

Analysis of the Respondent's Disclosure (January 2009)

(January 7, 2009) Counsel's additional disclosure (April 5, 2012), PC Jack's notes:

WEDNESDAY, 7-JAN-09	
[REDACTED]	
1000	RESUMED CLASS
	PROBATIONARY CONSTABLE
	PERFORMANCE EVALUATION
	REPORT (PCS-066P)
	WITH S/SGT. COLEEN KOHEN
[REDACTED]	

It was nice of the Counsel for the Respondent to furnish me with this piece of my notes. However, I remember literally nothing from S/Sgt. Kohen's presentation on January 7, 2009. Had I not had these notes I would not even have remembered we had the session with S/Sgt. Kohen on January 7, 2009.

- First, because of the constant sleep deprivation it was extremely difficult to remain mentally focused in a class room environment. At times, we had up to half the class standing against the wall in order not to fall asleep while seated.
- Second, at the time I was suffering from a growing toothache (see my explanation below) which was severely affecting my mental focus in the last 3 days at the PPA.

When I stated in my Will-say that S/Sgt. Kohen spoke to us during the orientation week of August 25 – 29, 2008, in Orillia I meant just that.

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

On August 3, 2009, I called S/Sgt. Coleen Kohen on her mobile phone (905-973-8877) addressing my concerns and seeking advice. S/Sgt. Kohen was the Staffing Officer in the Human Resources in the OPP Headquarters in Orillia. In a presentation during the orientation week of August 25 – 29, 2008 in Orillia she advised our class (class 411) that her responsibility was to review and file Probationary Constable performance evaluation forms (PCS-066P) and should we encounter problems during our probationary period we are not to wait until the end but call them as they would be able to do something before it was too late. She further stated that when a Probationary Constable is dismissed from employment that Constable's personal file is very thick as they want to ensure that the Probationary Constable has been provided with every opportunity to succeed.

S/Sgt. Kohen spoke to us from the podium in the auditorium. She was dressed in civilian attire. We were all dressed in suits too as we were not even issued OPP uniform at the time. It must have been either on August 25 or August 26, 2008. She went on and on about how much schooling she had to do to get promoted and what her responsibilities then included. Hence, I remember what she said.

Also, it would appear that the Counsel has been disclosing my notes selectively and by bits and pieces. I wonder if that is how the '*expeditious, just and fair hearings*' (the Counsel's words) are being conducted.

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

January 2009 - S/Sgt Campbell

- S/Sgt Campbell received a phone call from Peter Shipley at the Provincial Police Academy advising that Peterborough Detachment would be getting a recruit named Michael Jack who demonstrated behaviour of concern in relation to his judgement with firearms. PC Jack would need to attend Block training ASAP and need to be monitored to address the concerns
- prior to this Block training S/Sgt Campbell spoke to PC Shaun Filman who was identified as the coach officer and the importance of monitoring PC Jack's performance as outlined by the Academy

Their main concern was that I shot a paper target silhouette both in the head and in the body and not just the center body mass and that I did not miss as single shot.

The story:

One night towards the end of the training at the Provincial Police Academy we were awakened at approximately 3:00 am. We were made to run back and forth around the local fields and forests in deep snow and were made to look for missing persons (plastic dolls) and some shotguns hidden in the snowy fields.

At approximately 5:30 am we were back on the OPP headquarters grounds and had to run around till exhaustion, around some buildings. We were then formed into groups and led to a nearby improvised shooting range where we were ordered to pick up the training handguns (designed to shoot low velocity plastic bullets only and painted in blue color) and discharge them at the paper target silhouettes positioned some 3 meters in front of us.

The handguns were loaded with plastic bullets filled with soap, which were specifically designed for Immediate Rapid Deployment (IRD) training.

Aside:

- I was a member of the Peterborough Fish and Game Association gun club since 2006 (Exhibit 68, page 1),
- At the club I regularly practiced Olympic style target shooting at the range of 25 meters using .22 caliber handguns (Exhibit 68, page 2),
- I was accustomed to aim at the black dot in the center of the paper target,
- At the club I attained Gold Level in handgun target practice (Exhibit 68, page 2)

It was still dark. The targets were situated below our shoulder level. While I started shooting at the body, I quickly realized that I did not see where I was hitting the target. I then raised my arms to my shoulder

height so my hands were perpendicular to the ground and aimed at the black nose of the target's face that I could discern in the darkness. The nose of the paper target silhouette resembled the black dot I was so accustomed to aiming at the Peterborough Fish and Game Association gun club during my regular Olympic style target practices.

We were then ordered to pick up the targets and take them with us to the Provincial Police Academy residence building.

A couple of days later I disposed of my target since it was cluttering my room.

A few days later I was pulled from the middle of the lesson together with another recruit and ordered to go to the PPA residence building to get something. At the residence a female Academy Sergeant handed us a pack of paper target silhouettes from that training exercise and asked me where my target was. I told her I had disposed of it as it was garbage. She had us take the pile of targets back to the class and that was it. It became immediately clear to me that they were looking for my target, but since they could not find it they sent me with another recruit under the guise of fetching some targets to look for it. I wondered at the time who reported on me to the Academy instructors, what was reported and why? I also wondered why the instructors did not simply ask me about the target. The incident reminded me about the so called "follow-up" on my background investigation after I had been offered and accepted the offer of employment from the OPP.

Right after the graduation ceremony, I was asked by Mr. Peter Shipley why I disposed of the target, to which I replied that because it was garbage. Mr. Shipley told me they were concerned that I did not follow the instructions and fired at the head as opposed to the center body mass. I explained to him that I fired at both and the reasons why I fired at the head are as I explained above. The whole deal was a surprise for me as we were explicitly taught to shoot at the center body mass and at the head of the paper target silhouettes both at the Ontario Police College and the Provincial Police Academy (Exhibit 76). I did not understand what rules/procedures I disobeyed by firing at both the body and the head of the paper silhouette target, especially using plastic pullets. Mr. Shipley congratulated me on winning the award for being the best in the class of 110 in hand gun usage and advised me that due to the fact that I fired at the head they were going to send me to a 4 day Block Training session immediately after the graduation from the PPA to ensure I complied with the firearms usage procedures.

Counsel's additional disclosure (April 3, 2012), Recruit Leadership Assessment Tool OPP, Class # 411:

- ♦ Firearms/Tactics: Skill set level above average in firearms and tactics. One of the class "top dog" pistol shooters.
- ♦ Night Occurrence - EDU: Recognition of items as explosives. Used appropriate TAC Com. Safe handling of items/subject. Proper use of telecommunication equipment. Proper investigative questioning techniques. Utilized proper call out procedures. Considered safety of subject, public, self & fellow officer.

I have pondered for a while why. A few factors have come to my mind:

- A call from the Peterborough County OPP Detachment to the Provincial Police Academy in August of 2008 before I started my training at the PPA that I was a gun happy person and allegedly killed people during military service in the Israel Defense Forces,
- My superb firearms usage and accuracy skills,
- My exceptionally high level of physical fitness at the time,
- My Russian background,
- My Israeli background,
- My Israeli military background,
- Discharging plastic bullets from a training handgun partly in the head of a paper target silhouette.

I wondered if there had been other recruits from our class of 110 who had discharged their training handguns on the same night in the head of the paper target silhouette. I doubt that will ever know. However, I was singled out and considered dangerous at that time. In their words, they identified some concerns with me with respect to using firearms.

As I mentioned earlier at the PPA I got to know a recruit in our class who had 52 registered firearms. That was 30 registered firearms more than I had. He was born and raised in Canada. Was he scrutinized in the same manner as I was? I guess I will never know that too.

Equally interesting is that OPP's finest (Exhibit 76), who that the Tribunal can see is a white Canadian and who had served 6 years in the Canadian Armed Forces and who had been sniper-trained by the Canadian military, also shot at the head of the paper target silhouette, yet he was never singled or given the same treatment as I was.

(January 8, 2009) (Volume 1, I-10):

From: Campbell, Ron (JUS)

Sent: January 8, 2009 10:42 AM

To: Lawlor, Natalie (JUS); Jack, Michael (JUS)

Cc: Johnston, Mike P. (JUS); Peacock, Randy (JUS); Morphet, Mark (JUS); Shipley, Peter (JUS); Payne, Jennifer (JUS); Filman, Shaun (JUS); Flindall, Robert (JUS); Gozzard-Gilbert, Shelley (JUS)

Subject: Re: Block Training Joining Instructions January 12-15 2009

Mike. Please be at Monday morning at 600 am to travel to Orillia you will need to pack to stay for the time frame Monday to Thurs. S/Sgt Ron Campbell

(January 9, 2009) (Volume 1, I-10):

From: Jack, Michael (JUS)
Sent: January 9, 2009 3:55 PM
To: Campbell, Ron (JUS); Lawlor, Natalie (JUS)
Cc: Johnston, Mike P. (JUS); Peacock, Randy (JUS); Morphet, Mark (JUS); Shipley, Peter (JUS); Payne, Jennifer (JUS); Filman, Shaun (JUS); Flindall, Robert (JUS); Gozzard-Gilbert, Shelley (JUS)
Subject: RE: Block Training Joining Instructions January 12-15 2009

Hello S/Sgt. Ron Campbell,

I will see you on Monday at 6:00 am at the Peterborough detachment. I won't have an access to my email account over the weekend. In case you need to contact me, my mobile phone number is 705-740-5765.

Thank you

Michael Jack

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

Prior to January 2009

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

(January 12, 2009) (Volume 3, X), S/Sgt. Campbell's notes:

<p>12 Jan 10</p> <p>Prior To Jan 12th I received A phone call from Peter Shipley Re: Mike Jack He was to arrive in Ptbo. 12 Jan 10 & was to go immediately to Block training to address Firearms issue & Decision making issue</p> <p>I spoke verbally to Shawn Filman his coach & made him aware of this. After returning from Block I also made him aware there were no issues but to monitor situation I made no notebook entries on this</p> <p>Ron</p>	<p>12 Jan 10</p> <p>Prior to Jan 12th I received A phone call from Peter Shipley Re: Mike Jack He was to arrive in Ptbo. 12 Jan 10 & was to go immediately to Block training to assess firearms issue & decision making issue.</p> <p>I spoke verbally to Shawn Filman his coach & made him aware of this. After returning from Block I also made him aware there were no issues but to monitor situation.</p> <p>I made no notebook entries on this. Ron.</p>
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How could have I gone to the block training on January 12, 2010, if I was dismissed from employment on December 15, 2009?

The truth is that S/Sgt. Campbell made these notes, in all probability more than two years later, but shortly after being notified by the Counsel for the Respondent that he had to provide a copy of his notes, at which time he decided to document this supposed recollection.

My application was shared with the Counsel for the Respondent by my previous counsel sometime before January 10, 2011. Hence, the Counsel for the Respondent would have shared the application with the Respondent shortly after that date. Regional Command, in gathering all necessary information to provide to their Counsel, Marnie Corbold would have directed/ordered the personal respondents to recall anything concerning me especially anything even remotely negative about me. That is why one sees notations such as S/Sgt. Campbell's notation on a blank piece of pad paper that he recalls something that was not mentioned in his notes.

The Tribunal should take particular attention to this because it questions the credibility of the individual's notes and casts credibility issues with everyone's notes with respect to their dealings with me. Basically it also says that one could write anything about me and attach it to their notes and it would be my word against their word.

(January 12, 2009) Counsel's additional disclosure (April 5, 2012), PC Jack's notes:

MONDAY, 12-JAN-09
0540 REPORT FOR DUTY
PETERBOROUGH COUNTY
DETACHMENT
[REDACTED]

(January 12, 2009) (Volume 3, X), S/Sgt. Campbell's notes:

MON 12 Jan 09
0600 On Duty [REDACTED]
01-393 Accompanied
by Cst. Payne & Cst.
Jacks
0601 Met with Cst. Jacks
Advised of Dental
issue. May need to
leave block training

MON 12 Jan 09
06:00 On duty [black]
01-393 Accompanied
by Cst. Payne & Cst.
Jacks.
06:01 Met with Cst. Jacks
Advised of Dental
issue. May need to
leave block training

(January 12, 2009) S/Sgt. Campbell's transcribed notes pertaining to Constable Michael Jack:

Monday 12 Jan 09

0600hrs

On Duty Ptbo County Rd's Wet Wx Overcast -9c forecast flurries developing, Office
admin re: shift prep pack force veh 01-393 accompanied by Cst. Payne & Cst Jacks

0601

Met with Cst Jacks advised of dental issue may need to leave block training.

0630

10-8 Cst. Payne drives

0830

10-7 block training

1230

Lunch

1315

Block farms

1620

10-8 to Orillia to Gravenhurst

1705

Unload check in Gravenhurst

1800

Off Duty

(January 12, 2009) (Volume 3, BB) Point Form Chronology:

12Jan09 - S/Sgt Campbell

- PC Jack attended Block training with PC Jen Payne and S/Sgt Campbell - no issues were noted during his 4 day training period

(January 14, 2009) (Volume 1, I-103):

From: Gozzard-Gilbert, Shelley (JUS)
Sent: January 14, 2009 3:29 PM
To: Raymond, Kristine (JUS); Flindall, Robert (JUS); Banbury, Trevor (JUS); Rathbun, Brad (JUS); Butorac, Peter (JUS)
Cc: Gay, Daniel (JUS); Knier, Amanda (JUS); Davidson, Mike J (JUS); Jack, Michael (JUS); Pollock, John (JUS)
Subject: RE: Stats for New Recruits 2008

Mike, Dan, Amanda and Mike

According to this memo you were given the 22, 23 & 24th December off, time owing. You all received 6.25 (8hr) vacation days for 2008. You cannot take any vacation time for 6 months (mou) I tried to enter these dates as vacation, just to see if the system would let me, and it wouldn't.

I will hold off until March 1st to enter these three dates.

Shelley

(January 14, 2009) (Volume 1, I-103):

From: Raymond, Kristine (JUS)
Sent: January 9, 2009 8:32 AM
To: Gozzard-Gilbert, Shelley (JUS)
Subject: FW: Stats for New Recruits 2008

Good Morning Shelley:

I have spoken with the Recruit Co-ordinator for the Recruits attendance and have been asked to pass along the following:

All Recruits upon reporting to their respective detachments will have all their PCS4's with them from the time that they started.

They had the following stat days off:

Thanksgiving Day - Oct. 13
Remembrance Day - Nov. 10
Christmas Day
Boxing Day

They were all given December 22, 23 and 24th off and this will be time owing. (For any Recruits who were Auxiliaries or Cadets, I was told the time could be taken out of their bank of any hours accumulated)

All Recruits worked on January 1st at and this would be paid out of the end of the year, plus they would have acquired an extra 4 hours for their Stat Bank.

I hope that this will answer all your questions. If you need further assistance, please let me know.

Thank you.

Kristine Raymond
Course Administrator
Provincial Police Academy
(705) 329-7514

I was never given any vacation during my entire time at the Peterborough County OPP Detachment. My accumulated vacation, statutory holiday and overtime hours were paid out to me. My Employment Insurance benefits were paid out in January/February 2010 (Exhibit 103).

(January 15, 2009) Counsel's additional disclosure (April 5, 2012), PC Jack's notes:

THURSDAY, 15-JAN-09	
1805	ARRIVED AT DETACHMENT, PETERBOROUGH CNTY ASSIGNED LOCKER #3 GREY, GUN LOCKER #8.
1830	OFF DUTY PC 12690 MM.

(January 16, 2009) (Volume 1, I-102):

From: Gozzard-Gilbert, Shelley (JUS)
Sent: January 16, 2009 2:12 PM
To: Flindall, Robert (JUS)
Cc: Jack, Michael (JUS); Campbell, Ron (JUS)
Subject: Attendance for block training date RE:emergency dental appointment

Rob

Michael came in today to straighten out his DAR's. He had to leave the academy on Tuesday Jan 20th, left at 9:30 and returned at 17:00, for an emergency root canal. Michael has decided to take the time owing out of his floater bank. He could use sick time but he thought it would look better to use something else. I have adjusted his floater sheet. I have completed his DAR's for block training and the Stat for 01 Jan 09.

Shelley

- First, Shelly is wrong with respect to the date. I had to leave the academy on Tuesday, January 13, 2009, and not on Tuesday, January 20, 2009 (Exhibit 104, pages 5 – 8). Moreover, how could Shelly state that in her e-mail which was dated January 16, 2009?
- Second, since my dental issue was brought up in the Respondent's disclosure I feel the need to address it in detail. Here is the story.

Sometime around January 3rd or 4th, 2009, (the last week at the Provincial Police Academy) I started experiencing a growing toothache in one of my upper front teeth. I had a root canal treatment on that tooth done back in 1991 in Israel. It never bothered since then. Since January 4th, 2009, the tooth ache was growing stronger and on January 6, 2009, I asked Sgt. Tozser to see a doctor. I was advised to go to a local walk-in clinic, which I did in the evening. A female doctor prescribed me with Tylenol 3 painkiller and advised me to see a dentist. On January 7, 2009, I called my dentist's office in Peterborough, Farlow and McArthur Dentistry, and advised them of the problem. They told me they could see me the following day, January 8, 2009. By that time, I was on 3 different types of painkillers: Advil, Tylenol 3, and some other pills that my academy roommate, Kyle Kanstein, gave me, which he had been prescribed for his back pain. Neither Advil nor Tylenol 3 had any effect on alleviating the growing toothache and only my roommate's pills, that looked like they could kill a horse, had any effect and would numb the toothache for up to six hours. When I advised Sgt. Tozser that my toothache was becoming unbearable and I wanted to see my dentist urgently and that his clinic agreed to see me in the afternoon of January 8, 2009, she denied me saying something to the effect that after I graduated I could go see whoever I wanted. Basically, it was very important for the Academy that I had stayed because we had a final rehearsal for the graduation ceremony on January 8, 2009, and if I were to be missing from the rehearsal they would have had to reorganize the formation. Sgt. Tozser further insisted that I attend the graduation dinner, which by the way was not mandatory and approximately 10 recruits did not attend. In Sgt. Tozser's words, **'You will attend the graduation dinner'**, she nearly yelled at me. However, Sgt. Tozser spoke with one of the Academy civilian instructors who arranged for me to see his family dentist, Dr. Michael Robinson, in Barrie at 2:10 pm on January 8, 2009 (Exhibit 104, page 3). When Dr. Robinson saw he made an x-ray radiograph of the tooth (Exhibit 104, pages 1 – 2) and told me I had a root canal inflammation. However, Dr. Robinson was hesitant to open the tooth and instead prescribed me with some antibiotics. I was only booked for a 10 minute visit (Exhibit 104, page 3) and the drilling of a sealed root canal would have taken considerably longer. So I bought the prescribed antibiotics in a drug store in Barrie and hoped that it would take care of the

problem. Somehow, I got through both the graduation dinner and the graduation ceremony on January 9, 2009 (thanks to my roommate's humongous painkiller pills) and headed home to Peterborough. When I got back home late in the evening, after unloading the car I just dumped all of my equipment on the floor in the kitchen and collapsed on the pile. Walking up and down the stairs while carrying the equipment from my car to the house rose by blood pressure up which resulted in a pulsating, excruciating and inescapable toothache. I do not remember for how long I stayed on the floor in a semi-conscious state that night.

On Saturday, January 10, 2009, I called my dentist Dr. McArthur's clinic and was advised through the answering service that in cases of emergency to call Dr. Bastian, which I promptly did. Dr. Bastian saw me on the afternoon of January 10, 2009, (Exhibit 104, page 4). Dr. Bastian also made an x-ray of the tooth and after comparing with the x-ray radiograph done on the previous day by Dr. Robinson noted that the root canal inflammation grew larger. However, Dr. Bastian was also hesitant to drill the tooth. Instead, Dr. Bastian prescribed me with another type of antibiotics which according to him should have killed the bacteria which survived without oxygen and booked me to see a specialist in Scarborough, Dr. Wayne Pulver on either January 15th or 16th, 2009. I do not remember how I got through the rest of the weekend, but I do remember that by Monday morning the painkillers barely worked and would not numb the pain for long anymore. Hence, first thing I did when I reported for duty was to advise S/Sgt. Campbell of my dental issue. We discussed the issue. I was scared not to attend the Block Training as I did not want to start my duty at the Peterborough County OPP Detachment with flunking from the first day on duty. So we decided to head out to the block training and see what happens. I still hoped that the prescribed antibiotics would kick in. By that time I was on two different types of antibiotics and a number of different types of painkillers. I vaguely remember how I got through that day. It was a torture. When I woke up on Tuesday morning on January 13, 2009, the toothache was gone. I felt no more pain. However, I neither felt my front teeth, not my upper lip, nor the tip of my nose. The whole area was numb. At that time I realized I had a serious problem that required immediate attention. I called Dr. Pulver's clinic, advised them of the problem and they agreed to see me that day. I advised S/Sgt. Campbell and he allowed me to take the cruiser to drive to Scarborough from Gravenhurst to see the dentist.

When Dr. Pulver made an x-ray radiograph of my tooth the root canal inflammation looked like a semi-circle. The infection spread out to another tooth, infecting it as well. Dr. Pulver drilled two teeth and performed a surgery on my upper gum to drain the puss (Exhibit 104, pages 5 – 8). He then inserted a tiny rubber tube in the incision in the gum and instructed me to keep in for a few days to allow the puss to drain out. Dr. Pulver advised me that if I had waited for a bit longer the infection could have erupted into the brain and I could have died from it.

I had to see Dr. Pulver again on January 21, 2009 (Exhibit 104, pages 9 – 10) to finish the treatment and Dr. McArthur on February 3, 2009 (Exhibit 104, pages 11 – 12) to do the restorations of the teeth.

- First, I paid approximately 900 dollars of my own money on top of the insurance coverage to cover the costs of the dental treatment.
- Second, I lost a perfectly healthy tooth that got infected through the inside of the gum due to the forced delay in the proper treatment.

- Third, as per Shelly's advice I did not claim sick time, but rather used the time from my floater bank (Volume 1, I-102). She told me it might not look good on me to use sick time when I just started working.

returned at 17:00, for an emergency root canal. Michael has decided to take the time owing out of his floater bank. He could use sick time but he thought it would look better to use something else. I have adjusted his floater sheet. I have

- Fourth, alarming is the real threat to my life which was caused by the actions of Sgt. Tozser in ordering that I attend the graduation dinner. This delay of a few days exacerbated my condition to the point of nearly dying by the infection nearly entering my brain. Up until I was advised by the specialist, Dr. Pulver that I could have died all I could think of was that I better not call in sick (as per the order of Sgt. Tozser).
- Fifth, I scheduled the next visit on one of my days off rather than sooner which would have been a working day and I would have had to book time off. This fear was so real since I sensed a feeling of being unwelcomed at the detachment on my first scheduled day of work.

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

Jan 2009 - S/Sgt Campbell

- S/Sgt Campbell verbally updated PC Filman of activities on block training and observations of no issues

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

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

It is noteworthy to mention that I had to call PC Amanda Knier's husband PC Jeff Knier to inquire how to enter the detachment. He told me which door to use and advised me of a 4 digit entrance code to open the door.

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

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

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

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

I have to admit I liked Cst. Filman's laid-back personality and tried to be understanding of his perspective. First, not only was I his 3rd probationary recruit back-to-back (1st - Cst. Jeff Gilliam, 2nd - Cst. Ken Rusaw, 3rd - Cst. Michael Jack), but he was still coaching Cst. Rusaw as he was only 4 months on the job. So for the first few months of my probationary period, Cst. Filman had two rookies to look after – Cst. Rusaw and myself. Second, he had a son born in February 2009. Third, he aspired to work in plain clothes as a member of the Peterborough Detachment Crime Unit but could not because he was assigned to coach me. Fourth, he hated the managerial situation at the Peterborough Detachment. Fifth, his morale appeared to be low. As a cumulative effect of the above, Cst. Filman's mind appeared anywhere, but on coaching me properly. For example, when we were on the road, most of the time he was operating the cruiser while I was sitting in the front passenger seat observing him constantly either text message or talking on his mobile phone to somebody about something. I truly felt like a burden to him. He liked working alone. He had Cst. Rusaw start patrol on his own just recently and now he had me attached to him with an umbilical cord. I was eager to learn but it was winter season – a relatively quiet time of the year with few calls for service. I felt that when I was asking him questions I was irritating him. He would just frequently answer me, "Wait till you do it". Occasionally, in the office environment, during shift changes I would get a glimpse of other rookies sitting side-by-side with their coach officers working on the computer together. That rarely happened in my case. I had to beg Cst. Filman to show me something around the office. Yet another illogical setup was that Cst. Filman started his shifts at 5:00 am/pm and had me start mine at 6:00 am/pm. Sometimes, by the time I reported to duty he'd be already gone to an early call (frequently with Cst. Rusaw) and I found myself left out. At other times, I would get a call or assigned a task when he was already off duty and forced to seek help from other officers, frequently from the following shift. Again, the best way to describe me in relation to Cst. Filman in one word is nuisance.

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

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

(January 22, 2009) (Volume 3, BB) Point Form Chronology:

22Jan09 - PC Filman

- PC Jack and I worked on Traffic Reports and completion. He was shown how to complete a TR and what is done with it after completion.

That is only partially correct. While I asked PC Filman to assist me with completing the Traffic Report (TR) he assisted me only partially. He never even sat down with me. He stood over me while I asked him clarifying questions. He left the detachment before I even completed the TR (he worked 17:00 to 05:00 while I worked 18:00 to 06:00) so I had to seek help from other officers. I was puzzled about his attitude. I noticed that other recruits had the benefit of having their coach officers sitting next to them while they worked on reports whereas I very rarely enjoyed the similar treatment with PC Filman. Furthermore, I quickly learned that the Traffic incident driver's report form (Exhibit 105) that was being utilized by the Peterborough County OPP officers at the time was erroneous and incomplete.

First, PC Filman never mentioned anything to me about the existence of the form. I learned about it and solicited it from other officers. Had the Respondent disclosed my e-mail correspondence from my Justice account the Tribunal would have had proof that first, it was possibly PC Payne who sent me an e-mail with numerous attachments on or about January 12, 2009, and second it was PC Paradis who sent me an e-mail sometime in the spring of 2009 with numerous attachments pertaining to police work at the Peterborough County OPP Detachment. I remember specifically asking PC Paradis for those forms and he was kind enough to furnish me with them as PC Filman never bothered. Furthermore, had the Respondent disclosed all my e-mail correspondence between PC Filman and I, the Tribunal would have had proof that there were very few e-mails exchanged between us and that PC Filman's e-mails were poorly written.

Second, the traffic incident driver's report form (Exhibit 105) is the resulting form after my extensive improvements to it! Not only did I improve it, but I also provided it to a number of officers, e.g. PC Mitch Anderson specifically asked me for one. I am therefore appalled at the Respondent's deliberate failure to disclose e-mails I sent to various officers at the Peterborough County OPP Detachment.

(January 19, 2009) Counsel's additional disclosure (April 5, 2012), PC Jack's notes:

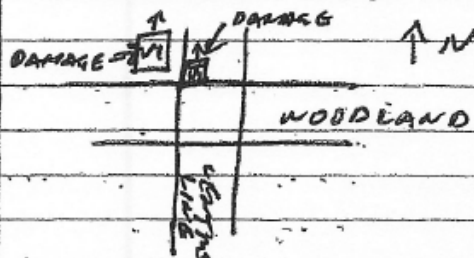
MONDAY 19-JAN-09
[REDACTED]
[REDACTED]
1000 REPORT TO DETACHMENT
1200 MEETING WITH SGT.
FLINDALL
0300 TOUR OF THE DETACH-
MENT BY SGT. FLINDALL
0300 [REDACTED]

THURSDAY, 22-JAN-09
2105 WOODLAND'S DR.
TWO VEHICLES MVC/PO
INTERFEC. WOODLAND'S DR
AND CARNEIE.

2115 ON SCENE OF MVC
2240 TOOK STATEMENT FROM



DESCRIPTION OF THE
ACCIDENT AND THE
CIRCUMSTANCES:



VI IN A DITCH FACING
NORTH

V2 ON THE ROADWAY
S/B LANE, FACING
NORTH, ON CENTRE LINE
NORTH OF WOODLAND,
V2 - SFS PONTIAC
BGE IN COLOR, 2002

L/P [REDACTED]

BODY TYPE [REDACTED]

V1 - MITSUBISHI 2000
MODEL MGS.

L/P: [REDACTED]

D2 - [REDACTED]

PH: [REDACTED]

PH: [REDACTED]

D/L: [REDACTED]

CELL
H.

68

THURSDAY, 22-JAN-09
[REDACTED] WAS
EXAMINED BY PARAMEDIC
STEVE FORESTELL, 49009
AND WAS FOUND TO BE OK.

PH: [REDACTED]
D1 - [REDACTED]
DOB: [REDACTED]
PH: [REDACTED]
D/L: [REDACTED]

2300 AND V2 WAS TOWED
BY BELL'S GARAGE
TOW TRUCK.

2305 ER TO NORWOOD

2330 [REDACTED]
DINNER WITH
PARAMEDICS,
COURTESY [REDACTED]

0120 LEFT EMS BASE
NORWOOD

0145 DETACHMENT,
ADMIN/PAPER
WORK

0625 SPOKE WITH CATHY
CHAPMAN RE: IFTS,
GUN LOCKER, CABBY
BOX SET UPS.

0630 OFF DUTY
PC 12690 WORK

(January 22, 2009) Counsel's additional disclosure (April 3, 2012), PC Filman's notes:

Thursday 22 Jan 09	1740	Hwy 7
Peterborough County		2's two veh on
Weather overcast		500 SOUTH SKOWHEE
TEMP APPROX -3°		W/S of CTY 38
ROAD TOWN / HWY		V' SIL CHOW CONNOR
TRACK BARR / BARR		ONE BDF 594
START 01200		[REDACTED]
FINISH		[REDACTED]
TOTAL		[REDACTED]
VEL 1-152		Class 5
ASSIGN 1F302		INS PILOT INS CO
1650 10-19		POL - PABO14-2
1700 Report for duty		VZ 97 FOOD RPR
Enroute -		ON# ABWF 089
1720 10-8 to PC BARRIS		DZ MOWAGHAN GAIL
VEL 1-107		04 SEP 46 83
1730 R/L 10-50 PD		[REDACTED]
CTY RD 38 W		- ASSIST PC JACK
		W GENERAL OCCURRENCE
		TR. AND TR. REP. [REDACTED]
	0800	OFF DUTY

(January 22, 2009) (Volume 3, BB) Point Form Chronology:

22Jan09 - PC Filman

- PC Jack had indicated to me that he would stop at a possible witness to a Break and Enters residence on his way home since it was on his route. I advised him that this was a bad idea as it would be criticized in court and puts him in a bad situation safety wise as he would have no radio and no use of force options if required.

First, the date is wrong. We were dispatched and attended the Break and Enter call in the morning of January 26, 2009 (Exhibit 106). Of interest is the fact that PC Filman made the above entry in the point form chronology sometime in November 2009 when he was holding a rank of Detective Constable. If 9 months after the fact a Detective Constable brings an event up while being off by 4 days in the timing of the event, what would you think of his skills to do a job of a detective? PC Filman did not even bother to check the date of the event either in his notes or in the Niche RMS!

Counsel's additional disclosure (April 3, 2012):



2686 Lakefield Rd., R.R.#4
PETERBOROUGH, ON K9J 6X5
TEL: 705-742-9258 FAX: 705-740-0495
Home of: New Life Christian Academy

January 28, 2009

Ontario Provincial Police
453 Lansdowne St. E.,
Box 477, Peterborough, ON
K9J 6Z6

Dear Officer In Charge, Michael Johnston,

We would like to thank you for your service to us during the break-in that occurred during the night of January 25th, 2009. Your Officers Filman and Jack were very professional and great to deal with and Officer Filman has watched over us at other times.

We would also like to express our disappointment in the amount of details that were released to the media i.e. Peterborough This Week and CHEX News, especially the information on the 2009 Nissan Maxima. We felt this information informed the thieves that they have the key to our 2009 Nissan, encouraging them to return to get a car (we have since rekeyed the car). It is our understanding that the City Police do not give specific details regarding what was stolen, while still alerting the public that there was a break-in, please reconsider your liberality with details in the future.

Sincerely,

Pastor Brian Mahood

cc: Shaun Filman
Media Officer Mcewan

Second, the documentation is only partially correct. PC Filman deliberately manipulated the truth by omitting to mention that the ONLY reason I asked him if I could stop at a possible witness to the Break and Enter residence was because I had lived in the possible witness' residence for the first 9 months of my life in Peterborough from October 2000 until end of June 2001 and knew the family. The residence is located right across the Selwyn Outreach Centre that had been broken into (Exhibit 106). I advised PC Filman that since I had lived there I could go speak with my former landlord to inquire if their family had heard anything about the incident. I was just too eager to assist.

Addresses:

- Selwyn Outreach Centre (Church) – 2686 Lakefield Rd, Peterborough, ON.
- Residence of the possible witness to the Break & Enter – 2699 Lakefield Rd, Peterborough, ON.

PC Filman knew that I had lived in that residence perfectly well because when in the morning of January 26, 2009, we attended the Selwyn Outreach Centre (Church) to take the initial report of the Break and Enter I pointed to the house across the road and told PC Filman that I used to live there when I came to Peterborough and that I knew some people in the area. PC Filman acknowledged.

(April 2, 2008) (Volume 6, 41):

**Police Constable Selection
Confidential Candidate Personal History Form**

List your address (es) for past ten years, giving present address first.					
City and Province (Give country if other than Canada)	Address	From		To	
		Month	Year	Month	Year
PETERBOROUGH, ON	1049 PRIMROSE LANE, R4M4, K9T 6X5	07	2001	PRESENT	
PETERBOROUGH, ON	2699 LAKEFIELD ROAD, K9T 6X5	10	2000	06	2001
ASHDOD, ISRAEL	53/3 K.K.L., 77471	10	1998	09	2000
HILLSBORO, OR, USA	269-20 TANDEM WAY, NE, 97124	01	1998	09	1998
ALBUQUERQUE, NM, USA	328-9270 EAGLE RANCH RD, 97114	10	1997	12	1997

The fact that PC Filman recalled the incident and manipulated the truth some 9 months after the fact (when compiling the point form chronology in November 2009) attests to the Respondent's strong goal to fabricate false deficiencies in my performance in order to discredit and terminate me. It was so careless on PC Filman's part to enter it in the point form chronology because:

- First, I only asked PC Filman if I could attend the possible witness's residence because of the aforementioned reason. I did not attend.
- Second, on January 27, 2009, (the following day after I had asked) at approximately 17:30 hrs. PC Filman attended the Pioneer gas station # 204, which is located at 336 Lansdowne St. E. in Peterborough to inquire about a video surveillance recording of the suspect in the Break and Enter incident (Exhibit 106). When PC Filman attended the gas station he was off duty, with no use of force equipment present on him whatsoever, and while his pregnant wife was waiting for him in their private car at the gas station. I witnessed him doing it first-hand when I stopped at the Pioneer gas station to fuel up the cruiser upon returning from the Block Training. I had to attend the second day of a 4 day Block Training because I missed it exactly two weeks prior on January 13, 2009, due to the dental emergency (Exhibit 104, page 5 – 8). It would have been nice to have my officer's

notes for that day that would prove that I was gassing up at the Pioneer gas station at approximately 17:30 hrs. Alas, the Responded decided to withhold them.

While PC Filman noted my inquiry to attend the possible witness' residence in the point form chronology with a negative connotation to it, he failed to follow the proper procedure himself. While it might be interpreted as "Do as I say, do not do as I do" kind of thing, it is nonetheless a clear indication of fabricating (even retrospectively) and piling up as much negative stuff on me as possible.

(January 24 – 26, 2009) Counsel's additional disclosure (April 5, 2012), PC Filman's notes:

Friday 23 Jan 09 Rest Day	Monday 26 Jan 09 Peterborough County Weather Clear day Temp approx -15° Road Tires and Hwy Base and Dry START 0500 FINISH 87
Saturday 24 Jan 09 Rest Day	
Sunday 25 Jan 09 Rest Day	

(January 26, 2009) (Volume 3, BB) Point Form Chronology:

26Jan09 - PC Filman

- PC Jack and I had completed a Break and Enter investigation in which charges were laid. PC Jack and I completed the entire brief together and he was shown at that time the proper way to complete the paperwork associated to that.

First, the date is wrong again. Since we were dispatched and attended the Break and Enter call on January 26, 2009, we could not have possibly completed the investigation on the same date. It was completed approximately a week later from the indicated date. So much for the detective skills of Detective Constable Shaun Filman, who neither could spell properly (Exhibit 30) nor could he remember the dates nor bothered to verify his assertions.

Second, the documentation is only partially correct. PC Filman completed the brief mostly by himself. As far as the paperwork was concerned I only proofread the synopsis (Exhibit 106). Also, when PC Filman and I drove to the Central East Correctional Center in Lindsay to interview the suspect after he had been arrested in relation to the matter by the Peterborough Lakefield Community Police it was PC Filman who interviewed the suspect. I was just a witness to the interview.

(January 29, 2009) (Volume 3, W-4):

From: Stevenson, Hugh (JUS)
Sent: January 29, 2009 10:26 AM
To: Johnston, Mike P. (JUS); Campbell, Ron (JUS)
Cc: Lee, Dave E. (JUS)
Subject: New Recruits - Special Attention to Prob Period - [REDACTED]
Mike and Ron:

Chief Armstrong and I were perusing the recruit leadership assessment tool provided by the ppa and thought we should give you a heads up on two recruits coming to your detachment.

1. [REDACTED] scores under 3

2. Michael Jack - all scores under 3

I would encourage closer evaluation of the challenges identified in this tool over the probationary period.

Regards

hs

First, how could have Superintendent Stevenson stated on January 29, 2009, '***we should give you a heads up on two recruits coming to your detachment***' when I had graduated from the PPA on January 9, 2009, and reported to detachment for the first time on January 12, 2009. By January 29, 2009, I had already worked 5 shifts (Exhibit 66).

Second, the blacked out names are Jack and Kovacs, as is evident from the index of the Respondent's disclosure. By the way, either the Counsel for the Respondent or Superintendent Stevenson erred in the name as there was no recruit in our class with last name Kovacs. Whoever erred, they were referring to Stephanie Kovals and she was assigned to Haliburton Highlands Detachment. She never came to our detachment (Exhibit 66). Moreover, I can see a pattern in both of us scoring under 3, whatever it meant, as Stephanie Kovals had a Bachelor of Science degree in biology and was a reserved and smart person. She was certainly not a bully. Would you find it strange that both Stephanie and I had University education and both Stephanie and I scored under 3? I assert that Stephanie Kovals just like me was giving a thorough thought to her actions and hence was classified as a recruit with a leadership deficiency. OPP's leadership assessment reminds me of an old saying: 'Only fools are certain, wise men hesitate.'

Third, it is a fact that I have been a leader throughout the better part of my life. I was a cadet leader in the Israeli Nautical School, the best in my class in the Israeli Navy marine electricity training course, project leader at Trent University in Canada, winner of the prestigious postgraduate scholarship from the Natural Sciences and Engineering Research Council of Canada based on my academic excellence, research potential, communication skills, and interpersonal and leaderships abilities. It would appear that it was not until I joined the Ontario Provincial Police that I was classified as having leadership deficiencies.

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

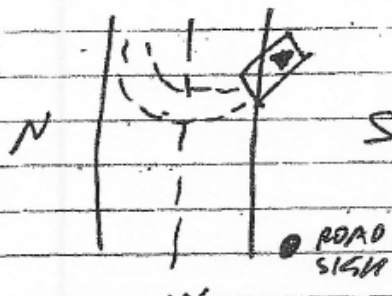
On January 30, 2009, I was working a day shift. I was accompanied by Cst. Jeff Gilliam.

SP09020239	OPP	Motor vehicle collision	2009/01/30 17:41	Complete - solved (non-criminal) - LINDSAY RD between CHEMONG RD and CREAMERY RD, SMITH-ENNISMORE-LAKEFIELD ON Canada (Area: 1044, Duty locn: 1105, Beat: 30b, ESZ: 80968) Reportable 1I-09-00151 / PC GILLIAM 12191 / CRUISER IN THE DITCH, MINOR DAMAGE TO VEHICLE AND / ROADSIGN, SEE TR.
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In an attempt to stop a speeding motorist I misread the U-turn and put the nose of the cruiser in the ditch with no resulting damage to the cruiser. A passing motorist stopped to render assistance to us by offering to pull the cruiser out of the ditch. The motorist used his own personal rope to tie to the rear axle of the cruiser which was still up on the shoulder of the road. Cst. Gilliam and myself got back into the cruiser before the motorist began pulling the cruiser out. During the pull, the cruiser struck a metal cautionary road sign in the ditch and sustained damage. Sgt. Flindall attended the scene of the accident. As a result of the after-the-fact accident I subsequently received a negative in-house personal documentation known as a 233-10 (Exhibit 14) stipulating my "inadequate operation of police vehicle" and was negatively rated in the *Police Vehicle Operations* section in my Month 2 performance evaluation (Exhibit 15). I was content with receiving the negative documentation as I believed I was at fault and assumed the responsibility for the accident. However, as I learned later not only was I accompanied by an officer (Cst. Gilliam) who was senior to me and who was familiar with the OPP policy to call a tow truck in situations like that but did not follow it, but I was the only one to receive the negative documentation for the accident. Cst. Gilliam was not documented despite his seniority and his familiarity with the proper procedure to deal with the situation. On the date of the accident, I was 12 days on the job while Cst. Gilliam was approximately 2 years on the job. Furthermore, my coach officer Cst. Filman did not discuss the accident with me on the day it happened apart from uttering something to the effect that it was not his coaching. He did this in the Constables' office at the Peterborough Detachment later that day. Noteworthy is the location of Cst. Filman's comment that it was not his coaching – in the Constables' office. It was made in the hearing and presence of other officers thereby subtly poisoning my work environment. Comments like these that are made in the hearing and presence of others have a cumulative effect of tainting one's perception of another. Cst. Filman later mentioned to me that the accident was not a big deal and that he wrote off 5 cruisers during his first two years on the job. Around mid-March 2009, after I had been served with the negative 233-10 document (Exhibit 14), S/Sgt. Campbell approached me in the Constables' office and said that he believed that the responsibility should have been shared. Why was it not then? After all, not only Cst. Gilliam was two year senior to me, but he was also the officer in charge of the accident. In reflection, I conclude that Cst. Gilliam was born and raised in the City of Kawartha Lakes, which is bordering Peterborough County on the west, was not a minority and more so not a minority that spoke with a thick accent. Figuratively speaking, he was not a "Crazy Ivan". Furthermore and hypothetically speaking (at this early stage of my probationary period), if one were going to try to terminate a recruit the most appropriate way would be to document all negative incidents and where possible issue negative 233-10s.

FRI 30 JAN 09
1255 TEST RADAR, MPHT-
POW.
1305 CO. HWY. 36
1310 ~~60th~~ HWY. 28
1340 N/B CO. HWY. 23
1350 BUCKHORN, ESO
1445 CO. HWY. 50X
CAVENDISH ESO
1630 CO. HWY 1.
[REDACTED]
(DOB. [REDACTED])
PH. [REDACTED]
LIC [REDACTED]
CHEVROLET
AVALANCHE
AT 16:20 I WAS W/R
ON CO. HWY 1 WHEN
I OBSERVED A MV
TRAVELING E/B AT
A HIGH RATE OF
SPEED. I ACTIVATED
THE RADAR IN TOWARDS
MODE AND LOCKED @
112 KM/H IN A POSTED
80 KM/H ZONE.
I IMMEDIATELY ~~CALL~~^{PA}
LOOKED IN THE MIRROR
AND OBSERVED NO MVS
TRAVELING BEHIND
ME. I SLOWED
DOWN AND PERFORMED
A U-TURN. NEXT,
I ENDED UP ON THE
SOUTH SIDE CURB,
PARTLY IN THE DITCH
FACING EAST.

76

FRI 30 JAN 09
1651 FITZSIMONS TRACK
ARRIVED
DRIVER: [REDACTED]
CON'T. [REDACTED]

AT ~ 16:25 AS PC
GILLIAM WAS ABOUT
TO CALL FOR A
TOWTRUCK FROM
FITZSIMONS A
CHEVROLET AVALANCHE
PULLED OVER AND
DRIVER (NAME: [REDACTED])
OFFERED TO HELP
US OUT BY PULLING
THE CRUISER OUT
FROM THE DITCH.
I AGREED AND [REDACTED]
PRODUCED A ROPE.
I ATTACHED THE
ROPE UNDER THE
REAR LEFT TIRE
AND GOT BACK INTO
THE DRIVER SEAT.
PC GILLIAM GOT
BACK INTO THE
FRONT PASSENGER
SEAT.
AS DASENAIS TRIED
TO PULL THE CRUISER
OUT, THE CRUISER
CONTINUED SLIDING

61

(January 30, 2009) Counsel's additional disclosure (March 13, 2012), PC Jack's notes:

FRI 30 JAN 09		THE CRUISER WAS
ALONG THE RIGHT		OUT BUT THE
CURB AND JUST		LEFT FENDER, LEFT
BEFORE IT WAS OUT		DOOR AND LEFT
IT HIT A ROAD SIGN		MIRROR WERE DAMAGED
WITH ITS LEFT M.I.		THE ROAD SIGN WAS
MIRROR AND LEFT		DOWN.
FRONT PART OF THE		PC GILLIAM INFORMED
LEFT DOOR.		THE SGT. FLINDALL
LEFT TIRE WAS		AND CALLED
PUNCHED AND GOT		FITZSIMONS
FLAT.	1745	10-19
	1850	REPORT OFF DUTY
		PC 12690 MUR

I am very grateful to the Counsel for finally furnishing me with some copies of my notes. As it is clearly evident from those notes I took the responsibility for the incident. I believed that was the right thing to do at the time and indicated it as such in my notes.

my Month 2 performance evaluation (Exhibit 15). I was content with receiving the negative documentation as I believed I was at fault and assumed the responsibility for the accident. However, as I learned later not only was I

After we had cleared the scene Sgt. Flindall transported us to the detachment. Sgt. Flindall was the driver. PC Gilliam was the front seat passenger while I was in the back seat. While en-route to the detachment Sgt. Flindall and PC Gilliam talked very quietly (hushed-hushed) about the incident so I was left out and I was not privy to the context of their conversation. I was so embarrassed and scared for damaging the cruiser that I advised them that I was going to take full responsibility for the accident as I firmly believed it was my fault and accepting the responsibility was the right thing to do. I must add that at the time it was only logical for me to accept the responsibility for the screw up. Hence, upon arrival to the detachment and after further advising PC Gilliam of my intention to take full responsibility for the accident I did my notes. Little did I know at the time about the OPP policies and procedures and I certainly could not have envision that Sgt. Flindall was going to use it against me later on, specifically that he was going to use the incident in his briefing note (Volume 1, I-7) and further throw the accident in my face during the meeting with S/Sgt. Campbell on August 19, 2009.

From: Flindall, Robert (JUS)
Sent: January 30, 2009 4:35 PM
To: Campbell, Ron (JUS)
Subject: Enr to a cruiser MVC

I'm just enroute to investigate a cruiser MVC. PC M. JACK put the cruiser in the ditch. When having it pulled out by a passing motorist, they took out a road sign and damaged the side mirror.
PC GILLIAM was the passenger.

(January 30, 2009) (Volume 1, B), Sgt. Flindall's notes:

pull them out
of the ditch
but in doing
so, the crawler
hit a sign
damaging
the crawler.
- already
called [redacted]
- ENR
1700- ATIS LINDSAY RD
N 3 KM W OF
Chomong Rd
- crawler is
back up on
the roadway
- front passenger
door is flt
damage to
front pt. panel
and passenger
door
- passenger
mirror has
also been
torn off.
- no life
- occurred @
N 1670 HRS.
- [redacted]
to How to
their garage
- [redacted]
DET.
DETAILS from
GILLIAM 77

OTHER MOTORIST:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

S: JACK, MICHAEL
16 DEC 92
J00S2-54407-21216
U: DB FORD CVP
BLACK.

[REDACTED]

H.M. THE QUEEN

P.C. GILLIAM
has notified
the two offices
of the
damage to
the road
sign.

- B/S SGT. CAMPBELL
called and
notified
the coaction
CAMPBELL call
back - adv
to leave the
disciplining
program to
the coaction
conduct

committees
the duty

25

SP09020239 OPP Motor vehicle
collision

2009/01/30
17:41

Complete - solved (non-
criminal) - LINDSAY RD
between CHEMONG RD and
CREAMERY RD, SMITH-
ENNISMORE-LAKEFIELD
ON Canada (Area: 1044, Duty
locn: 1105, Beat: 30b, ESZ:
80968) Reportable 11-09-
00151 / PC GILLIAM 12191 /
CRUISER IN THE DITCH,
MINOR DAMAGE TO
VEHICLE AND /
ROADSIGN, SEE TR.

(January 30, 2009) File 233-10, Exhibit 14:

Date: 30 Jan 09

Member	Jack, Michael	Badge #	12690
Supervisor	Campbell, Ron	Badge #	6385

NARRATIVE (Incident # Optional)
SP09020239

Background:

PC M. JACK attempted to make a U-turn on Lindsay Rd in an attempt to turn around and stop a speeding motorist. PC M. JACK misread his U-turn, resulting in the cruiser nosing into the south ditch. PC J. GILLIAM was accompanying PC M. JACK. A passing motorist stopped to render assistance to the officers by offering to pull their cruiser out of the ditch. The motorist used his own personal rope to tie up to the rear axle of the cruiser which was still up on the shoulder of the road. PC JACK and PC GILLIAM got back into the cruiser and the passing motorist began to pull the cruiser. Instead of pulling the cruiser straight out of the ditch, the nose of the cruiser swung to the right, further down into the ditch. The cruiser began being pulled sideways through the ditch and struck a metal cautionary road sign in the ditch. PC JACK and PC GILLIAM were unable to get out of the cruiser to tell the towing driver to stop.

Part C - Investigator Findings

PC JACK's driving inexperience as a police officer resulted in him initially nosing his cruiser into the ditch. The cruiser was partially into the snowbank and partially on the shoulder of the roadway and had sustained no damage. PC JACK's and PC GILLIAM's decision to accept the offer of the passing motorist versus calling a tow truck, resulted ultimately in the damage to the cruiser. This was poor decision making on their part. Also, by getting back into the cruiser while it was being towed, compounded the problem. The officers could not effectively see what was occurring, nor get the towing driver to stop as they could not get out of their cruiser. Spatial awareness was also low, as the nearby sign did not come into their decision making process. Although PC JACK was not "driving" the cruiser, this collision is deemed to be preventable.

DISCLOSURE DATE:

16 Mar 09

DISCLOSED BY:

M.R.J. Campbell #6385 S/Sgt.

MEMBER'S SIGNATURE

Please note the *'PC Jack's and PC Gilliam's decision to accept the offer of the passing motorist versus calling a tow truck, resulted ultimately in the damage to the cruiser. This was poor decision making on **their** part.'*

My actions made me responsible for the turning around of the cruiser and placing the nose end in the ditch. PC Gilliam's actions made him responsible for (being the senior of the two involved officers) granting authority to the motorist to pull the cruiser out of the ditch and thereby causing the damage which was a direct result of that action.

Hence, I accept responsibility for the accident placing the cruiser into the ditch. This action of mine resulted in no damage whatsoever. However, and more importantly, why was PC Gilliam not documented for soliciting the services of a citizen which resulted in the damage to the cruiser: the flat tire and the side view mirror being torn off, the front ¼ panel and passenger door?

To the best of my knowledge I was the only one who was served with the negative 233-10. If I am mistaken, then the Respondent can easily prove it. If I am not, then how come I (the rookie) received a negative 233-10 for the damage of the cruiser that took place after the fact and PC Gilliam (the senior officer) did not?

The decision to charge me and me alone by way of a negative documentation was wrong and would appear to have been influenced by someone at the Peterborough County OPP Detachment or detachment personnel. My rational for this is the fact that I was at the detachment for less than two weeks and already became acutely aware that I was not being liked.

Vehicle Damage Report, Counsel's additional disclosure (February 16, 2012):



**Ontario
Provincial
Police**

Ontario Provincial Police VEHICLE DAMAGE REPORT

RMS #: SP09020239

TP22 Referral #: 12120

Collision Claims #: 32229

Incident Type: Collision Other Damage Radio Equipment Supplementary Police Equipment	Vehicle Number: 01-152 Vehicle Number of other OPP Vehicle involved: (if applicable) Assigned Location of Vehicle: 1I00 : PETERBOROUGH COUNTY
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Part A - Investigating Member

Occurrence Location: Lindsay Rd, Smith-Ennismore Twp	Occurrence Time and Date: 30 Jan 2009 - 16:20	Vehicle License #:BCSA-679 01 : STANDARD PATROL VEHICLE
	Detachment of Occurrence: 1I00 : PETERBOROUGH COUNTY	Vehicle Make and Year: FORD - 2008 CROWN VICTORIA
Operator: MICHAEL JACK	Badge No: 12690	Rank/Classification: PROBATIONARY
		Odometer Reading/Hours: 165098
Description of vehicle and equipment damage: -flat front passenger tire -passenger mirror torn off -right front quarter panel, behind tire - dented -front passenger door - large dent to lower half of door		

Part B - Operator

Explanation of occurrence:

PC M. JACK attempted to make a U-turn on Lindsay Rd in an attempt to turn around and stop a speeding motorist. PC M. JACK misread his U-turn, resulting in the cruiser nosing into the south ditch. PC J. GILLIAM was accompanying PC M. JACK.
A passing motorist stopped to render assistance to the officers by offering to pull their cruiser out of the ditch. The motorist used his own personal rope to tie up to the rear axle of the cruiser which was still up on the shoulder of the road. PC JACK and PC GILLIAM got back into the cruiser and the passing motorist began to pull the cruiser.

Instead of pulling the cruiser straight out of the ditch, the nose of the cruiser swung to the right, further down into the ditch. The cruiser began being pulled sideways through the ditch and struck a metal cautionary road sign in the ditch.
PC JACK and PC GILLIAM were unable to get out of the cruiser to tell the towing driver to stop.

Part C - Investigating Member

Started: 30 Jan 2009 Completed: 01 Feb 2009

Findings: ACCEPTED BY CONDUCT

PC JACK's driving inexperience as a police officer resulted in him initially nosing his cruiser into the ditch. The cruiser was partially into the snowbank and partially on the shoulder of the roadway and had sustained no damage.

PC JACK's and PC GILLIAM's decision to accept the offer of the passing motorist versus calling a tow truck, resulted ultimately in the damage to the cruiser. This was poor decision making on their part. Also, by getting back into the cruiser while it was being towed, compounded the problem. The officers could not effectively see what was occurring, nor get the towing driver to stop as they could not get out of their cruiser. Spatial awareness was also low, as the nearby sign did not come into their decision making process.

Although PC JACK was not "driving" the cruiser, this collision is deemed to be preventable.

Signature of investigating officer:	Date:	Collision: Preventable
ROBERT FLINDALL (9740)		
Signature of Detachment Commander:	Date:	
MELVILLE CAMPBELL (6385)		

Part D - Division/District	
Decision of Conduct committee:	
NDD to advise the officer about safe operation of a force vehicle. This should be documented on a 233-10 entry.	
TW	
Name and Badge of Chairman:	Date:

Attachments		
Photographs	Estimates/Appraisals	Government employee injury description
Driver and witness statements	Other	LE042
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It is evident from the date the document was printed (February 16, 2012) that based on the Applicant's disclosure on January 13, 2012, Counsel for the Respondent provided this additional disclosure.