

Exhibit 10

Denial of Developmental Opportunities to the Applicant:

Volume 1 of Counsel's disclosure:

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

From: Johnston, Mike P. (JUS)
Sent: Wednesday, July 29, 2009 8:48 AM
To: Banbury, Trevor (JUS); Campbell, Ron (JUS); Conway, Jane (JUS); Flindall, Robert (JUS); Johnston, Mike P. (JUS); Postma, Jason (JUS); Rathbun, Brad (JUS); Smith, Gerry A. (JUS); Syvret, William (JUS)
Cc: Shaw, Norm (JUS)
Subject: FW: At Scenes Collision Investigation Course - PPA - October 19th through 23rd, 2009
Importance: High
Sensitivity: Confidential

Sergeants

Please provide candidate names for this course to Staff Sergeant Campbell by 21 Aug 09. Any member that is interested in going onto TTCI training will have priority.

Thanks

Mike

From: Flindall, Robert (JUS)
Sent: August 11, 2009 5:08 PM
To: Campbell, Ron (JUS)
Subject: RE: At Scenes Collision Investigation Course - PPA - October 19th through 23rd, 2009
Sensitivity: Confidential

I've canvassed my shift and no one wishes to attend. I already have quite a few who have already attended. PC JACK asked to go, but I am not supporting this at this time.

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

Counsel's Response to the Application (HRT0 2010-07633-I), paragraph 53:

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

Differential Treatment of the Applicant:

Volume 1 of Counsel's disclosure:

From: Campbell, Ron (JUS)
Sent: July 17, 2009 2:50 PM
To: Filman, Shaun (JUS); Jack, Michael (JUS); Flindall, Robert (JUS)
Cc: Johnston, Mike P. (JUS)
Subject: oVERDUE MONTH 5 27 JUN 09

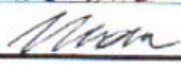
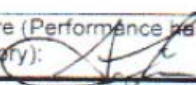
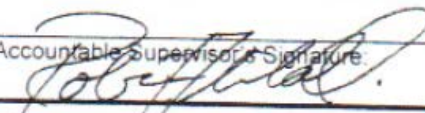
Shaun: We got notice from Region that this report month 5 is overdue. I just reviewed a couple of the other Probationary officers the other day. Yours is the only one left. Please submit tks Ron


Volume 6 of Counsel's disclosure:

Overdue performance evaluation report for Month 5:

Surname:	JACK	Given Name:	Michael
Badge:	12690	WIN:	393080
Detachment/ Section:	Peterborough County	Region/Bureau	Central East
Evaluator:	FILMAN	Badge:	11212
Evaluation Period:	(DD/MM/YY) Start: 09 May 09	End: 09 Jun 09	
Probationary Period Start Date*	(DD/MM/YY) 09 Jan 09		
**4 th Class Constables begin their probation period on the date of their graduation from the Provincial Police Academy			
** Experienced Officers and Amalgamated Officers begin their probationary period on their start date with the OPP			

Please note the dates beside the signatures:

COMMENTS AND SIGNATURES	
Evaluation Meeting	
<input checked="" type="checkbox"/> I have met and discussed my performance with my coach officer or my accountable supervisor. <input checked="" type="checkbox"/> I have reviewed and discussed with my coach officer or my supervisor, my responsibilities under the policy on Safe Storage and Handling of Firearms. <input checked="" type="checkbox"/> I have reviewed and discussed with my coach officer, or my supervisor, my performance in relation to my responsibilities under the Professionalism, and Workplace Discrimination and Harassment Prevention policies.	
Employee's Comments: EVALUATION IS 2 MONTHS BEHIND; WAS ADVISED THERE WILL BE NEGATIVE ASSESSMENTS/RATINGS IN THE EVALUATIONS THAT ARE STILL OUTSTANDING; CHANGING PLATEAUS AND COACH OFFICERS.	
Employee's Signature: 	Date: 19-AUG-09
Coach Officer Comments:	
Coach Officer's Signature (Performance has been observed that supports the rating assigned for each category): 	Date: 16 AUG 09
Accountable Supervisor's Comments (Mandatory): PC JACK is encouraged to continue working with his peers and building his teamworking skills. He is progressing positively through this evaluation period.	
Accountable Supervisor: FLINDALL, R SGT.	Accountable Supervisor's Signature:  Date: 16 Aug 09

Detachment Commander	
Comments (Mandatory): NO issues with the member's development have been raised. It appears from all accounts of his coach & Sgt he is progressing satisfactorily.	
Detachment Commander: Campbell MCT	Detachment Commander's Signature:  Date: 17 AUG 09

Volume 7 of Counsel's disclosure:

6.4.8: PROBATIONARY CONSTABLE

Detachment Commander

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

- ensure that the Form PCS066P—Probationary Constable Performance Evaluation is completed in accordance with the Probationary Constable Guidelines; and

Timeline for submitting evaluations

Evaluations shall be received by region no later than 15 working days after the end of the reporting period for the month (i.e. if evaluation end date is Jan 30, evaluation to region by Feb 18). It is imperative that evaluations be completed in a timely manner, as the organization is dependant on the information in the reports to either begin specific development or take remedial action or begin the process to release.

Volume 7 of Counsel's disclosure:

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

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

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

Differential Treatment of the Applicant:

Volume 1 of Counsel's disclosure:

From: Campbell, Ron (JUS)
Sent: August 10, 2009 9:44 AM
To: Flindall, Robert (JUS); Laperle, Chad (JUS); Jack, Michael (JUS); Moran, Melynda (JUS); Filman, Shaun (JUS)
Cc: Johnston, Mike P. (JUS)
Subject: FW: Provincial Communication Centre Notification

Good work by those involved. I could not find the court brief synopsis though. Ron
-----Original Message-----

From: Notification.Administrator@jus.gov.on.ca [mailto:Notification.Administrator@jus.gov.on.ca]
Sent: Thursday, August 06, 2009 11:24 PM
To: OPP DL CR Notifications
Subject: Provincial Communication Centre Notification

From: Flindall, Robert (JUS)
Sent: August 10, 2009 2:26 PM
To: Campbell, Ron (JUS)
Subject: RE: Provincial Communication Centre Notification

I'm doing up a positive 233-10 for the officers involved. Our new auxillary [REDACTED] did a smash up job locating one of the suspects in the water. Chad is going to do up a 233-10 for her good work on the call as well.

Robert Flindall
Sgt. 9740

28/01/2011

(Date the above two emails were printed out – January 28, 2011)

Counsel is aware that there is no positive 233-10 anywhere in all of the Respondent's disclosure yet asserts:

Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 38:

Paragraph 21 (3) – The Respondent denies that one officer was commended to the exclusion of the Applicant and the other involved officers. Eight officers attended at this particular incident including Sergeant Flindall. Sergeant Flindall commended the team for their work and the team included the Applicant. The Applicant did receive negative documentation in relation to a specific aspect of his involvement in this incident. The Applicant had been shopping for answers in relation to this incident.

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

accurately reflected the Applicant's performance. Contrary to the Applicant's assertion, both positive and negative performance was noted. Constable Nie did carefully document the Applicant's performance. That is the

Differential Treatment of the Applicant:

Volume 1 of Counsel's disclosure:

From: Flindall, Robert (JUS)
Sent: August 15, 2009 9:18 AM
To: Rathbun, Brad (JUS); Postma, Jason (JUS); Rathbun, Brad (JUS); Banbury, Trevor (JUS)
Cc: Johnston, Mike P. (JUS); Campbell, Ron (JUS)
Subject: PC Jack

Gentlemen,

Just a heads up to let you know that PC JACK is no longer allowed to work overtime for your shift shortages. I'll make the necessary changes to our duty schedule to reflect this.

Regards,

Robert Flindall
Sgt. 9740

From: Flindall, Robert (JUS)
Sent: August 15, 2009 9:20 AM
To: Rathbun, Brad (JUS); Postma, Jason (JUS); Rathbun, Brad (JUS); Banbury, Trevor (JUS)
Cc: Johnston, Mike P. (JUS); Campbell, Ron (JUS)
Subject: RE: PC Jack

This also applies to him covering shifts for other officers as well.

Robert Flindall
Sgt. 9740

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

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

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

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

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

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

Differential Treatment and Targeting of the Applicant:

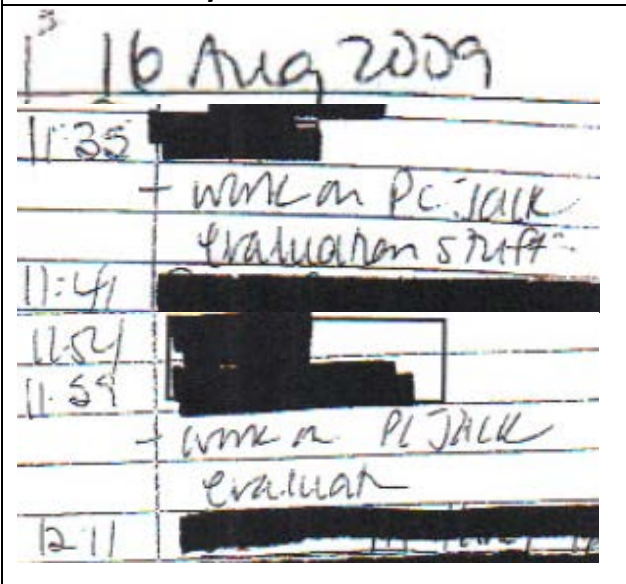
Volume 1 of Counsel's disclosure:

From: Payne, Jennifer (JUS)
Sent: August 15, 2009 6:16 PM
To: Flindall, Robert (JUS)
Subject: Jack's last evaluation ---

This is just a reminder email for tomorrow to send me Jack's evaluation. Filman may have it labelled Jack 4.

Jen :)

Volume 3 of Counsel's disclosure:

PC Jennifer Payne's officer notes:	Transcription:
 <p>16 Aug 2009</p> <p>11:35 [redacted] - work on PC Jack evaluation stuff</p> <p>11:41 [redacted]</p> <p>11:54 [redacted]</p> <p>11:59 [redacted] - work on PC Jack evaluation</p> <p>12:11 [redacted]</p>	<p>11:35 – Work on PC Jack evaluation stuff</p> <p>11:59 – Work on PC Jack evaluation</p>

Volume 3 of Counsel's disclosure:

PC Jennifer Payne's officer notes:	Transcription:
<p>19 Aug 2009</p> <p>1230 Discuss PC Jack eval & harassment call to Sgt Flindall</p> <p>1330 [REDACTED]</p> <p>1500 - WORK ON PC JACK EVALUATION - IMPACT FOR MY TIME WITH HIM</p> <p>1800 OFF DUTY John Payne</p> <p>2000 - 0000 - WORK ON EVALUATION @ HOME</p>	<p>1230 – Discuss PC Jack evaluation and Harassment call with Sgt. Flindall</p> <p>1500 – Work on PC Jack evaluation – input for my time with him</p> <p>1800 – Off duty</p> <p>2000 – 0000 – work on evaluation @ home</p>

Volume 3 of Counsel's disclosure:

PC Jennifer Payne's officer notes:	Transcription:
<p>20 Aug 2009 (Thurs)</p> <p>0600 ON DUTY</p> <p>WORK ON PC JACK EVALUATION + SEND TO SGT FLINDALL FOR REVIEW + EDITING</p> <p>0830 [REDACTED]</p>	<p>0600 – On duty Work on PC Jack evaluation + send to Sgt. Flindall for review + edition</p>

Volume 1 of Counsel's disclosure:

Sgt. Robert Flindall's officer notes:	Transcription:
	<p>0600 – On duty</p> <p>0648 –</p> <p>- Today working on PC Jack's PCS66 and negative 233-10's</p> <p>1050 –</p>

Volume 3 of Counsel's disclosure:

S/Sgt. Campbell's officer notes:	Transcription:
	<p>1615 – Review Michael Jack PCS066 Attach comments</p> <p>1700 – Off duty</p>

Volume 6 of Counsel's disclosure (performance evaluation report for months 6 & 7):

Surname: JACK		Given Name: Micheal	
Badge: 12690		WIN: 393080	
Detachment/Section:	Peterborough County	Region/Bureau	Central
Evaluator:	CST FILMAN	Badge:	11212
Evaluation Period: (DD/MM/YY) Start: 09 June 2009		End: 09 August 2009	
Probationary Period Start Date* (DD/MM/YY) 09 Jan 09			
**4 th Class Constables begin their probation period on the date of their graduation from the Provincial Police Academy			
** Experienced Officers and Amalgamated Officers begin their probationary period on their start date with the OPP			

COMMENTS AND SIGNATURES

Evaluation Meeting

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

Employee's Comments:

Employee's Signature:

REMOVED

Date:

20 Aug 09

Coach Officer Comments:

Coach Officer's Signature (Performance has been observed that supports the rating assigned for each category):

Date:

Accountable Supervisor's Comments (Mandatory):

PC JACK had been progressing positively during his early evaluations, but it is apparent from this current evaluation that he requires continued direct supervision. PC JACK has been spoken to about the deficiencies noted in this evaluation and a series of Work Improvement plans are being created to best assist PC JACK in successfully completing his probationary period.

Accountable Supervisor:

R. FLINDALL

Accountable Supervisor's Signature:

[Signature]

Date: 20 August 2009

Detachment Commander

Comments (Mandatory): *It is readily apparent from this evaluation that Jack has needed more supervision & direction than has been provided. In order to ensure he gets the tools & skills to progress he will be assigned to a new coach and go back to a one on one direct supervision routine.*

Detachment Commander:

Campbell M2J

Detachment Commander's Signature:

M2J [Signature] S154-6355

Date:

21 Aug 09

Instructions:

At the conclusion of each evaluation period:

- Forward the completed and signed ORIGINAL document to Region/Bureau for signatures and tracking purposes.

- Note the dates beside the signatures
- Note the absence of Coach Officer's (CST FILMAN) signature:

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

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

Differential Treatment and Targeting of the Applicant:

Volume 3 of Counsel's disclosure:

From: Campbell, Ron (JUS)
Sent: August 18, 2009 3:04 PM
To: Johnston, Mike P. (JUS)
Cc: Borton, Doug (JUS)
Subject: Moving of Cst. Mike JACK

Mike: I know Sgt Flindall was into see you last week and this week when I came back and wanted to move Cst. Jack from shift. Your response at that time was no as he had more or less been in charge of ensuring proper supervision occurred.

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

- a) his job was in jeopardy - for failing to follow direction given to him on cc investigation- he answer shopped and didn't do as instructed.
- b) he would be watching his every move and documenting it
- c) charge under the HTA for driving error on the 12th of Aug
- d) Apparent discussions Sgt Flindall has asked his entire shift to monitor Jack's actions and contact him for any issues (this is also spread to platoon B)

On the Sunday Jack called in sick and there is some talk by Platoon Sgt "B" Sgt Banbury because he called in sick he thinks he was deceitful and wants to investigate why he told a person at an incident on Saturday prior to calling in Sunday that he was not coming in and was sick. (I will look into this on Wednesday the first shift back)

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

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

As per your request I followed up and updated the briefing note for A/Supt Borton and Insp. Lee, and sent a message directly to Kent Taylor asking him for a driving assessment of Jack.

I received a call back from A/Supt Borton today and he thinks some fresh eyes are needed to continue this member's evaluation and give a fresh perspective on his suitability with the OPP. I am moving him completely away from the A& B side to Platoon "D". I have discussed with Sgt. Rathbun and Sgt Smith and with the bodies coming back in Sept and the new transfer of Rowe from Haldimand in Oct each platoon will be left with 12 persons.

Platoon D gives him a new start and I am awaiting Rich Nie to awaken for shift tonight to advise him of the decision that he will be the new Coach officer for the remainder of Cst. Jack's probation. Rich is a very level headed person and by having him on the opposite side gives Jack a new start from the other side with the alignment of the A&B Sgt of not only being relatives but good friends will assist all in having an objective look at this employee.

The tentative date for the movement is the **30th of August 09**. Since his 7 month evaluation will be due on the 27 Aug 09 and outline the issues from his present coach and Sgt. Although this start prior to the end the current schedule which runs to 12 Sept 09. May violate the MOU or as it is now called the collective agreement that all rest days are set in stone until the new schedule is posted. It still complies with giving him at least 7 days notice of a shift change. The new schedule will not be posted until tomorrow at Noon. So I am sure all parties will agree to the move to give everyone a fresh start.

Ron

For ease of reference please compare and contrast excerpts from the above email with the excerpts from the Counsel's Response to the Application:

Paragraph 2:

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

- a) his job was in jeopardy - for failing to follow direction given to him on cc investigation- he answer shopped and didn't do as instructed.
- b) he would be watching his every move and documenting it
- c) charge under the HTA for driving error on the 12th of Aug
- d) Apparent discussions Sgt Flindall has asked his entire shift to monitor Jack's actions and contact him for any issues (this is also spread to platoon B)

Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 29:

Paragraph 17 – The Respondent denies that the Applicant was switched from one platoon to another because it was discovered that he was being targeted by members of his shift. The Applicant was given an opportunity to have a

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

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

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

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

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

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

Paragraph 4:

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

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

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

Paragraph 5:

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

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

Constable Filman was not disinterested in the Applicant's training or development. On the contrary, it was the Applicant who was not open to constructive criticism or suggestions. At times when Constable Filman would point out something --

Volume 3 of Counsel's disclosure:

From: Campbell, Ron (JUS)
Sent: August 27, 2009 3:31 PM
To: Kohen, Colleen (JUS)
Cc: Johnston, Mike P. (JUS)
Subject: FW: PC Jack
S/Sgt Kohen

I have spoken to you in the past concerning [REDACTED] and would ask that I be able to approach you for assistance again concerning another recruit we have in Peterborough. His name is Michael Jack and I think you may be familiar with him.

Mike was having some difficulties and it was my opinion from review of his first 6 evaluations and information that came to light on the 7th was he was not receiving the help he needed and Mike needs some more one on one tutoring.

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

In addition when he needs a good look and some direction his present coach is going off on parental leave. Not wanting it to escalate and to give Mike a fresh look he has been switched from platoons and coach officers. His old platoon has been tasked to work on a work improvement plan and meet with this new coach and supervisor. As such I have a request to have the two shifts meet and discuss with you the plans that will be put in place. Since one shift is working days and the other nights if possible could we do this later in the afternoon say 2pm if you are available? Please let me know.

S/Sgt Ron Campbell

Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 29:

29. Paragraph 17 – The Respondent denies that the Applicant was switched from one platoon to another because it was discovered that he was being targeted by members of his shift. The Applicant was given an opportunity to have a fresh start with a new coach officer who was part of a different platoon in an attempt to give him an opportunity to improve his performance under the guidance of a coach officer who may have had a different style than the original coach officer.

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

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

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

Constable Filman was not disinterested in the Applicant's training or development. On the contrary, it was the Applicant who was not open to constructive criticism or suggestions. At times when Constable Filman would

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

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

Further Evidence of Targeting, Racial Comments/Remarks, Poisoned Work Environment:

Volume 3 of Counsel's disclosure:

From: Campbell, Ron (JUS)
Sent: August 21, 2009 9:22 AM
To: Johnston, Mike P. (JUS)
Subject: RE: Re; Michael Jack Platoon D

In answer to your question why was he moved.

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

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

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

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

Finally his present coach Shawn Filman is going off on 4 months parental leave starting in Sept. So with all the issues in the email to yourself and Doug Borton Doug Borton advised he felt the only thing to do was move him. You will note I advised this was against an earlier decision you had made but with this further info I think we were heading to an issue as Mike is basically an immigrant of Jewish background. You and I discussed we felt he was being targeted. To his own demise he has alienated his shift by not being 100% truthful when shopping for answers..

On Wednesday Mike Jack, Rob Flindall, his OPPA alternate rep. Mitch Anderson and myself sat down and all the issues surrounding Mike were discussed in his presence with OPPA rep.

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

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

Then yesterday I got a call from Brian Gilkinson about the utter poor quality of 3 Crown briefs handed in by Cst. Jack. He stated there is no basis for a charge in any of the cases as all it is or amounts to is a collection of one line statements by the alleged complainants with no basis or facts to prove the accused actually did it nor do they outline the elements of the offence. This would be for the [REDACTED] complaint. [REDACTED] complaint of Criminal Harassment.(exactly what Sgt Flindall) had given him a negative 233-10.

Interestingly enough Sgt Flindall had just got done complaining to me about Bob. L. from the court sending this very brief back saying there was no offence for the very same reasons that the Crown was now stating. So I brought this to his attention that again it was simply unsubstantiated rumours and investigation needed to be completed. The same goes for a brief on [REDACTED] So again I asked Rob where is the coach officer who should be guiding this and where is the vetting of the briefs by him!!!

Sgt Flindall has now taken on the responsibility of following up on both cases involving Cst. Jack's briefs and investigations as this is as much of a screw up by him.

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

1. As will be discussed in more detail below, the Respondent denies that it discriminated against, or harassed, the Applicant during his employment with the Ontario Provincial Police (OPP) on the basis of race, ancestry, place of origin, citizenship, ethnic origin or association. The Respondent's decision not to extend an offer of permanent employment to the Applicant was solely based on performance issues which were unrelated to a protected ground under the *Human Rights Code*.

29. Paragraph 17 – The Respondent denies that the Applicant was switched from one platoon to another because it was discovered that he was being targeted by members of his shift. The Applicant was given an opportunity to have a fresh start with a new coach officer who was part of a different platoon in an attempt to give him an opportunity to improve his performance under the guidance of a coach officer who may have had a different style than the original coach officer.

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

32. Paragraph 19(1) – As previously noted the Respondent denies that the Applicant was called "Crazy Ivan".

36. Paragraph 21(1) – The Respondent denies that the Applicant was treated differently than other recruits because of his race, ancestry, place of origin, citizenship, ethnic origin or association. At the time Constable Filman

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

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

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

53. Paragraphs 53 to 57 – As noted previously, the decision not to offer the Applicant a permanent position was solely based on his performance and had nothing to do with his race, ancestry, place of origin, citizenship, ethnic origin or association. The Applicant was afforded the same opportunity to develop skills and improve over the course of his probationary year as any other recruit. Unfortunately the Applicant was unable to apply his knowledge in an operational setting.

55. Broadly speaking, the Respondent denies:

- the Applicant's claims that he was subjected to discrimination and harassment;
- the Applicant was subjected to differential and derogatory treatment based on a protected ground;
- it failed to take appropriate action to address any inappropriate conduct on the part of its employees in relation to the Applicant;
- it reprimed against the Applicant through negative PERs;
- the laying of a charge against the Applicant under the *Highway Traffic Act* was discriminatory or harassing;
- the initiation of a complaint under the *Police Services Act* was discrimination or harassment; and
- there has been any systemic discrimination as set out in paragraphs 58-60 of Schedule A to the Application.

Volume 7 of Counsel's disclosure:

December 2009

October 2009

ONTARIO PROVINCIAL POLICE ORDERS © INTRODUCTION



0.1: INTRODUCTION TO POLICE ORDERS

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0.1.2: THE PROMISE OF THE OPP (VALUES AND ETHICS)

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intended for circulation or external distribution.

As an organization, the OPP commits to working continually to earn the confidence of the citizens of and visitors to Ontario—a confidence that will not be taken for granted. The OPP fulfils this commitment by providing the best and most professional service possible, and by striving to build a culture of trust, and open and honest dialogue, with the communities it serves and among the people it employs. The organization commits to creating and sustaining a positive working environment in which every employee has equal opportunity to fulfil his/her potential within the profession.

Each OPP employee and volunteer appreciates the vital role he/she plays in protecting the fundamental rights of all people in Ontario. As such, each commits to always putting the interests of the public and the OPP's Vision and Mission before any personal and private interest, and to demonstrate pride in his/her profession and the OPP through personal conduct that reflects a belief in the following OPP values and ethics:

- professionalism;
- accountability;
- diversity;
- respect; and
- excellence.

Diversity Each employee shall:

- seek to understand different perspectives, cultures, lifestyles, creeds and apply that understanding to effect quality policing;
- identify candidates for recruitment to enhance the diversity of the OPP workforce reflective of the communities we serve;
- protect the rights of all people in an equitable and consistent manner;
- maintain an open mind; be impartial and non-judgmental; be aware of and manage his/her personal biases or attitudes, e.g. stereotypes;
- treat others as they would want to be treated: victims and accused (their families and communities), colleagues and staff, regardless of gender, race, ethnicity, ability, age, etc.; enable others to maintain his/her dignity even in the face of adversity;
- adjust the way he/she works (behave and communicate) by appropriately accommodating others' basic human rights; and
- respect the individual dignity and strengths of all people.

Volume 7 of Counsel's disclosure:

January - December 2008 Policy

June 2007

ONTARIO PROVINCIAL POLICE ORDERS ©
CHAPTER 2: LAW ENFORCEMENT



2.51: SUPERVISION—MEMBER

2.51.1: PERFORMANCE MANAGEMENT PROGRAM

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

Evaluation Form Form PCS066P—Probationary Constable Performance Evaluation is available on the OPP CDB intranet website.

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

Review of Evaluation by Regional Commander The completed Form PCS066P—Probationary Constable Performance Evaluation shall be forwarded to the regional commander, where it shall be reviewed and appropriate comments added.

Member's Comments Where the contents of the evaluation causes concern, the member who is the subject of the review may outline such concern by commenting on Form PCS066P—Probationary Constable Performance Evaluation.

Volume 7 of Counsel's disclosure:

6.4.8: PROBATIONARY CONSTABLE

Recruit Field Training Program—Detachment The detachment commander is responsible for the success of the Recruit Field Training Program at the detachment. The accountable supervisor and coach officer have further responsibilities associated with the day-to-day coaching, development, and supervision of the probationary constable.

Responsibilities

Supervisor An immediate supervisor shall:

- be responsible for the supervision of the Recruit Field Training Program and monitoring the coach officer and probationary constable as they progress through the Recruit Field Training Manual;
- ensure that a probationary constable is offered every opportunity to participate actively with their coach officer in all phases of detachment work;
- confer with the respective coach officer when commenting on the probationary constable's Form PCS066P—Probationary Constable Performance Evaluation; and

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

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

Guidelines Guidelines for completing Form PCS066P—Probationary Constable Performance Evaluation can be found on the Career Development Bureau Intranet Website and in Police Orders, Performance Management Manual—Probationary Constable.

Coach Officer

Responsibility The coach officer shall be responsible for:

- completing a monthly Performance Evaluation Report on Form PCS066P—Probationary Constable Performance Evaluation for submission to the probationary constable's immediate supervisor and detachment commander at the end of each month; and

PROBATIONARY CONSTABLE EVALUATION REPORT GUIDELINES (PCS 066P)

November 2008

Probationary Constable Evaluation Report Guidelines – November 2008

Introduction

This booklet has been developed as a guideline for coach officers and supervisors for the performance management of constables who hold probationary status (4th Class constables on probation, amalgamated officers, and experienced officers). It is meant to enhance performance management information available to detachments and is to be used in conjunction with current OPP Police Orders that references probationary constables.

Key Roles and Responsibilities

The detachment commander is responsible for the performance management of probationary constables at their detachment. The accountable supervisor and the coach officer have further responsibilities associated with the daily coaching, development and supervision of probationary constables.

Position

Key Roles and Responsibilities

Coach Officer

- Develops a plan of training.
- Completes all evaluations in a timely manner following the submission schedule.
- Forwards completed PCS 066P to supervisor for review and signature.
- Provides ongoing feedback to the probationary constable.

- Identifies deficiencies in performance.
- Works with supervisor and Career Development Bureau to create a Work Improvement Plan, if required, for performance deficiencies.
- Recommends permanency, or release from employment

Accountable Supervisor

- Ensures timely submission of the PCS 066P.
- Reviews and signs completed PCS 066P.
- Forwards PCS 066P to detachment commander.
- Conducts regular meetings with the recruit.
- Develops Work Improvement Plan of action for identified performance deficiencies.
- Recommends permanency, or release from employment.

Detachment Commander

- Chooses a coach officer for the probationary constable
- Monitors quality of PCS 066P/Work Improvement Plans and timeliness of submissions.
- Reviews and signs completed PCS 066P.
- Forwards PCS 066P to Region.
- Recommends permanency or release from employment

Regional Commander (or designate)

- Monitors quality of PCS 066P/Work Improvement Plans and timeliness of submissions.

- Reviews and signs PCS 066P
- Forwards PCS 066P to Career Development Bureau.
- Recommends permanency or release from employment to Commander, Career Development Bureau.

Career Development Bureau (CDB)

- Tracks and reviews completed PCS 066P submissions.
- Provides assistance in performance management
- Works with Region/Bureau during the release of probationary constables.
- Processes permanent status letters
- Forwards documentation to Shared Services Bureau for inclusion in Staff Personal 291 file.

PCS 066P Submission Schedules

The coach officer completes all performance reviews using information gathered during the evaluation month(s).

Timeline for submitting evaluations

Evaluations shall be received by region no later than 15 working days after the end of the reporting period for the month (i.e. if evaluation end date is Jan 30, evaluation to region by Feb 18). It is imperative that evaluations be completed in a timely manner, as the organization is dependant on the information in the reports to either begin specific development or take remedial action or begin the process to release.

As with regular performance evaluations, there should be no surprises for the probationary constable on the monthly evaluation.