP ( I was going to delete it off the WIP so it matched but on some examples you say "see #2 and #7 so I couldn't do that). Filman will also need to amend his comments as well to support the Does Not Meet - he can probably copy what you wrote in the WIP

2. The category for Department was rated Does Not Meet but it was not on the WIP. I decided to just go ahead and write it in myself on the WIP (this is where the leaf tickets come in) so we could give it all to Jack tonight.

The originals are in your tray for signing by everyone. I would expect that Jack will refuse to sign again until he drafts his response.

Hope it all makes sense,

Rich.

Apparently my Month 8 PER was disclosed to me on September 25, 2009, after it had been signed off and fraudulently printed "REFUSED" in place of my signature (Exhibit 27, pages 11 - 12):

### Evaluation Meeting

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

Employee's Comments:

Employee's Signature:

REFUSED

Date:

Coach Officer Comments:

During this evaluation period PC JACK was off on rest days for the majority of the evaluation period. This has resulted in a lack of content for this evaluation period. As well due to the fact that the previous evaluation had a number of Work improvement plans and PC JACK was off he has not had a significant opportunity to rectify the identified performance deficiencies.

Coach Officer's Signature (Performance has been observed that supports the rating assigned for each category):

Date: 11 Sep 09

Accountable Supervisor's Comments (Mandatory):

PC JACK has only worked 6 shifts during this last evaluation period due to his vacation leave. A number of the sections in this evaluation have been carried over from his last evaluation. It is expected upon his return to work, that he will actively meet the objectives of his Work Improvement Plans as he continues his probationary period with Platoon D.

Accountable Supervisor:

SGT. R. FLINDALL

Accountable Supervisor's Signature:

REFUSED

Date: 11 Sep 09

EXHIBIT 27

Detachment Commander R.S.N. CAMPBELL for

Detachment Commander's Signature:

Date: 11Sep09

**Instructions:**

At the conclusion of each evaluation period:

- Forward the completed and signed ORIGINAL document to Region/Bureau for signatures and tracking purposes.

I never refused to sign it! Only the Respondent knows who inscribed the word 'REFUSED' in place of my signature as no evaluation meeting ever took place!

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, 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, Probationary Constable Evaluation Report Guidelines (Volume 7, 5):

The probationary constable, coach officer, supervisor, and detachment commander shall sign the document and ensure that the probationary constable has been given the opportunity to provide comment/comments.

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 13:**

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

(September 25, 2009) (Volume 1, I-116):

S/Sgt Campbell

25 Sep 09

Attached is P/C Jack's response to his 6 month evaluation. He is willing to sign it but when I checked the file it has already moved ahead.

This could just be sent on or added to his current one or merged into his current one. I'll leave with you

Thanks

Pete



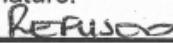
When returned on duty on September 9, 2009, I was ready to sign my Month 6 & 7 PER (Exhibit 24) after I had perused it and prepared a rebuttal to it (my rebuttal to Month 6 & 7 PER, Volume 1 - 115 to 116, J & K, pages 3 – 9):

Date: 09-SEP-09      Signature:

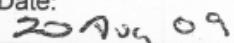


I was deprived of that opportunity! The word "Refused" had already been there and it had already moved ahead (Exhibit 24, page 11):

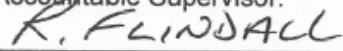
Employee's Signature:



Date:



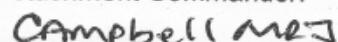
Accountable Supervisor:



Accountable Supervisor's Signature:

Date: 20 August 2009

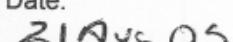
Detachment Commander:



Detachment Commander's Signature:



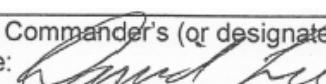
Date:



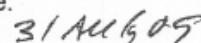
Regional Commander (or designate):

Instructions:

Regional Commander's (or designate) Signature:



Date:



Insp. Dave E. Lee  
Manager  
Staff Development and Training

(September 27, 2009) (Volume 1, I-44):

**From:** Flindall, Robert (JUS)  
**Sent:** September 27, 2009 9:59 PM  
**To:** Nie, Richard (JUS)  
**Subject:** PC JACK

Rich,

I've been approving a slew of occurrences for PC JACK tonight. Can you please go over with him how and why we link businesses to occurrences? He hasn't linked a single business in any of his occurrences.

Thanks,

**Robert Flindall**

When I asked PC Nie how to locate a certain address in the Niche RMS he immediately accused me of playing mind games with him and subsequently negatively rated me in the *Attitude Towards Learning* section in my Month 9 PER (Exhibit 32):

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

**Rebuttal to PCS-066P (Month 9) (Exhibit 59):**

**Attitude Towards Learning**

Rating: Does Not Meet Requirements

When I asked Cst. Nie to show me how to locate addresses on the Niche Records Management System (RMS) as I had never been shown how to locate certain ones properly – I asked exactly that! First and foremost, I retained very little knowledge about the Niche RMS from my training at the Ontario Provincial Police Academy (due to the constant sleep deprivation we were subjected to at the Academy it was almost impossible to remain mentally focused in a classroom environment. As a result, the 3 day training on the usage of the Niche RMS was very inefficient). Second, my first coach officer Cst. Filman had never shown me how to locate addresses on the Niche RMS. I learned how to locate addresses on the Niche RMS by playing with the system but I also knew that there must have been a better, more effective and simpler method to accomplish that. Instead of simply showing me how to do it, Cst. Nie accused me of checking to see if he would show me something different than I had been shown before.

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

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

I would never have advised Cst. Nie that it was my mistake for to this date I am not certain what mistake I had made. Does asking your coach officer a job related question constitute making a mistake? I was rattled by Cst. Nie attitude. I did advise Cst. Nie that I felt embarrassed. I felt embarrassed because with 8 months on the job I did not know how to effectively locate certain addresses on the Niche RMS and had to ask him to show me. I could not have possibly envisioned that instead of getting help I would be reprimanded, accused of playing mind games, and subsequently rated negatively in my Month 9 performance evaluation. **Great rapport establishment right from the beginning!**

Moreover, while at the Provincial Police Academy we were trained on the usage of the Niche RMS for only three days. During that training the instructors pointed out that it would take a couple of years to learn the system properly (Exhibit 13c, page 6):

A VERY BORING DAY. ALL DAY SPENT STUDYING RMS. IT IS A VERY INTERESTING SYSTEM, YET PRACTICE IS REQUIRED TO MASTER IT. 3 DAYS ON IT IS A DROP IN THE OCEAN. AND INSTRUCTORS POINTED OUT THAT IT WOULD TAKE A COUPLE OF YEARS TO LEARN THE SYSTEM PROPERLY.

Niche RMS is a very sophisticated system, which constantly evolves. Even experienced officers are constantly seeking advice regarding Niche RMS let alone a probationary officer. The training one gets is the bare minimum and one has to get familiar through trial and error, which needless to say takes years to accomplish.

**(September 28, 2009) (Volume 1, I-19):**

**From:** Campbell, Ron (JUS)  
**sent:** September 28, 2009 1:14 PM  
**To:** Flindall, Robert (JUS); Johnston, Mike P. (JUS)  
**Subject:** Additonal Remarks by Cst Jack regarding his Evaluation

Rob

Mike Jack has provided a rebuttal to his last evaluation. Please sit down with Inspector Johnston and myself as we would like to go over. When are you next in? Tks Ron

It is nice to know they expressed some interest in reading my rebuttal to my evaluation. Though S/Sgt. Campbell failed to mention which evaluation my rebuttal was in response to it is evident from Sgt. Butorac's correspondence to S/Sgt. Campbell on September 25, 2009, that the rebuttal was in response to my Month 6 & 7 PER, which I submitted upon returning to duty on September 9, 2009. None of them spoke to me about my rebuttal for doing so would have been to admit their own negligence with respect to proper supervision and building me up.

**(September 29, 2009) (Volume 3, X), S/Sgt. Campbell's notes:**

1102	Do we in weekly Re: Mike Jack Sorry he need remedial driving	Training free up & tense believes his job is on line yet stressed out is not terrible > go over it ave. Driver	incident stop sign blows stop sign not his fault & Driver out stopped in middle of Road -
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**(September 29, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:**

29Sep 09

1102

Dave McNeely re: Mike jack going to need remedial driving free up and tense believes job is on the line got stressed out is not terrible go over it ave. driver incident stop sign blows stop sign not his fault freaking out stopped in middle of road.

**(September 29, 2009) (Volume 2, N-19):**

**From:** McNeely, Dave (JUS)  
**Sent:** Tuesday, September 29, 2009 11:21 AM  
**To:** Campbell, Ron (JUS)  
**Cc:** Taylor, Kent (JUS); Lungstrass, Chris (JUS)  
**Subject:** Driving assessment - Michael Jack - requires remedial driving.  
**Importance:** High

Hello Ron / Kent

I completed the assessment for Michael and received feedback from the company that assesses the results.

I recommend remedial driving for Michael.

I will do up a more formal report by Friday of this week. We should also debrief the driving assessment once you get the written report.

I am not sure how Kent wants to do the remedial it may involve some time.

Thanks

Dave

**(September 29, 2009) (Volume 2, N-18):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 29, 2009 12:57 PM  
**To:** Butorac, Peter (JUS); Nie, Richard (JUS); Postma, Jason (JUS)  
**Cc:** Johnston, Mike P. (JUS); Lee, Dave E. (JUS); Kohen, Colleen (JUS)  
**Subject:** FW: Driving assessment - Michael Jack - requires remedial driving.  
**Importance:** High

We will need to make Mike available for this.

In my conversation with Dave McNeely he feels he is correctable... and he nor the public are in danger. Ron

It is nice to know that Sgt. Dave McNeely felt I was correctable. But Sgt. McNeely was an independent assessor and most importantly an outsider to the Peterborough County OPP Detachment. That is why he stated that neither me nor the public were in danger! Same as Dr. Lapalme did, just over a year prior (Volume 6, 35):

**From:** Haennel, Steve (JUS)  
**Sent:** September 4, 2008 3:54 PM  
**To:** Rathbun, Brad (JUS)  
**Subject:** Michael Jack

Hi Brad,

Fyi, Dr. Lapalme say JACK during his pre week at the OPP Academy. He indicates that he does not have any concerns at this time.

Have any others concerns come up from your side?

Steve

S.E. (Steve) Haennel  
Sergeant #7336  
Ontario Provincial Police  
Career Development Bureau

I have been asserting all along that only a few people had a problem with me – all of them were local to Peterborough! They were very territorial and could not tolerate that a foreigner, worst yet a highly educated and skilled Russian Jew, was going to police their people on their territory. They pulled the strings and targeted me with all they had. Local mafia!

**(September 29, 2009) (Volume 2, N-19):**

**From:** Kohen, Colleen (JUS)  
**Sent:** September 29, 2009 2:20 PM  
**To:** Taylor, Kent (JUS); Campbell, Ron (JUS)  
**Subject:** FW: Driving assessment - Michael Jack - requires remedial driving.  
**Importance:** High

Kent

This will need to be expedited as he is in month 9

Can you please advise

Colleen

**(September 29, 2009) (Volume 2, N-19):**

**From:** Taylor, Kent (JUS)  
**Sent:** Tuesday, September 29, 2009 2:39 PM  
**To:** Kohen, Colleen (JUS); Campbell, Ron (JUS)  
**Cc:** McNeely, Dave (JUS)  
**Subject:** RE: Driving assessment - Michael Jack - requires remedial driving.

S/Sgt's Kohen and Campbell

I just hung up from a fairly lengthy phone call with Dave McNeely regarding PC Jack. I believe that it will require a considerable investment in time to get him up to speed in regard to his driving. I am acquainted with PC Jack from his recruit training and other performance issues at detachment. To be honest, I am somewhat puzzled in this case. I am wondering if there are issues that may have been identified in his psychological assessment that may shed some light on his driving behaviour also? Is this information possibly available to me?

If, pending further discussion with both of you, we decide to invest the time in his driving, I will likely take the file over from Sgt McNeely.

Colleen, would you please give me a call at your convenience. I will then call Staff Campbell to discuss the matter further.

Kent

Sgt. T.K. (Kent) Taylor  
Provincial Police Academy  
Driver Training Coordinator

Office (705) 329-7510  
Cellular (705) 345-0759

How could Sgt. Taylor say that it would require a considerable investment in time to get me up to speed in regards to my driving when according to my driving assessment, and despite the stress I was under, I was rated to be an above average driver? That just does not make sense!

Hence, the effects of the treatment I was subjected to at the Peterborough County OPP Detachment had an effect on my driving abilities and it was this effect that had Sgt. Taylor puzzled. He obviously had no idea what I was being put through by some members at the Peterborough County OPP Detachment. He was not

privy to the racial and derogatory treatment I was subjected to at the Peterborough County OPP Detachment. Sgt. Taylor was a nice and decent person and I enjoyed interacting with him.

**(September 29, 2009) (Volume 3, V-4):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 29, 2009 2:49 PM  
**To:** Johnston, Mike P. (JUS); Lee, Dave E. (JUS)  
**Subject:** FW: Driving assessment - Michael Jack - requires remedial driving.  
Mike aside from my conversation with Dave McNeely and Mike not taking responsibility for his driving short comings he definitely told me he was salvagable. There must be other issues I have not been privy too. I understand from Jason Postma and Peter B. that he has shown improvement in other areas... Ron

**(September 29, 2009) (Volume 2, N-19):**

**From:** Campbell, Ron (JUS)  
**Sent:** September 29, 2009 2:51 PM  
**To:** Postma, Jason (JUS); Butorac, Peter (JUS); Nie, Richard (JUS)  
**Subject:** FW: Driving assessment - Michael Jack - requires remedial driving.

Guys don't disclose this but I was told he was salvagable from Dave McNeely. I also talked to Jason the other day and understand he is making progress. Keep this under your hat for the time being. I thought that you all need to be in the loop. Ron

Hearing that I was salvageable must have been a disappointment to S/Sgt. Campbell hence he ordered the officers to keep this under the hat. The Tribunal needs to know why S/Sgt. Campbell did not want this information out. I had a right to know this information. What was so wrong in letting me know? Please consider that by September 29, 2009:

- I had been falsely charged under the HTA,
- I had been under the fabricated investigation by the PSB,
- I was smashed with the fraudulent Month 8 PER with 17 'Does Not Meet Requirements',
- I had a Henchman attached to me with an umbilical cord to watch and document negatively my every move,
- I had not been served with a single positive document,
- I was truly viewed and treated as an "Undesirable".

If anything, letting me know that I was making positive progress would have lifted my spirits up! All they had to do was let me know this information and arrange for the additional training. The truth, however, is that the Respondent did not want to invest the time in me and they did not want to do that because they had already written me off as an officer and were just waiting for December to roll along.

How could the Counsel for the Respondent make the following statement in light of the aforementioned?

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 55:**

Broadly speaking, the Respondent denies:

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

The Tribunal will see the truth at this hearing and know that the Counsel for the Respondent is being deliberately manipulative in making the following assertion:

**Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 54:**

**Paragraphs 58 to 60 – The Respondent denies that racialized individuals or individuals who were born in countries other than Canada are subjected to differential treatment at the Detachment or within the OPP more broadly.**

It is a fact that the Respondent does not want the Tribunal to hear that Mr. Harry Allen Chase and Constable Lloyd Tapp experienced the same violations that I did at the Peterborough County OPP Detachment.

It is also a fact that the Respondent does not want the Tribunal to rule in my favor for that would mean Public Disclosure and a big embarrassment for the OPP. This is why the Respondent has been so eager in the past to negotiate settlements prior to any application culminating in a ruling.

On another note: The Respondent should take note that the Applicant is aware of two other applications currently before the Tribunal involving two OPP Sergeants.