

Rebuttal to Probationary Constable Performance Evaluation Report (PCS-066P)

By: JACK, Michael (former OPP badge # 12690)

Report Month: 6 & 7

Evaluation period: 09 June 2009 to 09 August 2009

Preamble: In early May 2009, I advised Sgt. Flindall that I did not feel I was getting the proper coaching and that I felt I had no one to go to for help. He acknowledged my concerns and explained to me that it was the result of the mismanagement of human resources at the detachment and that Cst. Filman was not supposed to be my coach officer in the first place and that he was assigned to be my coach shortly prior to my reporting at the detachment. I have to admit that 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 (Cst. Jeff Gilliam, Cst. Ken Rusaw, 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 was very low. As a cumulative effect of the above, Cst. Filman's mind appeared to be everywhere else but in coaching me properly. I advised Sgt. Flindall that I was concerned about my probationary period progress and that I did not want to jeopardize my probationary period because of the mismanagement of resources, which was obviously beyond my control. Sgt. Flindall reassured me that this was not going to happen on his shift. Sgt. Flindall advised me that Cst. Filman was going to continue to be my official coach officer and as such would continue to be responsible for writing my performance evaluations, while Cst. Payne was going to be my "go-to" mentoring officer and was going to assist me with work.

On April 26, 2009, I was presented with my Month 2 performance evaluation (form PCS-066P) (09 Jan 2009 – 09 Mar 2009) by Sgt. Flindall. The evaluation was prepared by Cst. Filman. There were 3 "Does Not Meet Requirements" ratings out of 27 evaluation criteria ratings and 3 work improvement plans. The evaluation was overdue by a month and a half. Sgt. Flindall advised me that it was his fault and reassured me that it was not going to happen again.

On April 26, 2009, I was presented with my Month 3 performance evaluation (09 Mar 2009 – 09 Apr 2009) by Sgt. Flindall together with the Month 2 evaluation. The evaluation was prepared by Cst. Filman. There were no "Does Not Meet Requirements" ratings.

On May 14, 2009, I was presented with my Month 4 performance evaluation (09 Apr 2009 – 09 May 2009) by Sgt. Flindall. The evaluation was prepared by Cst. Filman. There were no "Does Not Meet Requirements" ratings.

On August 19, 2009, I was presented with my Month 5 performance evaluation (09 May 2009 – 09 June 2009) by Sgt. Flindall, which was overdue by two months. The evaluation was prepared by Cst. Filman. There were no "Does Not Meet Requirements" ratings.

On August 19, 2009, I had a meeting with S/Sgt. Campbell and Sgt. Flindall with OPPA representative, Cst. Anderson sitting in on it. At the meeting I was informed that I was being re-assigned to another platoon with another coach officer and that I would report back for duty on September 9, 2009, after my time off duty that commences on August 20, 2009, at 18:00 hrs. Further, I was informed by Sgt. Flindall

that he was going to give me two more negative 233-10 documents and that it would be reflected in my next performance evaluation.

Note: The 233-10 documentations are disciplinary in nature. According to the Ontario Provincial Police and Directives, a 233-10 is an informal disciplinary decision that is used by a supervisor to help prepare a member's yearly Performance Evaluation. Furthermore, due to the fact that it stays in a member's file for a period of two years if no further disciplinary documentations (233-10) are incurred, means it could stay longer if prior to the expiration of two years the member gets another one.

On August 20, 2009, shortly before noon, I got a call in reference to a suspected impaired driver (SP09191712). I subsequently intercepted and arrested the driver for impaired operation of motor vehicle (the driver's breath test result was 272 BAC) and was busy dealing with the prisoner and the paper work all afternoon.

At 5:40 pm (which was 20 minutes prior to the end of my shift) I was presented with my Month 6 & 7 performance evaluation (09 June 2009 – 09 August 2009) by Sgt. Flindall. There were 10 "Does Not Meet Requirements" ratings. The evaluator's name on the PCS-066P form was Cst. Filman (who was on vacation at the time) (Exhibit 66) yet the evaluation was prepared by Sgt. Flindall personally and all the negative comments were thoroughly documented by Sgt. Flindall. **Hence the document in entirety was completely fraudulent. It was purported as having been completed by Cst. Filman.** The majority of the comments in the evaluation in addition to being false, frivolous, vexatious and made in bad faith, dealt with the information which I had divulged in confidence with other colleagues. The work improvement plans were not there and I felt I was being slammed with everything all-at-once. I was the only police officer at the Peterborough Detachment at that time being subjected to this type of treatment and unusual and extraordinary demands for my level of police experience by my supervisor(s). Sgt. Flindall also handed me an in-house personal documentation known as 233-10 stipulating my "inadequate conduct". It was at that time that I realized that I was being harassed for standing up for my rights. I realized that I had been under the constant surveillance by several of my colleague police officers since I advised Sgt. Flindall that I was going to contact the OPPA.

On August 20, 2009, at 6:00 pm I called D/Cst. German to seek advice. D/Cst. German advised me that I did not have to sign anything at the time and advised me she was going to look into my case again. I did not sign any of the forms Sgt. Flindall gave me. I told him that I needed more time to review my Month 6 & 7 performance evaluation and that I wanted an OPPA representative to have a look at it as well. I also told him that I would sign the two 233-10 forms if he ordered me to do so, to which he replied, "Nope" and immediately wrote "Refused to Sign" at the bottom portion of the forms. That was the end of our meeting that concluded at approximately 6:10 pm. This notation by Sgt Flindall on the 233-10 forms was very unprofessional of him for at no time did I ever indicate that I refused to sign them other than mention that I wanted to review them with an OPPA representative. Signing for such documents is optional. That option is an inherent right of the recipient. Merely declining to sign does not constitute a "refusal". A more appropriate notation would have been "declined." Not so or me!

On August 21, 2009, at approximately 10:00 am I spoke with an OPPA alternative representative Cst. Anderson on the phone. He advised me that it was only fair for me to have some time to go over my performance evaluation and that I did not have to sign either 233-10 or PCS-066P on such a short notice. I advised him that I had spoken with D/Cst. German and asked him to advise S/Sgt. Campbell of the situation, to which he replied he would.

Between June 09 and August 09 (my Month 6 & 7 performance evaluation period) I had a total of 40 reportable calls for service as a reporting officer and 10 non-reportable. In addition I had 5 calls for service in which I took part either as an assisting officer, an arresting officer, or a fingerprinting officer. During the same time period my zone partners (Cst. Filman and Cst. Payne) had a total of 37 reportable calls for service

together, 20 and 17, respectively, and 35 non-reportable, 10 and 25, respectively. It is a fact that I took, handled and completed more reportable calls during the two months period than both my coach officer and my "go-to" mentoring officer combined. Note: reportable calls include investigations (which can be lengthy), interviewing of the involved parties, detailed documentation, follow ups, and might result in laying charges, which entails more paper work.

Attitude Towards Learning

Rating: Meets Requirements

Where was the need to mention this issue of forgetting to read the accused's Rights to Counsel when it was already addressed by Cst. Filman in the *Federal Statutes* section in my Month 5 performance evaluation.

Furthermore, the specific incident (SP09148553) was already being used again in the *Federal Statutes* section of this report.

This whole evaluation was never prepared by Cst. Filman as the cover page would have one believe. It is a completely fraudulent document.

Provincial Statutes

Rating: Does Not Meet Requirements

The narrative is true except for the fact that I did not make the decision to take the female to the hospital for an evaluation. I was the first officer on the scene, followed by Cst. Crowder, then by Cst. D'Amico and Cst. Moran. Upon arrival, Cst. D'Amico said that she knew the female and that she was crazy. After Cst. D'Amico and Cst. Moran cleared the scene, I was not sure how to clear the call off and that is why I sought advice from Cst. Crowder, who has got 20+ years of service with the OPP. When Cst. Crowder asked me what I would do, I advised Cst. Crowder that though I remembered studying police apprehension authorities under the Mental Health Act at the Ontario Police College, this was my first call of that particular nature. Cst. Crowder explained to me how the call should have been handled and cleared off. I therefore disagree with the "Does Not Meet Requirements" rating as I sought and followed directions from a senior officer.

Federal Statutes

Rating: Does Not Meet Requirements

On August 6, 2009, I was working a night shift. At around 10:30 pm I was dispatched to a call of a break and enter in progress at an old school in Young's Point (SP09178964). Other officers from Platoon 'A' shift attended the call as well. Four male suspects – three youths and one adult - were apprehended and arrested at scene. After the apprehension and the arrest of the four male suspects, Sgt. Flindall asked all the officers at the scene if anyone wanted to lead the investigation. No one volunteered. I had not handled criminal cases of this nature before yet said that I could do it if I got assistance with the handling of the case. Sgt. Flindall advised me that it would be a team effort in which everybody would take on a piece of work. Upon arrival at the detachment I found out through the Niche RMS that the investigation was assigned to me.

At the detachment, everybody completed their initial respective paper work, such as prisoner release papers and notices to parent and left the case in my hands. At around 3:00 am Cst. Filman went back on the road leaving me behind while I continued interrogating the suspects and then releasing them on a PTA one at a time into the custody of their parents. Later there was an email sent out to the Peterborough Detachment personnel by Ins. Johnston in which Cst. D'Amico was named as the investigating officer. Cst. D'Amico was further commended by Inst. Johnston for leading the investigation (that was assigned to me!) and her name

was passed up to the OPP Headquarters as the investigating officer. By then I knew I was targeted and it was pointless to argue any lack of recognition for my involvement.

In regards to me not trusting a supervisor or a senior member with direction stems from the fact that I had been reprimanded before for following directions from a senior officer (please refer to the *Listening Skills* section in this performance evaluation) as well as for not asking for help when I needed it. Neither my coach officer nor my mentoring “go-to” person was available at the time to assist me with the investigation and the required paper work. Therefore, at that point after everything that had gone on, I did not know who to seek advice from or who I could trust.

Due to the complexity of the case for my level of skills and experience I asked Cst. Paradis to assist me with adding charges properly on the Niche RMS because neither Cst. Filman nor Cst. Payne nor anyone else on the shift were there to assist me with the paper work. Further to this, I asked Sgt. Flindall through email once and verbally 3 times for a copy of his officer notes from the occurrence, as Sgt. Flindall arrested one male suspect at the scene and I needed his notes to complete the Crown Brief Synopsis. Sgt. Flindall acknowledged my requests but never disclosed his officer notes to me. I therefore completed the Crown Brief Synopsis with the exception of the missing piece of information that was in the Sgt. Flindall’s notes and put the 4 Crown Briefs together prior to going on my time off on August 20, 2009. I advised Sgt. Flindall that I was willing to come to work during my time off to finalize the paper work, to which he replied he wanted me to have a vacation and that he would take care of the rest and ordered me to surrender to him the 4 Crown Briefs that I had put together, with which request I complied.

It is noteworthy to mention that Sgt. Flindall advised all Platoon ‘A’ shift officers who responded to the call that he was going to write positive documentation for each. I never received any positive documentation despite that my involvement was the most significant one as not only did I respond and actively took part in the apprehension and the arrest of the perpetrators (I personally arrested only one of them) but I also investigated the case and led it to completion. However, I was the only one to receive a negative documentation for doing my work.

Listening Skills

Rating: Does Not Meet Requirements

With respect to the handling of the Fraud investigation (SP09087157), please refer to the *Follow-Up Orientation* section in this performance evaluation.

On July 23, 2009, at 6:40 pm I was ordered by Sgt. Flindall to stay at the detachment to work on overtime to complete the Criminal Harassment case (SP09164458) that I was assigned to work on earlier that day. First and foremost I was sick the day before and booked a sick day off work. On July 23, 2009, I was still unwell but felt strong enough to report for duty. I hoped for a light shift. Second, I was 13 hours into my day shift when I was ordered to stay at the detachment to continue working on overtime. Third, I had not handled criminal cases of this nature before and therefore lacked the necessary skills and experience to handle the investigation on my own in such a short time frame. Sgt. Flindall gave me a brief set of instructions on a small piece of paper to follow and advised me that the night shift were going to assist me. Sgt. Flindall further advised me that the night shift supervisor (2IC) Cst. Bruce Hanna had been advised to track the accused down and arrest him. Sgt. Flindall was anxious to leave the detachment as he was leaving for a vacation and was already late. Despite being exhausted, not having eaten all day and not having the necessary experience to complete the required paper work in a given time frame I did not dispute Sgt. Flindall’s order and stayed at work.

At around 7:00 pm, upon leaving the detachment, Cst. Payne mentioned that Cst. Brokley (her common-law spouse) was in the office and that I could apparently seek assistance from him if needed. Cst.

Brokley had undergone a vasectomy and was assigned to light duties. I took an energy pill to keep myself awake, got a meal from Wendy's and bought a set of headphones from Staples. Note: I purchased the headphones so could use an office computer to more effectively analyze the complainants' video recorded statement I took that afternoon. I analyzed the video statement and put the general occurrence report as it helped me to determine the facts-in-issue and put them in writing. I then photocopied my notes and the evidence (mail envelops and numerous photos) provided by the complainants and at around 10:30 pm asked Cst. Brokley to assist me with writing the Crown Brief Synopsis as I was mentally and physically exhausted and could no longer comprehend what I was doing. Cst. Brokley advised me he could not do that as Crown Brief Synopsis must be written by the investigating officer and instead offered me his assistance with the preparation of the Promise To Appear (PTA) document. I advised Cst. Brokley that this was not what Sgt. Flindall ordered me to do and showed him a piece of paper with Sgt. Flindall's instructions. Cst. Brokley in turn advised me that since the accused did not have a criminal record, he could be arrested and released on a PTA and re-iterated that he was going to prepare the PTA for me. At around 11:00 pm I called 2IC Cst. Hanna on the sergeant's mobile phone to inquire if the accused had been tracked down and arrested. Cst. Hanna advised me that the last message he got was not to arrest the accused and that he did not dispatch any officers from the night shift to arrest the accused. I advised him that this was not what Sgt. Flindall advised me and that I expected the night shift to help me. Cst. Hanna in turn advised me that this was "bullshit" and that the accused should have been contacted over the phone and requested to attend the detachment earlier in the evening to turn himself in. Cst. Hanna further advised me that he was on a call enroute to Bancroft (an hour of drive north of Peterborough County) and could not be of any assistance to me at the time. In light of this information, Cst. Brokley advised me to send an email to the Peterborough Detachment personnel in reference to the occurrence, should the accused be arrested overnight and that he was going to complete the PTA and leave two copies in my diary slot. I sent an email out as advised and at around midnight obtained S/Sgt. Campbell's permission, who happened to be working late at the detachment on an unrelated matter at the time, to go home and return to work the following morning (Friday, July 24, 2009) to work on overtime to complete the case. When S/Sgt. Campbell looked at me he told me, "Go home Mike, you are spinning wheels now". I left the detachment at around 1:00 am and came back to work in the morning at around 10:00 am.

Note: First, I believe that at the time I lacked the necessary skills to investigate and properly handle a Criminal Harassment case on my own. Second, I was abandoned by the night shift. Third, I was mentally and physically exhausted (I was also sick the day before and despite not being fully recovered reported on duty on July 23, 2009.) Fourth, I followed the directions of a senior officer (Cst. Brokley) with respect to handling the case, Fifth, I was approved by S/Sgt. Campbell to go home (after 20 straight hours of work) and therefore I was reassured I was doing the right thing.

The accused was not arrested overnight. I reported to the detachment at 10:00 am and with a fresh mind I promptly finalized the Crown Brief Synopsis. Though Cst. Brokley did prepare the PTA and left two copies in my diary slot, I had to prepare it from scratch as the PTA that Cst. Brokley prepared was erroneous and was not even saved in the Niche RMS. At around noon, I learned from the complainant's husband that the accused was employed as a land surveyor and was supposed to be at work at a road construction site in the vicinity of the Peterborough Detachment that day. I sought advice from the day shift supervisor (2IC) Cst. Jason Postma how to handle the arrest (I only had one arrest, for Over 80, on my own prior to that day) and then attempted to locate the accused. At the construction site I located a co-worker of the accused and learned from him that the accused had left for the day. I was subsequently able to get hold of the accused on the phone at his father's place in the City of Kawartha Lakes County and requested him to attend the detachment. At the detachment I arrested the accused on the charge of Criminal Harassment and released him on a PTA. At around 6:30 pm I attended the accused's residence along with an officer from the City of Kawartha Lakes Detachment, as the accused's residence is located in the City of Kawartha Lakes OPP territorial division, and in the accused's presence seized his 15 registered firearms under Sec. 117.04 CC. I

was then assisted by an officer from the night shift (Cst. Neal Read) with the lodging of the 15 seized firearms and concluded my overtime day shift at 11:00 pm.

On August 3, 2009, at approximately 3:30 am, I had a meeting with Sgt. Flindall with an Ontario Provincial Police Association (OPPA) representative, Cst. Filman (Yes, my official coach officer!) sitting in on it. I must emphasize that it was only the second time since I reported to the Peterborough Detachment in January 2009 and started working on Sgt. Flindall's platoon that the three of us – Platoon Sergeant Robert Flindall, Coach Officer Constable Shaun Filman and Probationary Constable Michael Jack – actually met for the purpose of discussing my progress (the first meeting took place sometime in the winter of 2009.) Aside from this meeting being a conflict of interest by the dual roles my coach officer is playing it is extremely noteworthy since according to Cst. Lloyd Tapp, who has been a police officer for 23 years, this type of meeting is supposed to be a monthly occurrence. All three (Platoon Sergeant, Coach Officer and Probationary Constable) must be meeting during the monthly evaluation at the least. Cst. Tapp has witnessed this during his tenure with the Peterborough Detachment on 'A', 'B' and 'C' platoons. The absence of such a meeting raises questions of adequacy and quality of a Probationary Constable's development. Yet further, the timeliness this meeting in relation to the latter half of one's probation raises the inference that the Probationary Constable was successful up until a period immediately prior to this meeting. Furthermore, it is also suggestive that if problems existed prior, then why were such meetings not held in the first half of one's probationary period? Consequently the absence of such meetings supports the lack of adequacy and quality of coaching. Hence when reflected upon, at the end of a probationer's employment would it not support a perception of not being wanted, desired, liked, but actually hated? The numerous comments, innuendos in reference to my accent would indeed attest to this perception.

At the meeting Sgt. Flindall advised me that I mishandled the Criminal Harassment case and that he was pissed off that I did not comply with his orders with respect to handling the case. Sgt. Flindall advised me that Cst. Payne had called him during his vacation and advised him that I had failed to comply with his orders with respect to handling the case. Sgt. Flindall further advised me that he was pissed off when he got called as he absolutely hated being disturbed with work related issues while vacationing. Sgt. Flindall then advised me that he had never had such an incompetent recruit yet and that he was considering charging me with neglect of duty and insubordination under the Police Services Act because my mishandling of the case could have cost him his Sergeant's stripes. Note: Sgt. Flindall's attitude towards me and his words 'pissed off' completely and flagrantly violate police orders with respect to how a supervisor communicates and relates to a subordinate, not to mention a probationer: *supervisors must at all times be cognizant of how they impact their subordinates and correction should always be geared towards the goal of building up a subordinate.* I attempted to defend myself by bringing up the very reasons I handled the case the way I did – being abandoned, following the directions of a senior officer (Cst. Brokley), being mentally and physically exhausted, obtaining S/Sgt. Campbell approval to go home (after 20 straight hours of work), and after all that, the case was completed without any incidents. However, Sgt. Flindall was relentless and my attempts to reason with him failed. Sgt. Flindall further stated that his Sergeant rank superseded that of Cst. Brokley and that I should have complied with the orders he gave me and not Cst. Brokley. At the end of the meeting, I asked Sgt. Flindall if my employment was in jeopardy, to which he replied, "At this point yes, and that is why we are having this conversation". I then advised Sgt. Flindall that I had been doing the best I could in the given set of circumstances and that since he threatened my employment I was going to contact the OPPA as per the advice I received during my training at the Provincial Police Academy.

Note: My further investigation revealed that the allegations of Criminal Harassment by the complainants against the accused were not substantiated and that had I been given more time to investigate the matter there would not have been sufficient grounds to proceed with laying the Criminal Harassment charge under the Criminal Code of Canada. The complainants were well known to some experienced officers at the Peterborough and the City of Kawartha Lakes Detachments (including Cst. Filman). I believe that

should there have been an experienced officer available to assist me with the investigation the case would have never made it to court. Regardless, the matter was eventually resolved in court by dropping the Criminal Harassment charge and proceeding by way of a Peace Bond. I am ashamed of laying the charge against the accused without due investigation. I am also accepting responsibility for being weak for not advising Sgt. Flindall before he left the detachment on July 23, 2009 at around 7:00 pm that I was mentally and physically exhausted and lacked the necessary experience to investigate the case properly on my own that night.

Radio Communications

Rating: Does Not Meet Requirements

SP09152940 – SP09158516 – With respect to the “follow-up”, please refer to the *Self-Awareness* section in this performance evaluation.

By definition, the *Radio Communications* section rates the “use of appropriate and respectful language when utilizing the communications system, effective communication, and the usage of 10 codes.” I therefore do not understand how the provided example fits into the definition of *Radio Communications*.

My language was appropriate and respectful. My communication was effective and I did use the 10 code system. However, the fact that my accent would have been very noticeable it would have probably caused some to have a degree of difficulty discerning what was being communicated. If anything, this rating further attests to the differential treatment that I was experiencing.

Resolution

Rating: Does Not Meet Requirements

For my rebuttal, please refer to the *Resolution* section in my Month 5 performance evaluation.

The same example was first used by Cst. Filman in the *Resolution* section with a caption of “Meets Requirements” in my Month 5 performance evaluation. When Sgt. Flindall prepared my Month 6 & 7 performance evaluation he used the same example with a caption of “Does Not Meet Requirements”.

How could this example with a rating of “Meets Requirements” suddenly change to a rating of “Does Not Meet Requirements” without any additions or deletions? Again, this attests to the quality of my coaching and supervision. If anything, this example attests to Sgt. Flindall’s dire racially motivated disdain towards me. He even made it known to me in his comments “never have I had such an incompetent recruit … and that I could have cost him his Sergeant stripes” during our meeting on August 3, 2009. Yet, later he threatened my future employment. His threats materialized shortly afterwards. In that one meeting on the 3rd of August he exemplified everything that the OPP’s promise (Exhibit 87), OPP’s professionalism (Exhibit 88), Workplace Discrimination policy (Exhibit 89) and the Ontario Public Service’s pledge on Valuing Diversity (Exhibit 90a) did not want.

Follow-Up Orientation

Rating: Does Not Meet Requirements

First and foremost; my understanding of the investigation (SP09087157) was that I was to assist in the investigation and not to lead it. In proof of this, in my evaluation report for month 4 (09 April 2009 to 09 May 2009) in the Analytical Thinking section Cst. Filman indicated that I completed a detailed investigation including a photo line-up and had since turned the investigation over to the regional intelligence officer. I was later advised by Sgt. Flindall that the investigation was mine and that I was supposed to lead it to completion.

Due to the complexity of the investigation (for my level of experience) I asked Sgt. Flindall for assistance and he advised me that Cst. Payne was going to assist me with it.

On July 18, 2009, Cst. Payne and I sat down to look at what I had done in regards to the investigation and what remained to be done. Cst. Payne quickly proof read my General Occurrence Report that I had saved on my hard drive and advised me to put it on Niche RMS. She further advised me that property items needed to be added to Niche RMS, synopsis of the video statement completed, crown brief synopsis completed and all my notes photocopied. I got no more than half-an-hour altogether of Cst. Payne's assistance with the case.

I did transcribe the witness video statement contrary to Cst. Payne instruction just to prepare a summary of it. However, during the transcription, I discovered that the actual fraudulent transaction was rung through by another person (a cashier) and that was something neither I nor Cst. Payne was aware of. While I was present during the interview of the Customer Service Representative (CSR), who serviced the accused and was the witness to the fraud, when the regional intelligence officer, D/Cst. Dawson, conducted the interview, my understanding was that I was the assisting officer in the investigation and therefore I did not intervene in the photo lineup procedure and in the questioning of the CSR. When however, I transcribed the video statement verbatim, I learned that there was a cashier who physically rung the fraudulent transaction through. Had I not transcribed the video statement verbatim, no one would have known that there was another key witness to the event and that her statement constituted a crucial document in the investigation. Only when I showed the verbatim transcription of the video statement to Cst. Payne, she pointed out that Crown Attorney Brian Gilkinson would have returned the Crown Brief back to me if I had not obtained a witness statement from the cashier. I therefore got reprimanded for wasting the time on the verbatim transcription of the video statement of the CSR, however, nothing was mentioned about me coming across the fact that the CSR was not the one who rung the fraudulent transaction through and that there was another key witness to the fraud that need to be interviewed. Further to this, when I attended the business to interview the cashier, I learned that there were two cashiers who rung two separate fraudulent transactions conducted by the same accused person on the same day and that one of them lived outside of the Peterborough County territorial division. I was further advised that both of them were scheduled to work on July 24, 2009, and therefore would be available for the interview. In light of the recent experience of being dispatched to calls almost immediately after going on duty and not being able to do follow-ups with people from calls from previous shifts in a timely manner, I asked Sgt. Flindall for a permission to attend the business to interview the witnesses on my day off on my own time, to which he stated there was a liability issue with that and denied my request. I therefore arranged to meet with both cashiers on July 27, 2009, at 19:00 hrs at the business. Sgt. Flindall was going to be on vacation that day and advised me to advise Cst. Payne that I was going to interview the cashiers as soon as I went on duty and that it was my number one priority. I subsequently met with the cashiers at the scheduled time and successfully interviewed them.

The scrutiny given to this minor detail of not obtaining the particulars in the larger scope of all the investigation I had done on this multi-jurisdictional investigation, that should have been assigned to the Crime Unit in the first place, was apparently of paramount concern to my evaluator, Cst. Filman. However, the truth was that it was of paramount concern to my supervisor, Sgt. Flindall who fraudulently purported this evaluation to have been completed by Cst. Filman.

Personal Accountability

Rating: Does Not Meet Requirements

With respect to the handling of the Criminal Harassment investigation (SP09164458), please refer to the *Listening Skills* section in this performance evaluation. The same case is being used more than once to negatively rate my performance across multiple evaluation criteria. The lack of individual cases or examples and the use of the same examples attest to one's strong desire to discredit me in as many areas as possible. If this was not true one need only look at the same section in Month 5 evaluation and one will notice that in the absence of any specific example the evaluator had documented a Meets Requirements. But then again this evaluation was not done by Cst. Filman as it purports, rather by Sgt. Flindall.

Planning and Organizing

Rating: Does Not Meet Requirements

With respect to the handling of the Criminal Harassment investigation (SP09164458), please refer to the *Listening Skills* section in this performance evaluation. The same case is being used more than once to negatively rate my performance across multiple evaluation criteria. The lack of individual cases or examples and the use of similar cases/examples attest to one's strong desire to discredit me in as many areas as possible.

In regards to my perceived inability to multitask I would like to reiterate that during my Month 6 & 7 performance evaluation period I had a total of 40 reportable calls for service as a reporting officer and 10 non-reportable. In addition I had 5 calls for service in which I took part either as an assisting officer, an arresting officer, or a fingerprinting officer. During the same time period my zone partners (Cst. Filman and Cst. Payne) had a total of 37 reportable calls for service together, 20 and 17, respectively, and 35 non-reportable, 10 and 25, respectively. It is a fact that I took, handled and completed more reportable calls during the two months period than both my coach officer and my "go-to" mentoring officer combined. Note: reportable calls include investigations (which can be lengthy), interviewing of the involved parties, detailed documentation, and follow-ups. The cumulative effect of all this sometimes result in laying charges and or additional charges which in turn entails more paper work.

With respect to following up on the investigation (SP09152940) that I was not asked to assist with, please refer to the *Self-Awareness* section in this performance evaluation. Further, the comment suggests that follow-ups on one's own investigations should take precedence over proactive policing.

Respectful Relationships

Rating: Does Not Meet Requirements

With respect to the B&E in progress (SP09178964), please refer to the *Federal Statutes* section in this performance evaluation. The same case is being used more than once to negatively rate my performance across multiple evaluation criteria. The lack of individual cases or examples and the use of the same examples attest to one's strong desire to discredit me in as many areas as possible.

In the absence of any specific example Cst. Filman should have done what he normally did as per his previous evaluations – Meets Requirements. But then again it was not Cst. Filman who prepared this evaluation. Rather it was Sgt. Flindall who fraudulently prepared it purporting it to have been done by Cst. Filman.

Self-Confidence**Rating: Does Not Meet Requirements**

I am not sure what these numerous situations were that required disciplinary action and what kind of disciplinary action was required or taken to complete my tasks properly. I presume rating my performance negatively in 10 different sections and issuing me with two negative 233-10 documents constitutes disciplinary action. During my conversation with Sgt. Flindall on August 3, 2009, I was advised that I am a quite person and should be asking questions when I do not know how to deal with a situation. It therefore was yet another surprise for me to learn that I got reprimanded for requiring instruction to complete tasks properly. Should I not naturally require instruction to complete certain tasks during my probationary period and perhaps even later in my career? Is not that the job of a coach officer to provide me with instruction and guidance in the first place? Is not that exactly what I discussed with Sgt. Flindall in May 2009 and never received? As for the criticism, I am not sure who that person was that I was avoiding and when it happened. If that person comes forth, I will then be in a position to explain my perceived behaviour of avoidance. I do suspect however that it was Cst. Payne who instead of supporting and assisting me with work launched a campaign of interpersonal destruction against me.

On July 18, 2009, at approximately 6:45 am Cst. Payne called me into the board room and in a face-to-face conversation accused me of winking at her and in one instance, back in the spring of 2009 when she was still seconded to the Crime Unit, looking at her inappropriately, stating that she had been put off by the way I looked at her. She stated that it was unprofessional of me and she wanted it to stop. I was astounded, speechless and frightened as I had done nothing of a kind. Her accusations were vexatious and tantamount to explicit harassment. It literally scared me to the point that I was afraid to look at or speak with Cst. Payne fearing what else she might accuse me of. Because I was a minority and a Probationary Constable that absolutely must please everybody to make it through the probationary period and was not expected to raise any objection to the harassment and discriminatory actions I sucked this one up as well. I could not sleep that day. So much for receiving help from my "go-to" mentoring officer!

Much later on I had to pause and wonder if there ever was a time that Sgt. Flindall commended me or issued me a positive 233-10, e.g. for the large illegal marijuana grow op seizure (SP09233537) (Exhibit 35). I had to admit that there was not a single time that occurred. If anything the negative rating in this section by Sgt. Flindall shows his true negative biasness towards me.

Self-Awareness**Rating: Meets Requirements**

SP09152940 – SP09158516: On July 11, 2009, there was an email sent to the Peterborough Detachment personnel by Cst. Dan Gay about racial graffiti on a vehicle at Camp MOSHAVA (which is a Jewish camp), in which patrols in the area were requested. I took note of the incident the same way I had taken note of many other occurrences and security alerts that occurred in Peterborough County and especially in my patrol zone (Zone 3). On the morning of July 17, 2009, I was on general patrol in my zone, when I noticed I was in the vicinity of the camp. I recalled the request for extra patrols and decided to conduct one to see where the camp was located and to familiarize myself with the area. Upon my arrival at the camp's main gate, I was greeted by the camp security guard who said, "You are already here." I asked what he meant by that to which he explained that a teenaged female at the camp had fainted of what appeared dehydration and EMS was called to attend. He further advised me that he was not sure if the police had been called. A few short minutes thereafter Peterborough EMS and local fire arrived on scene. I personally knew the paramedics and the firemen as we had worked together in a number of motor vehicle accidents. I decided to stay until they cleared the scene in case police assistance was required. The teenaged female was brought out in a camp van, examined by paramedics and transported to the hospital for further examination. I then spoke with the camp manager and I advised her that I of the reason I remained on scene and that I had a Jewish

background. I further asked if I could get some water and she escorted me into the dining room. We had a short conversation (5-10 min), in which she advised me of the thefts they had had from cabins and the racial graffiti. I advised her that I was aware of the racial graffiti occurrence and that was the reason how I learned about their location and was conducting the requested extra patrols. Our conversation was interrupted by me receiving a call and being dispatched to a Break & Enter (B&E) call in another zone (Zone 2). I left the camp manger my business card, apologized for leaving in the middle of the conversation, and left. I drove to the B&E call on the other side of the Peterborough County. There were no other officers readily available at the time so I had to cover Zone 2 calls as well. I was tied up dealing with the B&E for the rest of my shift.

We have been encouraged to maintain a healthy balance between proactive policing and follow ups as well as to conduct extra patrols and foot patrols in our respective zones. On the morning of July 17, 2009, I was in my zone and I was conducting the requested extra patrol. I had advised PCC earlier that I was in my zone, however, I did not advise PCC of my exact location and that I was out of the vehicle. By staying in my patrol zone and conducting the requested extra patrol in the problem area I believed I was doing the right thing. While my initiative could have been positively documented in the *Community Focus* and *Team Work* sections, my supervisors chose to positively rate me only in the *Self-Awareness* section. Also, Cst. Payne verbally reprimanded me for taking the initiative to visit the Camp and said that she would have rather had me write tickets instead.

One must wonder why did the evaluator who is supposedly the same as in all of the previous evaluations was so careless and biased. Whereas the first 5 evaluations were done by Cst. Filman, this one was fraudulent and was done by Sgt. Flindall purporting it to have been completed by Cst. Filman.

All I can say that this evaluation was racked with fraudulence and incompetence!