Tribunal File No. 2010-07633-I

 HUMAN RIGHTS TRIBUNAL OF ONTARIO

AMR/sp

 B E T W E E N:

 MICHAEL JACK

 Applicant

 - and -

 HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED

 BY THE MINISTER OF COMMUNITY SAFETY AND CORRECTIONAL

 SERVICES AND OPERATING AS THE ONTARIO PROVINCIAL POLICE

 Respondent

 ------------------------

 HELD BEFORE: Keith Brennenstuhl

 HELD AT: Human Rights Tribunal of Ontario

 655 Bay Street, 14th Floor

 Toronto, Ontario

 HELD ON: February 12, 2016

 ------------------------

 A P P E A R A N C E S:

 LLOYD TAPP --- for the Applicant

 BILL MANUEL } --- for the Respondent

 HEIDI BLUTSTEIN}

 - 2 -

 INDEX OF PROCEEDINGS

 PAGE NUMBER

GENERAL DISCUSSION 3 - 9

HUGH STEVENSON,

 Examination-in-Chief by:

 Mr. Tapp 9 - 90

MICHAEL ARMSTRONG, affirmed

 Examination-in-Chief by:

 Mr. Armstrong 90 - 122

INDEX OF EXHIBITS 123

CERTIFICATION 124

 - 3 - General Discussion

 1 --- upon convening at 10:00 a.m.

 2 --- upon commencing at 10:10 a.m.

 3

 4 GENERAL DISCUSSION:

 5

 6 THE VICE-CHAIR: Mr. Tapp, okay.

 7 MR. MANUEL: Mr. Vice-Chair, before we

 8 call the first witness there are two gentlemen in

 9 the room that are witnesses of Mr. Tapp who will be

10 called today. There is a white-haired gentleman to

11 my right, extreme right. This gentleman is a member

12 of the public, apparently, and it was out of your

13 presence, but it was in the hearing room that he

14 said he came here to watch these gentlemen lie.

15 I just would like you to know that.

16 Although it's out of your presence, it is in the

17 hearing room.

18 THE VICE-CHAIR: Right.

19 MR. MANUEL: And that this gentleman

20 should be advised that that is totally inappropriate

21 and unacceptable behaviour from anyone.

22 SPECTATOR: May I respond, sir?

23 THE VICE-CHAIR: You're a member of the

24 public?

25 SPECTATOR: I am, sir.

 - 4 - General Discussion

 1 THE VICE-CHAIR: Okay. You have to keep

 2 your opinions to yourself. I don't want to hear

 3 from you, okay. Those are the terms on which you

 4 can remain, but it is inappropriate to make those

 5 type of comments. You can make them outside the

 6 hearing room, but certainly not here. Anything

 7 further that we have to address before the first

 8 witness is called, the first witness of the day?

 9 MR. TAPP: Yes. We talked about certain

10 exhibits that are going to be produced today.

11 THE VICE-CHAIR: Right.

12 MR. TAPP: Let's do that first and

13 continue on. This is the...

14 MR. JACK: The e-mail that we introduced

15 yesterday from Colleen Kohen and the point form

16 chronology. In the index I can find volume 3 out of

17 7.

18 MR. TAPP: Okay, this is a point form

19 chronology which has been shown to counsel, and this

20 is volume 3 out of 7 from the respondent's

21 disclosure, AA.

22 MR. JACK: But the e-mail is very

23 important.

24 MR. MANUEL: Yes, we understand that.

25 Can we just get a copy of this e-mail just to make

 - 5 - General Discussion

 1 sure that we have the right one? We can find the

 2 chronology.

 3 THE VICE-CHAIR: You're satisfied with

 4 this?

 5 MR. MANUEL: Well, I'm not satisfied

 6 with it because I haven't had a chance to look at

 7 it, but if they're saying it's a copy of what is at

 8 volume 3 of 7, AA, then we can...

 9 THE VICE-CHAIR: That's what they're

10 saying.

11 MR. MANUEL: That's what they're saying.

12 THE VICE-CHAIR: Do you want to take a

13 look at it?

14 MR. MANUEL: We don't have volume 7.

15 THE VICE-CHAIR: No, do you want to take

16 a look at this. I'm going to enter it.

17 MR. MANUEL: Yes.

18 THE VICE-CHAIR: We had discussed

19 yesterday that I wouldn't enter five pages. I would

20 just enter the entire...

21 MR. MANUEL: Mr. Vice-Chair, in

22 fairness, they're saying it's that.

23 THE VICE-CHAIR: Yes, they're saying

24 it's that.

25 MR. MANUEL: That's right, but if they

 - 6 - General Discussion

 1 want to enter what we have as volume 3 of 7 marked

 2 AA, then we will produce it and get it marked. I

 3 can't...I don't know that this is volume 3. They're

 4 saying that.

 5 THE VICE-CHAIR: So you're undertaking

 6 to?

 7 MR. MANUEL: Correct.

 8 THE VICE-CHAIR: Okay, so we'll wait.

 9 MR. JACK: During first recess,

10 absolutely, Counsel, we will verify...

11 THE VICE-CHAIR: We'll enter it through

12 a witness, I guess.

13 MR. TAPP: We did it yesterday, and we

14 said if we had time to go down we would...

15 THE VICE-CHAIR: His concern is that he

16 doesn't know if that is the right document.

17 MR. TAPP: And that's what I'm

18 suggesting. In first recess, he can go down...

19 MR. MANUEL: I'm not going to do it

20 in...I'm not going to convenience you, sir. I'm

21 going to do it to convenience...

22 THE VICE-CHAIR: He is going to enter it

23 with one of his witnesses.

24 MR. MANUEL: Correct.

25 MR. TAPP: All of it?

 - 7 - General Discussion

 1 THE VICE-CHAIR: All of it. That means

 2 it's going to be entered then as opposed to now. I

 3 have no problems with that.

 4 MR. MANUEL: All it was was an

 5 attachment that was...she had nothing to do with it,

 6 but...

 7 THE VICE-CHAIR: She didn't, I know, I

 8 know.

 9 MR. MANUEL: But the witnesses that did

10 are going to be called.

11 THE VICE-CHAIR: Okay.

12 MR. MANUEL: It will be entered then.

13 THE VICE-CHAIR: So I'll take that

14 undertaking. We'll get entered through one of

15 their...his witnesses.

16 MR. JACK: Okay. This e-mail coming

17 from Colleen Kohen?

18 THE VICE-CHAIR: Right. What do you

19 want done with it?

20 MR. JACK: Enter it as an exhibit.

21 THE VICE-CHAIR: Why?

22 MR. JACK: Because it had the

23 attachment.

24 MR. TAPP: That's the point form

25 chronology that she testified to that she already

 - 8 - General Discussion

 1 indicated in her evidence, she looked over the whole

 2 point form chronology.

 3 THE VICE-CHAIR: Well, she did not look

 4 over the whole thing.

 5 MR. MANUEL: Exactly.

 6 MR. JACK: We asked her the specific

 7 question.

 8 THE VICE-CHAIR: Yes.

 9 MR. JACK: Okay.

10 MR. MANUEL: And in fact, her evidence

11 was that she didn't rely on the chronology, that she

12 relied upon the PERs.

13 THE VICE-CHAIR: That's correct. So we

14 will have it entered through the respondent's

15 witnesses.

16 MR. JACK: Okay. Mr. Vice-Chair, I do

17 have two copies here of this. I can give one to the

18 counsel, one to you.

19 THE VICE-CHAIR: We'll have it entered

20 through one of his witnesses.

21 MR. JACK: Okay.

22 THE VICE-CHAIR: Any other preliminary

23 matters?

24 MR. TAPP: I don't think so.

25 THE VICE-CHAIR: Counsel, okay. Mr.

 - 9 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Tapp, you can call your first witness.

 2 MR. TAPP: Yes, for the purposes and for

 3 the benefit, the two witnesses are both present in

 4 here. Can you remind them of the...

 5 THE VICE-CHAIR: Well, one should be

 6 excluded.

 7 MR. MANUEL: Once we know who he is

 8 calling, the other one...

 9 MR. TAPP: Mr. Stevenson we're going to

10 start with.

11 THE VICE-CHAIR: Sir, there is a coffee

12 shop downstairs if you want to get a coffee.

13

14 HUGH STEVENSON, affirmed

15 EXAMINATION-IN-CHIEF BY MR. TAPP:

16

17 Q. Good morning, Mr. Stevenson.

18 A. Good morning.

19 Q. Are you currently still with the

20 Ontario Provincial Police?

21 A. Yes, I am.

22 Q. How many years of service have you

23 had with them so far?

24 A. I was hired in 1994. So '94 to now

25 is six plus 16, 22...six plus 16...

 - 10 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Q. Sir, I'm getting an indication from

 2 the court reporter...

 3 A. I was just trying to do the math.

 4 Six plus 16, 22 years, and seven and a half with

 5 Peel Regional as well.

 6 Q. Thank you. What rank did you hold

 7 in 2008 and 2009?

 8 A. I believe I was a superintendent,

 9 the same rank as I am now.

10 Q. Okay. As superintendent, would you

11 hold a certain position in the corporate

12 organization of the Ontario Provincial Police?

13 A. I was operations manager, corporate

14 for central region of the OPP.

15 Q. So when you say "corporate" would

16 that be...am I correct in corporate services?

17 A. I did both. The way we had it

18 structured back then, we did...there was two

19 superintendents, as you will recall, in the region,

20 and Superintendent VanZant did the west side. I did

21 the east side. So we would do both the operational

22 and the corporate type work.

23 Q. Okay. Just while we are on that

24 subject, I'm showing you...can you identify if your

25 name is on that document and shows your position,

 - 11 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 where it is, with respect to regional command or

 2 corporate services?

 3 A. No, my name is not here.

 4 Q. Could you turn it over to the second

 5 page, please?

 6 A. Okay. Okay, so you will see me on

 7 the right "Regional Superintendent Hugh Stevens".

 8 Q. And that would show your position

 9 with the OPP...

10 A. At that time.

11 Q. ...and the corporate structure of

12 the same?

13 A. M'hm.

14 Q. Thank you.

15 A. And you can see at the bottom the

16 detachments that I was responsible for.

17 Q. Okay.

18 A. And my colleague, Mark VanZant was

19 on the west side. I was the east.

20 Q. I just ask for the

21 benefit...sometimes when you turn to the side...

22 A. I'm sorry. Yes, I get it.

23 Q. Right under your name, the number of

24 detachments that you are responsible for, if there

25 were any issues of concern from Peterborough

 - 12 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 detachment...explain the chain of command

 2 up...reaching up to you...

 3 A. Okay.

 4 Q. ...how it would follow.

 5 A. The way it would work is, at the

 6 very basic level, the sergeant in a detachment would

 7 report to the staff sergeant, which is the

 8 operations manager, which would report to at the

 9 time...

10 THE VICE-CHAIR: Could you slow down a

11 bit?

12 THE WITNESS: Okay.

13 THE VICE-CHAIR: I really want to get

14 this right, because...

15 THE WITNESS: In structure.

16 THE VICE-CHAIR: There is quite a

17 structure here, a lot of titles and they

18 change. Anyway...

19 THE WITNESS: No problem.

20 THE VICE-CHAIR: So the sergeant at the

21 detachment...

22 THE WITNESS: Yes.

23 THE VICE-CHAIR: ...reports to?

24 THE WITNESS: The staff sergeant, which

25 is your operations manager.

 - 13 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE VICE-CHAIR: Reports to staff

 2 sergeant...

 3 THE WITNESS: Which then...

 4 THE VICE-CHAIR: ...who is ops manager?

 5 THE WITNESS: Yes, which then reports to

 6 the inspector, which is the detachment

 7 commander.

 8 THE VICE-CHAIR: Reports to inspector

 9 who is detachment commander. Sorry about

10 this, but...

11 THE WITNESS: That's all right. Then

12 the detachment commander reports to me, the

13 superintendent.

14 THE VICE-CHAIR: Now do you have another

15 name?

16 THE WITNESS: Not title, rank

17 superintendent. Then I report to the chief

18 superintendent.

19 THE VICE-CHAIR: Okay.

20 THE WITNESS: And he reports to the

21 deputy commissioner, and then he reports to

22 the commissioner.

23

24 BY MR. TAPP:

25 Q. Would regional superintendent and

 - 14 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 regional command be one and the same?

 2 A. Regional superintendent is part of

 3 the regional command staff.

 4 Q. Thank you. I think because, Mr.

 5 Stevenson, testimony was based on the January 5th,

 6 2009 printing, can you confirm the date at the

 7 bottom of that corporate sheet, please, that I

 8 handed to you?

 9 A. What do you want me to confirm?

10 Q. Okay. His testimony...your

11 testimony was on that sheet, right, not on the 2008

12 one, the second page?

13 A. I'm confused. I just gave you the

14 ranks for...

15 Q. The two pages are different, right?

16 A. No, no. One is the larger corporate

17 environment, and then this one is of the region

18 itself.

19 Q. Thank you very much for explaining

20 that.

21 A. Yes.

22 MR. TAPP: I think at this stage it

23 might be appropriate to...I am done with

24 the questions in this area. We can enter

25 this as an exhibit.

 - 15 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 MR. MANUEL: The one page, dated January

 2 5, 2009.

 3 THE VICE-CHAIR: So this is Exhibit 128,

 4 one page.

 5 MR. TAPP: There are two pages over

 6 here.

 7 THE VICE-CHAIR: We only referred to

 8 this one, right?

 9 MR. TAPP: Okay, but his last comment

10 was specific. Describe the second page on

11 that document I gave you, please?

12 THE VICE-CHAIR: The first page you want

13 to describe.

14

15 BY MR. TAPP:

16 Q. Yes, the first page?

17 A. The one that says "Commissioner

18 Julian Fantino"?

19 Q. Yes, please.

20 A. You want me to describe what that

21 is?

22 Q. Yes, what that is.

23 A. So that would be the senior

24 executive of the OPP showing the commissioner and

25 his office and then the four separate commands of

 - 16 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 the OPP. Your second page shows the individual

 2 region structure which is part of the field

 3 operations one on your right that says Christie

 4 Lewis. So the second page is a bigger expulsion of

 5 the regional environment.

 6 Q. Thank you. We were just trying to

 7 identify them for the purposes of entering them as

 8 an exhibit.

 9 A. Just for the record, though, this is

10 a photocopy. So I can't verify anything other than

11 my own role in the organization.

12 Q. The original is with Mr. Vice-Chair,

13 and you can see the dates at the bottom, date of

14 printing.

15 A. Yes, well, I have a photocopy. I

16 don't know what His Worship has.

17 Q. That's fine.

18 THE VICE-CHAIR: I don't know what this

19 is either, whether it's a copy or...it

20 doesn't matter. I'm going enter these...

21 MR. TAPP: Yes, thank you.

22 THE VICE-CHAIR: ...the other one as

23 129.

24

25 --- EXHIBIT NO. 128: Individual regional structure chart,

 - 17 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 January 5, 2009

 2

 3 --- EXHIBIT NO. 129: Individual regional structure chart,

 4 December 5, 2008

 5

 6 BY MR. TAPP:

 7 Q. Can you tell us something about...a

 8 quick overview about your educational background

 9 relating to your position?

10 A. Okay. I have a Bachelor of Arts

11 Honours in criminology and criminal justice with a

12 double major in law and psych from Carlton

13 University. I have a Master of Arts degree in

14 criminology from the University of Toronto, Centre

15 of Criminology. I have a Doctorate of Education

16 from the University of Toronto with a double minor

17 in...a double major in teaching and psycho-therapy

18 type thing.

19 I have published at various points through

20 my career on the area of recidivism, anti-social

21 personality disorder, hare psychopathy checklist.

22 I'm also associated to three universities that I

23 teach at as well.

24 Q. Thank you. So are you still doing

25 teaching?

 - 18 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. Is this relevant to...

 2 MR. MANUAL: Okay, just background.

 3 It's not relevant.

 4 THE VICE-CHAIR: I'm interested.

 5 THE WITNESS: Well, if we're having

 6 conversation here, yes, I teach at the

 7 University of Guelph. I teach a

 8 variety...four or five courses there for

 9 the last 15 years. I teach at Lakehead

10 University in Orillia, criminal violence,

11 criminal profiling, criminology. I also

12 teach at Georgian College, first and second

13 year advanced law, fourth year ethics.

14 What am I teaching now? It gets confusing

15 sometimes.

16 MR. TAPP: That's okay.

17 THE VICE-CHAIR: I think we have had

18 enough. Your curiosity is satisfied?

19 THE WITNESS: I'm also a pilot.

20

21 BY MR. TAPP:

22 Q. Did you know that Mr. Jack also

23 taught?

24 A. No.

25 Q. Okay. I'm going to show you an

 - 19 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 exhibit that is entered Exhibit 5 already tendered

 2 into evidence.

 3 THE VICE-CHAIR: Give me a minute.

 4 MR. TAPP: Yes.

 5 THE VICE-CHAIR: This appears to be a

 6 document related to Mr. Jack's university

 7 career. What does this have to do with

 8 this witness?

 9 MR. TAPP: Well, the witness just gave

10 evidence he...at the numerous places he

11 taught, and it was just a simple question.

12 Did he know that Mr. Jack also taught?

13 THE VICE-CHAIR: He said no.

14 MR. TAPP: He indicated he did not.

15 THE VICE-CHAIR: Pardon me?

16 MR. MANUEL: He said no.

17 MR. TAPP: Okay, and for the record I do

18 want to indicate Mr. Stevenson seeking

19 direction from the court if he should

20 answer a certain question. Mr. Vice-Chair,

21 in all fairness, you didn't have any

22 objection to it, but he wanted to know if

23 he should...if it had any relevance.

24 That's all.

25 THE WITNESS: Well, let me respond,

 - 20 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 then, to your...

 2 THE VICE-CHAIR: No, no, don't bother.

 3 Don't bother.

 4 THE WITNESS: All right.

 5

 6 BY MR. TAPP:

 7 Q. Mr. Stevenson, did you at some point

 8 become involved with a detachment concern involving

 9 Mr. Jack that also brings you to this tribunal

10 today?

11 A. Yes, I didn't quite know what the

12 allegations of the tribunal were dealing with, to be

13 blunt. I just got a subpoena from you, and so then

14 I checked my notes and I saw that we had dealings

15 with him in relation to his detachment commander.

16 I have the dates here. So that sort of

17 brought me to this place. To be blunt, I don't

18 necessarily know the allegations or...so I don't

19 know if I have answered your question, but I did

20 have dealings with Inspector Mike Johnston in

21 relation to the applicant.

22 Q. If I were to show you a copy of that

23 e-mail...but let's deal with your memory of it, what

24 you just said. An issue was brought to your

25 attention?

 - 21 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. Yes.

 2 Q. Okay, and it was brought to your

 3 attention by Mr. Johnston, Mike Johnston, retired?

 4 A. He wasn't retired then, but...

 5 Q. At that time, Inspector Johnston.

 6 A. Yes.

 7 Q. And you were in regional command,

 8 part of corporate services then?

 9 A. Yes.

10 Q. Okay. As a result, did you do any

11 investigation or determination, look into any

12 place...

13 A. Yes.

14 Q. ...regarding that concern?

15 A. Yes.

16 Q. Okay, tell us about that, what you

17 did, please.

18 A. May I refer to my notes?

19 THE VICE-CHAIR: Yes, please.

20 THE WITNESS: Qualify the notes.

21

22 BY MR. TAPP:

23 Q. Do you have any alterations,

24 depletions? When were those notes made, please?

25 A. At the time or shortly thereafter.

 - 22 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Q. Have there been any changes or

 2 depletions?

 3 A. There has not been.

 4 Q. Can I ask whose retention would they

 5 have been in up until now?

 6 A. Whose retention?

 7 Q. Well, who would have had control of

 8 them?

 9 A. The academy where I was the director

10 for four and a half years had them in a locked cage.

11 Yesterday I went to access that notebook.

12 MR. TAPP: Okay, I have no issues with

13 him referring to his notes to refresh his

14 memory.

15 THE VICE-CHAIR: Okay.

16

17 BY MR. TAPP:

18 Q. Okay. Using your notes to refresh

19 your memory, can you tell us what background

20 investigation you did as a result of being contacted

21 by the detachment, please?

22 A. Okay. So it would be on...the date

23 was Friday, September 11th.

24 Q. What year?

25 A. I think it's 2009 here. Yes. I'm

 - 23 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 trying to read my handwriting, 2009. Let's see

 2 here, just bear with me. So at 16:00 hours, which

 3 is four p.m., I received a call, a telephone call,

 4 from an Inspector Mike Johnston, discussing another

 5 matter. At this time, he advised that a Provincial

 6 Constable Jack had been associating with Albanian

 7 organized crime in the last few months.

 8 He indicated to me that a photo exists

 9 where he is pictured with three organized crime

10 suspects that are part of an undercover RCMP play.

11 Then...just bear with me...

12 Q. Yes.

13 A. There is information that PC Jack

14 was observed by his colleagues at detachment to be

15 running a licence plate related to the organized

16 crime suspects. I asked Inspector Johnston to give

17 me an e-mail and synopsis of the events to allow me

18 to forward to Professional Standards Bureau for them

19 to investigate.

20 I briefed Chief Superintendent Armstrong

21 and Inspector Cox on the issue. At 4:15 an e-mail

22 from Inspector Johnston is stating that Sergeant Rob

23 Flindall provided a synopsis...or his having, sorry,

24 Rob Flindall provide a synopsis of the discussion.

25 You'll see my notes. I assume you all have them.

 - 24 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 At 4:37 p.m. I received an e-mail from

 2 Johnston in relation to...that's another case. At

 3 16:53 e-mail from Johnston re probationary Mike

 4 Jack. Flindall indicates that shortly after coming

 5 to detachment, Jack, badge 12690, was on shift and

 6 brought a picture into the office. The picture was

 7 of himself, along with a number of other individuals

 8 taken at a gym, a GoodLife Fitness in Peterborough.

 9 People in picture were posing with shirts

10 off. Jack was apparently ripped. I am assuming

11 that means his abdomen. PC Jamie Brockley and PC

12 Shaun Filman were both at office at the time and

13 observed the photograph. Brockley and Filman

14 recognized three of the males in the photo as David

15 Edward Jones, George Tzavares and Elvis Karaj.

16 George and Elvis are both Albanian and are

17 part of an Albanian organized crime group that deals

18 mostly in drugs, extremely violent group. Jones is

19 a local character. Relationship between Jones and

20 Jack was that when Jones was in the U.S. he brought

21 back a rifle scope for Jack.

22 RCMP currently have a project running on

23 Elvis and George and the project is very sensitive.

24 Their concerns with Jack's association has been

25 brought to the attention of an OPP Detective

 - 25 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Sergeant Scott Mahoney, who is to look into the

 2 association with Jack and the Albanians.

 3 On the 31st of July, '09 Brockley had

 4 occasion to overhear Jack running a licence plate

 5 that he believed comes back to a GAF [phon.] plate.

 6 Brockley is concerned that is what he heard.

 7 Brockley missed the licence plate that was run, but

 8 was...I'm trying to read my writing here...but was

 9 involved by the regional...sorry, the RO.

10 Jack was questioned about running the

11 plates by Brockley and Filman. However, he has no

12 notes and does not recall running the marker or the

13 plate.

14 At that time, the PCC or the

15 communications centre's tapes will be reviewed.

16 4:58 I forwarded an e-mail to Chief Smith and the

17 Professional Standards Bureau, and my crime manager

18 Cox.

19 At 5:09 p.m. I e-mailed Johnston to let

20 professional standards know that they had taken over

21 the investigation into this matter. At 5:17 p.m.

22 Chief Smith advised via e-mail that PSB is working

23 on the file. Told me to pass on appreciation to

24 Sergeant Flindall. Staff Sergeant Martin Graham

25 will be in touch. He was the professional standards

 - 26 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 senior investigator or manager.

 2 At 8:25 Johnston, Inspector Mike Johnston,

 3 indicated that they would stand down on the Jack

 4 investigation and allow Professional Standards

 5 Bureau to be the lead.

 6 THE VICE-CHAIR: Mr. Tapp, I don't have

 7 those notes.

 8 MR. TAPP: Well, with all due respect,

 9 last night about 17:00 hours we got an e-

10 mail...

11 THE VICE-CHAIR: Okay, okay, hold on. I

12 do have them. They were on my chair this

13 morning.

14 MR. TAPP: Yes, because they were only

15 disclosed to us last night by counsel via

16 e-mail.

17 THE VICE-CHAIR: Would you like to look

18 at what I have? If you are satisfied, I

19 can enter it.

20 MR. MANUEL: Yes.

21 THE VICE-CHAIR: So you sent them?

22 MR. MANUEL: Correct.

23 THE VICE-CHAIR: Okay.

24 MR. TAPP: Yes, that is what we have,

25 but Mr. Stevenson has been doing a lot of

 - 27 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 reading. I wanted to confirm if some of

 2 the reading he has been doing...parts of

 3 the redacted portions, because we need to

 4 have that version that he has read entered

 5 into the exhibit...

 6 MR. MANUEL: With respect, with

 7 respect...

 8 MR. TAPP: ...what he said, with respect

 9 to what he said.

10 MR. MANUEL: Mr. Tapp has a copy of the

11 redacted version. The witness has been

12 testifying from his notebook. I have been

13 following it, and as far as I am concerned,

14 he has only referred to the unredacted

15 parts of that notebook.

16 Mr. Tapp can satisfy himself if he

17 is referring to anything other. The part

18 that has been redacted is unrelated.

19 THE VICE-CHAIR: I understand that.

20 MR. TAPP: Thank you very much.

21 THE VICE-CHAIR: I'm going to enter this

22 as Exhibit 130, six pages.

23

24 --- EXHIBIT NO. 130: Hugh Stevenson's notes, six pages

25

 - 28 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 MR. TAPP: Can I just show what you have

 2 to Mr. Stevenson, please, Mr. Vice-Chair?

 3 THE VICE-CHAIR: Sure.

 4 MR. TAPP: I'll give it right back.

 5 THE VICE-CHAIR: Thank you.

 6

 7 BY MR. TAPP:

 8 Q. Is what you read...

 9 A. Well, I can go over it again. "To

10 advise," yes, that's looking good. Good.

11 Q. How about the first page that you

12 read, that's reflected in that copy?

13 A. Yes, yes, I think, yes, because the

14 first page is pulled out, yes.

15 Q. Yes, but the first page on the one

16 that we are entering as an exhibit is completely

17 black.

18 A. Yes, that was a whole other...this

19 issue didn't come up until 16:00 at the end of the

20 day.

21 Q. Yes.

22 A. So my notes here are about other

23 things.

24 Q. Okay, but the first page, is that

25 supposed to be the first page?

 - 29 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. Yes, Friday, September 11th, Friday,

 2 September 11th.

 3 Q. Okay, so what we are entering as an

 4 exhibit and what you read is the first page is not

 5 over there? What is being entered, that's an

 6 exhibit that is being entered?

 7 A. Yes.

 8 Q. Is not the same as a page that you

 9 read?

10 MR. MANUEL: It is the same as the page

11 he read.

12 MS. BLUTSTEIN: He didn't read that.

13 MR. MANUEL: He read the date.

14 THE WITNESS: The dates are the same,

15 sir.

16

17 BY MR. TAPP:

18 Q. Okay, thank you.

19 A. I didn't have a chance to go through

20 the entire document, if that was your intention...

21 Q. Yes.

22 A. ...just to be fair.

23 Q. Yes, you did start. I'm sorry.

24 A. So I'll go by page.

25 Q. Yes.

 - 30 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. So page 1 is the same.

 2 Q. Okay.

 3 A. I went through page 2 already.

 4 Q. Okay.

 5 A. And page 3 is what I read. Other

 6 than I put the names in, these are redacted here,

 7 and yes. The only difference here would be at 16:58

 8 I forwarded the e-mail to Chief Smith, PSB

 9 Investigator Cox. That's redacted, but I read that

10 already, and then 17:09, I put:

11 "...E-mailed Johnston to let PSB to take

12 over investigation..."

13 But that's redacted, and then the rest is fine, yes.

14 That's the same, and I haven't got into the November

15 12th stuff yet.

16 Q. Okay.

17 A. I haven't testified to this part

18 yet.

19 Q. Okay.

20 A. But it was later on. So I don't

21 know if you want...

22 Q. Yes, we'll be coming to November

23 12th.

24 A. So you...okay.

25 Q. Okay?

 - 31 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. So at this point, you have got to

 2 pull that off...

 3 Q. Can you just verify the last two

 4 pages, if they are pertaining to November 12th,

 5 because we have...and then you compare to your

 6 notes, and then we can continue with your notes.

 7 A. Yes, that's fine.

 8 Q. Thank you. So we just talked

 9 about...or rather, you just talked about your

10 involvement with the detachment regarding a concern

11 addressed to you, that you forward on to the

12 Professional Standards Bureau?

13 A. Yes.

14 Q. Okay. Was there anyone that

15 was...I'm not sure if I have heard you correctly,

16 but was there anyone commended for the information

17 that was provided?

18 A. Yes, I think I testified to that.

19 In my notes, the chief superintendent from PSB

20 mentioned that 17:17 that day via e-mail:

21 "...PSB is on the file. Told me to pass

22 on..."

23 Or something like:

24 "...appreciation to Sergeant Flindall and

25 that Sergeant Major Martin Graham will be

 - 32 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 in touch..."

 2 Q. Thank you. Now, I'm showing you

 3 what you indicated or testified that as a result

 4 there were some e-mail communications going back and

 5 forth. Can you just confirm those e-mails, who it

 6 is from, who they are to?

 7 A. So the 23rd of September, from

 8 myself, 2009, 12:21, to Martin Graham, Ken Smith,

 9 Mike Armstrong, Mike Johnston, "Old occurrence

10 involving PC Jack."

11 Q. I'm sorry.

12 A. I think you have got the wrong one.

13 Q. Yes, this is...my apologies. I'll

14 take that back.

15 A. There you go.

16 Q. You indicated you were contacted by

17 the detachment. I'm showing you an e-mail regarding

18 that PSB investigation that was generated. For the

19 benefit of counsel, it is from volume 3 of 7, item

20 B7...volume 3 of 7, item V9, and it is...tell us who

21 it is from, who it is to and the date of it, please.

22 A. Okay, so what I have been shown is a

23 document that has the number 9 at the top, and it's

24 an e-mail from Mike Johnston, September 11th, 2009,

25 4:53 p.m. to myself, in relation to PC Michael Jack:

 - 33 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 "...As I discussed earlier, I wanted to

 2 source some of this information, but I have

 3 not been able to speak with Detective

 4 Sergeant Mahoney. We have to be careful

 5 about inquiries about the three named

 6 subjects below as they are apparently being

 7 surveilled by..."

 8 And then block out:

 9 "...I will forward you additional info once

10 I speak with Scott..."

11 And from Flindall to Michael P. Johnston in relation

12 to Jack...

13 Q. Well, let's clarify that before we

14 go on.

15 A. Okay.

16 Q. "...As I discussed earlier..."

17 You were given some background information about

18 that incident in order to...

19 A. Yes.

20 Q. Am I correct?

21 A. Yes, I'm trying to see what the

22 dates and times were. So I have in my notes 16:00 I

23 received a call from Johnston, and this is 16:53.

24 So there you go.

25 Q. Fair enough.

 - 34 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. So I have this conversation prior to

 2 this...me receiving this, which is consistent with

 3 my notes.

 4 Q. Fair enough, but the second e-mail,

 5 will that be the background information that you

 6 received a phone call?

 7 A. The second e-mail on Exhibit 9?

 8 Q. Yes.

 9 A. Yes. That's where I would have

10 probably taken my information from my notes, or I

11 could have got that from them. So e-mail, yes,

12 16:15 e-mail from Johnston:

13 "...Having Flindall do it..."

14 37 received e-mail from Johnston in relation to

15 office...no, that's another one. 16:53 e-mail from

16 Johnston re Michael Jack. Flindall indicates...and

17 so what...this is dated at 16:41 and I have 16:53.

18 So I would have made my notes, I guess, I assume,

19 off of this.

20 MR. TAPP: Thank you very much. Perhaps

21 we can enter this as the next exhibit,

22 please.

23 THE VICE-CHAIR: Okay.

24 MR. MANUEL: I note it's printed on the

25 back...the back page of each of this is

 - 35 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 printed...

 2 MR. TAPP: Yes, I didn't have any paper

 3 at the time.

 4 MR. MANUEL: I think that that wasn't in

 5 our disclosure.

 6 MR. TAPP: No, if the court turns to the

 7 back...

 8 THE VICE-CHAIR: I noticed it.

 9 MR. TAPP: Thank you. It has nothing.

10 I just didn't have paper to print out on.

11 I just...they are not part of this hearing.

12 They have no relevance over here. It's

13 just the face copy of those two e-mails.

14 THE VICE-CHAIR: So 131. That's two

15 pages. Okay, Mr. Tapp.

16

17 --- EXHIBIT NO. 131: Two e-mails from Mike Johnston to

18 Hugh Stevenson, both dated September

19 11, 2009

20

21 BY MR. TAPP:

22 Q. Okay, thank you for very much. Just

23 for the purposes of expediting this, because there

24 are some prior appointments, I'm going to show

25 you...you indicated that the Professional Standards

 - 36 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Bureau launched an investigation as a result of the

 2 information you conveyed?

 3 A. That is my recollection.

 4 Q. Thank you. You would have been

 5 communicated at least by Professional Standards

 6 Bureau, letting them...keeping you advised of the

 7 status?

 8 A. Not always. I mean, they do their

 9 thing and they come out to confirm or deny.

10 Q. The document that I'm showing you

11 now, can you tell us if that would be the

12 investigation and the summary of the investigation

13 that the Professional Standards Bureau conducted as

14 a result of your information?

15 MR. MANUEL: Can the witness be asked

16 whether he saw this at the time?

17 THE VICE-CHAIR: Yes, we better.

18

19 BY MR. TAPP:

20 Q. Okay. Can you tell us, looking at

21 that document, if it's related to the information

22 that you passed on to them?

23 MR. MANUEL: No, that's not the

24 question. I want to know whether this

25 witness saw the document at the time.

 - 37 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Otherwise...

 2

 3 BY MR. TAPP:

 4 Q. Are you aware of that document?

 5 A. What's the deal here?

 6 Q. Pardon me?

 7 THE VICE-CHAIR: Are you aware of the

 8 document?

 9 THE WITNESS: I assume I saw it at some

10 point.

11

12 BY MR. TAPP:

13 Q. Yes.

14 A. I can't remember. There are a lot

15 of documents across my desk, but I would know that

16 after I had launched...told PSB to investigate, that

17 they would give a form letter to the member out of

18 respect for the member, to say, "You are being

19 investigated for X and Y," and I'm pretty sure

20 that...it doesn't show me as a c.c. here, but I

21 would assume that I would be aware of the fact that

22 he would be served to let him know that he was being

23 investigated.

24 Q. Thank you.

25 A. I can't say for honest...like, I

 - 38 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 don't remember personally seeing this, but it would

 2 be practice for me to see it.

 3 Q. Practice, by virtue...when you say

 4 "practice" by virtue of the past?

 5 A. Yes, in fairness. I'm trying to

 6 remember if it would come through me or I would be

 7 aware of it, but the c.c. would indicate...like, if

 8 it was to come to me personally, my name would be on

 9 it, c.c.'d, right, and this is from Professional

10 Standards Bureau to the member, from Chris Newton.

11 So I assume I would have seen at some point, to be

12 fair.

13 Q. Okay. Thank you very much, Mr.

14 Stevenson. These already...

15 A. Can I read it or...

16 Q. Yes, please do.

17 MR. MANUEL: With fairness, that letter

18 is dated September 23rd, and it is stapled

19 to another document which is the...appears

20 to be the...

21 MR. TAPP: They are two documents. The

22 cover...there is a notice of an internal

23 complaint...

24 MR. MANUEL: That is all he has

25 identified.

 - 39 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 MR. TAPP: ...and the subsequent report

 2 from the Professional Standards Bureau.

 3 MR. MANUEL: And there is no reason for

 4 them to be stapled together.

 5 MR. TAPP: Okay.

 6 MR. MANUEL: One is dated September the

 7 23rd. The other is dated November...

 8 THE VICE-CHAIR: Two separate exhibits,

 9 right?

10 MR. TAPP: Two separate. We will

11 separate them.

12 MR. MANUEL: And all I'm asking for is

13 whether he saw the report.

14 MR. TAPP: Okay. So we will address

15 that.

16 MR. MANUEL: Thank you.

17 THE VICE-CHAIR: There are actually

18 three exhibits here.

19 MR. TAPP: Yes.

20 MR. MANUEL: Yes, the last one is

21 another one.

22 MR. TAPP: I'll address it.

23

24 BY MR. TAPP:

25 Q. In the document that you have before

 - 40 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 you, Mr. Stevenson, there is a notice of allegation,

 2 the investigation from Professional Standards Bureau

 3 and the disposition of that investigation. Can you

 4 acknowledge that those three things are in that...

 5 A. Can we take a recess and I'll read

 6 it? I'm not going to acknowledge anything until I

 7 have read it, in fairness?

 8 Q. Okay.

 9 A. Like, I'm not trying to be

10 difficult, but I don't want to agree to something I

11 haven't read.

12 THE VICE-CHAIR: Can you go on? We'll

13 take a recess but not quite yet.

14 THE WITNESS: I didn't mean to propose

15 that, but this is going to take a bit.

16 THE VICE-CHAIR: We normally take a

17 break mid-morning. So if you can wait

18 until then and ask another line of

19 questions.

20 MR. TAPP: Okay.

21 MR. MANUEL: Mr. Vice-Chair, can Mr.

22 Tapp be instructed that it is improper to

23 staple together three separate documents as

24 if they are a single document?

25 MR. TAPP: I think that's really...it's

 - 41 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 pertinent to the...what he, the witness,

 2 communicated to the Professional Standards

 3 Bureau and what ensued after that. That's

 4 why they are all clumped together, but I

 5 intended on questioning the witness

 6 individually. It's just counsel has

 7 prematurely jumped all over the fact that

 8 they are under the same staple.

 9 THE VICE-CHAIR: We're going to take out

10 the staple.

11 MR. TAPP: Okay, and we'll talk about it

12 individually, okay.

13 THE VICE-CHAIR: I'm fine with that.

14 MR. TAPP: Thank you.

15 THE VICE-CHAIR: Are we entering...

16 MR. TAPP: The first one, I think, but

17 the first one, with all due respect, has

18 already been entered as an exhibit.

19 THE VICE-CHAIR: That's what I thought.

20 It would have been entered during Mr.

21 Jack's testimony.

22 MR. JACK: Forty-six, the first one is

23 Exhibit 46.

24 THE VICE-CHAIR: Forty-six, so it has

25 been entered.

 - 42 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 MR. JACK: Just the first page.

 2 THE VICE-CHAIR: But we don't have to

 3 enter it.

 4 MR. JACK: No, but the rest, yes.

 5

 6 BY MR. TAPP:

 7 Q. Okay, now that we have addressed

 8 counsel's concern and removed the staple, I want you

 9 to verify...you have indicated, as in the past, you

10 probably have been shared this...no, had an

11 opportunity to view it.

12 A. So I have three documents?

13 Q. The PSB investigation, the one with

14 the most number of pages before you, right?

15 A. Okay, so I have 59, 60 and 61 here

16 in front of me. So it's 59 you want me to clarify?

17 Q. Yes, the one with the number on it

18 that says...

19 A. Five nine.

20 Q. No, 60 it says.

21 A. Six zero, all right. So we have 60

22 and then 61.

23 Q. How many pages is that, first,

24 please?

25 A. Let me count. Five pages.

 - 43 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Q. Thank you. Now, have you seen

 2 documents like this...not specifically relating to

 3 Mr. Jack. Have you seen documents like that in the

 4 past?

 5 A. Yes, I would say in fairness I have

 6 seen the outcome of the internal investigation into

 7 members that have allegedly done something wrong

 8 under the Police Services Act or the Criminal

 9 Code...

10 Q. Thank you.

11 A. ...or the Human Rights Tribunal.

12 Q. Pardon me?

13 A. Or the Human Rights Tribunal.

14 Q. I'm sorry.

15 A. I was just being honest, the whole

16 enchilada.

17 Q. Yes, you are, absolutely. You

18 mentioned some names. Can you see if your notes

19 verify or match up with the names that are in that

20 document, number 60, that has the number six zero on

21 the top right?

22 A. The names six zero, I'll verify

23 that...

24 Q. You mentioned three citizens' names.

25 A. I mentioned...well, which do you

 - 44 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 want? There are many names here.

 2 Q. Well, the ones that are in your

 3 notes, Albanians, you have identified them. Are

 4 they in that document?

 5 A. I'll have to read through it.

 6 Q. Certainly, please.

 7 A. Can I read it out loud?

 8 Q. Well, we have already got it before

 9 us. There is no need to read it out loud, but

10 specific to the question.

11 MR. MANUEL: Can it be clarified whether

12 this witness ever saw this document at or

13 about the time it was created...

14 MR. TAPP: Well...

15 MR. MANUEL: ...or is he seeing it for

16 the first time?

17 MR. TAPP: With all due respect, I think

18 he has alluded to this as something that he

19 might have been shared to, as in the past.

20 THE VICE-CHAIR: But I thought he wanted

21 to take some time to read it.

22 MR. TAPP: Okay.

23 THE VICE-CHAIR: Wasn't that the idea?

24 THE WITNESS: Just...yes, give me 10

25 minutes.

 - 45 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE VICE-CHAIR: And we decided that

 2 when we have a break, he can read it then.

 3

 4 BY MR. TAPP:

 5 Q. Okay, so you can read it during

 6 break.

 7 A. Yes.

 8 THE VICE-CHAIR: So another line of

 9 questioning?

10 MR. TAPP: Yes.

11 THE VICE-CHAIR: You can pick it up when

12 we return from break.

13 MR. TAPP: Okay.

14

15 BY MR. TAPP:

16 Q. Now, would this have been the first

17 time you became involved with a detachment issue

18 regarding Mr. Jack?

19 A. I believe it was. I mean, there

20 is...we have 1,200 people in central region, and

21 there are two superintendents. So I might have seen

22 him when he graduated from the academy. We always

23 went and spoke to our own recruits the day that they

24 got their badge. I don't recall seeing him

25 individually out of the blue, but I would have

 - 46 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 probably...he would have seen me there, I assume.

 2 Other than the information that came

 3 forward, I have no independent recollection of

 4 hearing or seeing him.

 5 Q. Okay. I'm going to show you a

 6 document. It's an e-mail and I'll identify it in

 7 counsel's disclosure.

 8 A. Okay, so this is January 29th.

 9 Q. Yes. This is from volume...I

10 believe it's volume 3 of 7, and it's B4. Can

11 you...who it's from and the date?

12 A. So this is from me to Mike Johnston,

13 Ron Campbell and Dave Lee was my human resources.

14 I'm saying that:

15 "...Chief Armstrong and I were perusing the

16 recruit leadership assessment tool by the

17 academy. Thought we should give you a

18 heads-up on two recruits coming to your

19 detachment..."

20 And Michael Jack is there. So I would have been

21 aware of him. It's obvious that I was. That didn't

22 jump out at me:

23 "...and I would encourage close evaluation

24 of the challenges identified in this tool

25 over the probationary period. Michael Jack

 - 47 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 all scores under three..."

 2 And then another one that is...another recruit that

 3 is blacked out.

 4 Q. Thank you. So for the detachment

 5 management to be communicating with you, would that

 6 be a concern they had that they addressed to you or

 7 addressed with you in that month regarding Mr. Jack?

 8 MR. MANUEL: With respect, that's not

 9 the evidence that Mr. Stevenson just gave.

10 He raised...

11

12 BY MR. TAPP:

13 Q. Do you recall now if that was

14 another issue that was brought to your attention or

15 you brought it to their attention?

16 A. Based on this e-mail, I would say

17 it's from me to Mike Johnston. So I was advising

18 him of two recruits that scored under three, and

19 it's a simple name. Michael Jack I wouldn't have

20 known from Justin Trudeau.

21 So it's two names scored under three. So

22 I mean, I'm not going to remember names out of the

23 blue that...to be blunt, I can't even recall what

24 that particular tool was, because I ran the academy

25 for four and a half years, and I don't remember this

 - 48 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 tool being used, but it doesn't mean I know

 2 everything either.

 3 Q. Okay.

 4 THE VICE-CHAIR: Before you move on, I

 5 have a question. I think it's probably

 6 obvious. What does it mean "all scores

 7 under three"?

 8 THE WITNESS: Vice-Chair, I can't recall

 9 that particular tool.

10 THE VICE-CHAIR: Fair enough.

11 THE WITNESS: I know obviously from the

12 material here it meant that there was

13 particular challenges with this recruit,

14 and having run an academy for four and a

15 half years, it would be incumbent on the

16 academy to tell the region that there are

17 some concerns on a particular tool that

18 they used, and that would be for the

19 purpose of ensuring that we get them up to

20 speed. The whole purpose of it is to

21 ensure that, you know, they meet the

22 standard.

23 So I can give you all kinds of

24 examples where, you know, for example,

25 where recruits would fail an OPC test,

 - 49 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Ontario Police College, where the OPP,

 2 then...we would bring them in and retrain

 3 them and give them many attempts at the

 4 test to pass. So the intent was always to

 5 build them up, certainly from my four and a

 6 half years there.

 7

 8 BY MR. TAPP:

 9 Q. But nonetheless, it was something

10 that was brought to your...that you...

11 A. In fairness to the document in front

12 of me, yes.

13 Q. Yes, and it was a document that

14 conveyed...can you say if that document conveyed

15 some concern that you wanted to bring to the

16 attention of the detachment management?

17 A. All I can say is that I am giving

18 them a heads up in relation to a recruit assessment

19 tool that scored under three, and in fairness to

20 your question, there had to be some concern there,

21 and I can't tell you what that is.

22 Q. No, I'm not asking you that.

23 A. Okay.

24 Q. I'm showing you a document that came

25 from corporate services, human resources...

 - 50 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE VICE-CHAIR: Should we mark that as

 2 the next exhibit?

 3 MR. TAPP: Yes, please.

 4 THE VICE-CHAIR: 132.

 5

 6 --- EXHIBIT NO. 132: E-mail dated January 29, 2009 from

 7 Hugh Stevenson to Mike Johnston et

 8 al

 9

10 MR. MANUEL: Once again, Mr. Vice-Chair,

11 it's not clear to me on this document what

12 connection this witness had with this

13 document.

14 THE VICE-CHAIR: What document are we

15 talking about?

16 MR. MANUEL: The document that I have

17 just been given a copy of.

18 THE VICE-CHAIR: This one here?

19 MR. MANUEL: An interview assessment of

20 Jack, Michael, date 28 May, '08. What

21 connection does this witness have with this

22 document?

23 MR. TAPP: It's a document from

24 corporate services, Mr. Vice-Chair, and

25 your specific guidance to Mr. Jack when he

 - 51 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 questioned witness Mr. Johnston, and he

 2 attempted to introduce it, you made a

 3 ruling on that, but you also said that it

 4 can be introduced to the person that is

 5 coming from corporate services.

 6 Mr. Stevenson has indicated his

 7 relationship by regional command with

 8 corporate services, and he has indicated

 9 already that there was...there had to have

10 been some...or some perceived concern based

11 on that e-mail that he just addressed.

12 Otherwise, he would not have given the

13 detachment a heads up.

14 MR. MANUEL: This is dated May 29, 2008.

15 All I'm asking is does this witness have

16 any connection with this document, and if

17 he doesn't, then I'm objecting to it being

18 put to him.

19 MR. TAPP: Certainly that is something

20 that is from Mr. Jack's file, and the

21 question specifically that is going to be

22 directed, are you familiar, as a result of

23 something that you had to address with the

24 detachment, what was it? Are you familiar

25 with this document? Have you seen it?

 - 52 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE WITNESS: Can you ask me the

 2 question succinctly, please?

 3

 4 BY MR. TAPP:

 5 Q. Okay.

 6 A. What is the question?

 7 Q. Do you see on page 2 of that

 8 document...

 9 A. There is no number on this document.

10 Q. Okay, if you just turn over the

11 first page?

12 A. No, but I mean exhibit number or

13 anything.

14 Q. No, no, we're going to establish

15 that first.

16 A. Okay. So I have...

17 Q. Under "Summary", I direct your

18 attention to "Summary".

19 A. Oh, at the very back? So I have

20 double-sided copies here.

21 Q. "Interview assessment of Mr. Jack."

22 A. Can you just point it to me? I'll

23 get there. "Summary," okay, thank you so much.

24 THE VICE-CHAIR: So again we come back

25 to the issue of his connection to this

 - 53 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 document.

 2 MR. TAPP: Yes, and that is why if

 3 he...I'm directing his attention to that,

 4 and now I am going to ask him can you read

 5 that to yourself and tell us if you're

 6 familiar with that document, or this

 7 document...would you have seen this

 8 document?

 9 MR. JACK: Mr. Vice-Chair, my friend

10 wasn't here on Tuesday when I questioned

11 Johnston. I specifically tried to

12 introduce this. You said only through

13 corporate services.

14 MR. MANUEL: I don't remember that. I

15 don't remember this document.

16 THE VICE-CHAIR: I would never have said

17 "only through corporate services". I don't

18 even know what corporate services is.

19 MR. JACK: I apologize. Mr. Johnston

20 said that corporate services would be privy

21 to these documents, not me.

22 MR. MANUEL: This document was never put

23 to anybody. I have never seen this

24 document put to any witness.

25

 - 54 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 BY MR. TAPP:

 2 Q. Is regional command part of

 3 corporate services?

 4 A. No, there is a confusion here I

 5 would like to clarify.

 6 Q. Okay, please, let's establish that,

 7 then, please.

 8 A. Okay. So I will go back to this

 9 document here.

10 Q. Okay.

11 A. So you have corporate services here.

12 This is a whole separate command that runs human

13 resources, runs the academy, runs QM, runs

14 communications and technology, fleet supply. This

15 is not an operational command, okay. I'll show you

16 where the confusion is.

17 So my job is not in corporate services.

18 My job is over here in field operations. I run a

19 region, and when running a region, right, you have

20 14 detachments. I had seven.

21 So within those seven detachments, the way

22 the chief had it structured was that the

23 superintendent would do both the corporate stuff,

24 meaning I have an HR issue with a member, I have an

25 operational issue with a member or operational

 - 55 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 stuff, you're a duty officer. We've had a hanging,

 2 a triple murder.

 3 Then I would go in as a duty officer and

 4 deal with my own side of the region, but corporate

 5 services I don't think is where you're leading,

 6 Counsellor. We wouldn't know HR stuff. There is a

 7 whole command that did that, and this document that

 8 you have shown me would be within...when they go out

 9 and hire members and they do background checks, and

10 they do psychological testing. That is recruiting

11 bureau, which is corporate command.

12 The corporate stuff I'm talking about is,

13 "Would Mike Johnston have difficulty with his

14 scheduling? Was the appropriate performance

15 evaluations done on the members?" So does that

16 clarify a bit for you?

17 It's a totally different command. So

18 these documents here would be done in corporate

19 command. They were before they are even a member.

20 This is what I assume is an interview with the

21 member before he was even a member, right, yes.

22 Q. And that would not be anything that

23 would...

24 A. That had nothing to do...

25 Q. ...be an assessment or an assessment

 - 56 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 tool?

 2 A. Well, I have got to read first, to

 3 know what it is.

 4 Q. Yes, please.

 5 A. But I can see right here "Proceed to

 6 background". Well, that means he is not even a

 7 member yet. So we have nothing to do with non-

 8 police officers. We are running a region with

 9 members that are already hired. So I would have

10 nothing to do with a document like this.

11 MR. MANUEL: Thank you.

12 MR. TAPP: Okay. Well, based on that, I

13 mean, I might very well have to call a

14 witness to identify that document because

15 it's pertinent to the communication

16 that...communications that regional had

17 with Mr. Johnston and specific direction

18 given to Mr. Johnston. That evidence is

19 already in here before this tribunal.

20 Whether it's...it's going to be very brief

21 and it's for the purposes of authenticating

22 this document and the related documents

23 that stemmed from an issue of Mr. Jack very

24 early at his training at the Provincial

25 Police Academy.

 - 57 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE VICE-CHAIR: Well, this was even

 2 before then.

 3 MR. TAPP: It was disclosed to us in the

 4 disclosure, and I'm indicating it was

 5 disclosed on the 28th September, 2012, and

 6 it was intended, and that is what Mr. Jack

 7 was under the impression, that we could

 8 have it introduced through somebody from

 9 corporate services, and...

10 MR. MANUEL: He is not corporate

11 services.

12 THE WITNESS: Yes.

13 MR. JACK: May I address?

14 THE VICE-CHAIR: Yes.

15 MR. TAPP: I wasn't here during...

16 THE VICE-CHAIR: He doesn't know about

17 this document.

18 MR. JACK: Yes, but there is a reason

19 for this.

20 THE VICE-CHAIR: Well, I'm sure you have

21 a reason for it, but you can't introduce

22 this document through him.

23 MR. TAPP: Before that date...

24 THE VICE-CHAIR: Before what date?

25 MR. JACK: These documents were

 - 58 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 introduced to us on September 28th, 2012.

 2 Before that date we filed a list of

 3 witnesses we intended to rely upon. These

 4 documents were served four months later.

 5 MR. TAPP: Yes.

 6 MR. JACK: That's why we have to call a

 7 witness from the HR.

 8 MR. TAPP: And with all due respect,

 9 that list of witnesses...on that list of

10 witnesses was Sergeant Steve Haennel, and

11 on one of the case assessment directions

12 conference calls, counsel made a big issue

13 of the number of witnesses. We were under

14 a lot of pressure to shorten it.

15 MR. MANUEL: Mr. Vice-Chair...

16 MR. TAPP: I mean if counsel wants to go

17 over that...

18 THE VICE-CHAIR: Let's stick with the

19 issue. You cannot introduce this document

20 through this witness and that's...

21 MR. TAPP: Okay.

22

23 BY MR. TAPP:

24 Q. Did you have any discussion, whether

25 by phone or e-mail with Inspector Johnston regarding

 - 59 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Mr. Jack coming to the detachment?

 2 A. I have no independent recollection

 3 of discussing one individual probationary constable,

 4 other than what I have testified to, and I say

 5 independent recollection because I just don't

 6 remember it.

 7 Q. If a briefing report was produced

 8 during a concern identified regarding Mr. Jack, if a

 9 briefing report was prepared, okay, would it have

10 been shared by you, shared to you, or would you have

11 been privy to it by virtue of your position?

12 A. Who wrote it and about what?

13 Q. About Mr. Jack.

14 A. And who would write this briefing

15 report?

16 MR. MANUEL: Can you show him the

17 document and see if he has a connection

18 with it?

19 MR. TAPP: Yes, I will. I will show you

20 this document first.

21 MR. MANUEL: Can I see it?

22 MR. TAPP: Yes. Granted it's prepared

23 by corporate services, but it is a briefing

24 report. It's a briefing report that is

25 from corporate services. So would they not

 - 60 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 share it with anyone else or do they keep

 2 it secret themselves?

 3 MR. MANUEL: Mr. Vice-Chair...

 4 THE WITNESS: I don't know where I'm

 5 going here.

 6 THE VICE-CHAIR: Are you familiar with

 7 this document at all? Do you have any

 8 connection to it?

 9 THE WITNESS: I have to read these

10 things. I can't just go, "Yes, I know

11 about it." I am not going to testify to

12 that until I read it.

13 THE VICE-CHAIR: Okay.

14 THE WITNESS: I don't even know where it

15 came from, who it is to, until I read it.

16

17 BY MR. TAPP:

18 Q. Okay. Read it during your break

19 because there was...if evidence revealed that

20 regional command in Peterborough overseeing

21 Peterborough detachment, which you have indicated

22 you are in charge of, if certain direction to the

23 detachment...

24 A. Are you testifying or are you...

25 Q. No, if evidence revealed that

 - 61 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 regional command addressed an issue with a

 2 detachment, that is what is going to be...would it

 3 be in regards to a briefing report?

 4 A. Okay.

 5 MR. MANUEL: What kind of question is

 6 that? Did you understand the question?

 7

 8 BY MR. TAPP:

 9 Q. Can you read it during break and

10 then you can give us an answer?

11 A. I'll read for you, yes.

12 THE VICE-CHAIR: Read it with the other

13 during the break.

14

15 BY MR. TAPP:

16 Q. Was there another time you became

17 involved with Mr. Jack specifically regarding an old

18 occurrence? Look at your notes. See if you have

19 any notations, please.

20 A. I think the only time was the...that

21 I went through my notes...let me just see here. So

22 the issue in relation to the Professional Standards

23 Bureau ran from what? 11:22...so there is something

24 about Michael Jack I see here in an e-mail from

25 Flindall to Johnston. I don't know if I have a copy

 - 62 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 of this. It's not to me. On the 22nd of September,

 2 old occurrence involving Jack?

 3 Q. Yes, yes.

 4 A. I'm trying to remember it. Okay, so

 5 I'm not sure that this has any bearing. This is

 6 from Flindall to Johnston, and then Johnston to

 7 Stevenson:

 8 "...We have followed up the issue with

 9 PC...and the querying of an undercover..."

10 That's the other issue. Then on the 23rd you have

11 something confidential, Flindall to Johnston:

12 "...I'm not sure this has any bearing on

13 Jack's occurrence, but read the occurrence

14 dated [such and such]. Shaun was looking

15 up a suspect. Involves him...but never

16 linked to the occurrence as an involved

17 person with the result, I'm not sure, it

18 ever made it into a background

19 investigation..."

20 So I can't remember whether or not I was aware of

21 that at the time or not. I see Colleen Kohen 8:39

22 on the 23rd out doing some checks. 23rd from

23 Johnston to me:

24 "...Forwarded so you're aware of this..."

25 So I was aware of it then. This is a dated

 - 63 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 incident, and then I think if we go to the back of

 2 this, this is the occurrence where he was a security

 3 guard. He heard a noise in a bar, went to

 4 investigate. Male party ran away. Burleigh Island

 5 Lodge history investigation. McDermott attended:

 6 "...Guard did not take the theft seriously

 7 [being Jack] and now the big and extremely

 8 exciting night adventure, hold your breath,

 9 ladies and gentlemen..."

10 So I guess the issue here was he didn't handle it as

11 professionally as he could. That's what the

12 document tells me:

13 "...The manager was told that the security

14 guard acted promptly..."

15 So...yes, I guess I was made aware of it at the

16 time, but you know, to me that's before he was hired

17 by the OPP when I think it was dated. So I don't

18 know what your question is.

19 Q. Yes, certainly, maybe...I'm showing

20 you what you have just read from your notes, the

21 series of e-mail communications, dates and times.

22 Can you identify those e-mails, please? They will

23 be relating to your notes.

24 A. So this would be document number 7?

25 Q. Yes, it's our writing on the upper

 - 64 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 right corner 7, but it will say page 1 of 2.

 2 A. Yes, I got it.

 3 Q. And on top it says:

 4 "...Old occurrence involving PC Jack..."

 5 A. I got it, yes.

 6 Q. Thank you.

 7 A. Yes, so it says from Stevenson to

 8 Martin Graham:

 9 "...As per the message below, I have

10 reviewed the Niche occurrence that involved

11 Jack as a civilian security guard prior to

12 Jack's employment with the OPP, and I would

13 ask this information be considered. This

14 information speaks to the character of this

15 member prior to his OPP involvement and

16 missed in his OPP. I will forward a

17 copy..."

18 And then Mike:

19 "...Hugh, forward so you are aware of

20 another issue with Jack. Please read the

21 Niche..."

22 I'm assuming that's the same one, 12:21 and then you

23 have got 8:54. Colleen does some queries, and

24 Flindall to Johnston on the 22nd. They are all out

25 of date.

 - 65 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Q. Would that be a reflection on what

 2 you have in your notes, what you talked about

 3 earlier?

 4 A. No, I didn't talk about this earlier

 5 in my notes. I only talked about the Albanian thing

 6 in my notes.

 7 Q. No, no, you just read from your

 8 notes.

 9 A. No, I read from your...this document

10 that you provided me.

11 Q. Pardon me, okay.

12 A. On e-mails, yes.

13 Q. Does that bring back any memory?

14 A. Yes, it's my e-mail. So there it

15 is, yes. So I am letting PSB know that there is an

16 occurrence on him in relation to his behaviour prior

17 to his employment and they should consider that.

18 Q. Okay, and did you have...would you

19 be able to say your PSB involvement with Mr. Jack,

20 was it predating that information or postdating this

21 old occurrence information?

22 A. When was the date...so let's just

23 see here. When was the date that the Albanian

24 organized crime thing started? What was that date?

25 MR. MANUEL: September 11.

 - 66 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE WITNESS: Oh, September 11th, so

 2 this would have been after that I got this.

 3

 4 BY MR. TAPP:

 5 Q. Okay.

 6 A. So someone must have forwarded that

 7 to me to say, "Hey, we found him in an old

 8 occurrence," and I can't remember who actually went

 9 and did the look-up.

10 MR. MANUEL: Well, isn't that the middle

11 e-mail, September 23?

12 THE WITNESS: From Mike to Huebert,

13 "Forward, so you're aware of another

14 issue." Yes, so Mike gave it to me, but

15 I'm wondering who gave it to Mike, but I

16 don't know that.

17

18 BY MR. TAPP:

19 Q. Okay, so that was something that

20 would have been explored with Mr. Johnston and...

21 A. Yes, so Johnston would have given

22 that to me, and then I obviously forwarded it on to

23 PSB to look at the whole picture, right.

24 Q. And Mr. Johnston was just following

25 the chain of command, bringing it to your attention?

 - 67 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. Absolutely, absolutely, yes.

 2 Q. Do you agree that you did make a

 3 determination on an old occurrence, and you made a

 4 determination of Mr. Jack's character?

 5 A. It does speak to the character, yes.

 6 Q. Okay. I'm showing you the general

 7 occurrence that you would have seen. Acknowledge

 8 it, that it is the one...

 9 A. Is that the one I just read?

10 Q. Yes. You read an e-mail and it was

11 specific about an old occurrence?

12 MR. MANUEL: Have we marked this e-mail

13 chain?

14 MR. TAPP: Oh, let's mark the e-mails,

15 please, as the next exhibit, two pages.

16

17 --- EXHIBIT NO. 133: E-mail from Hugh Stevenson to Martin

18 Graham et al

19

20 BY MR. TAPP:

21 Q. Okay, that is being...while that is

22 being entered, can you review that general

23 occurrence, and tell us if that is the old

24 occurrence you were talking about in your e-mail?

25 A. Isn't that the one you have in your

 - 68 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 package here at the back?

 2 Q. It should be.

 3 A. Why don't I just confirm the

 4 numbers, then I'll solve it for you? 05112642. It

 5 has to be the same one.

 6 Q. I'm not sure if the court reporter

 7 got it, because that was a little fast.

 8 A. Sorry, 05112642 is the same as the

 9 one you presented me that is redacted.

10 Q. Thank you. So that e-mail, correct

11 me if I am wrong...

12 A. The e-mail that I sent to Mike?

13 Q. No, Martin Graham, September 23rd,

14 12:21 p.m., the first e-mail on...

15 A. Oh, yes, yes:

16 "...So as per the message, I have reviewed

17 the Niche occurrence that involved PC Jack

18 at the time as a civilian security guard,

19 and then I described prior to Jack's

20 employment with the OPP, and I would ask

21 this information be considered. This

22 information speaks to the

23 character of this member prior to his OPP

24 involvement and missed in his OPP

25 background check, and I'll forward a copy

 - 69 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 of that Niche to you today..."

 2 Q. Thank you. So would you agree or

 3 disagree that dated occurrence caused you to make a

 4 character assumption of Mr. Jack, to put it

 5 politely? I don't know how to put it. Put it that

 6 way. Was there any other information you

 7 considered...

 8 A. Let me put it to you this way.

 9 Q. Okay.

10 A. If I have an occurrence about a

11 member that has allegedly been associated with

12 organized crime...

13 Q. Okay.

14 A. ...right, that is allegedly starting

15 to run surveillance cars, I have a concern with this

16 member in a probationary status, and it's purely due

17 to the information that I have received. So to

18 clarify that, and look at the whole picture, I'm

19 going to give Professional Standards Bureau

20 everything. Not to give them something would be

21 neglect of duty in terms of why would I hold

22 something back.

23 I don't know what the whole picture is

24 here, but based on what I read here, someone bolded

25 it in the investigation piece, his attitude, and in

 - 70 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 a professional capacity as a security guard, whether

 2 it was five years or 25 or two years ago, it's

 3 unprofessional to say:

 4 "...and now the big extremely exciting

 5 night and adventure..."

 6 There seems to be a callousness identified in the

 7 occurrence. So my role as the boss is to make sure

 8 the investigators have all the information.

 9 Q. True. Look in that occurrence where

10 it says "Persons interviewed".

11 A. "...Witness suspect property

12 support, history of investigation

13 benchmark..."

14 Q. Now, under where it says "Witness

15 statements" what does it say?

16 A. None, "Nil."

17 Q. "Nil." So would you...based on that

18 occurrence, was it obvious to you whether Mr. Jack

19 was interviewed or not regarding that occurrence?

20 A. I don't need that. I have a police

21 occurrence report from a member, I assume,

22 McDermott, who has found an occurrence, stating that

23 he had behaviour that was unprofessional in his

24 previous life. So I give that to investigators to

25 figure it out. How does this fit with the bigger

 - 71 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 picture?

 2 Q. Yes, I'll ask you. I'm getting to

 3 that. If Mr. McDermott, according to an

 4 occurrence...and I'm not going to question what he

 5 did. The occurrence states that there were no

 6 interviews done, witness statements nil.

 7 How can it speak about the character of

 8 that...

 9 MR. MANUEL: Because he referred to the

10 report prepared by...

11 MR. TAPP: How can it...

12 MR. MANUEL: ...Mr. Jack, and that's

13 what the e-mail says. You're not being

14 fair here. The officer is quoting from the

15 report prepared by Mr. Jack.

16 THE WITNESS: In fairness, I'm not about

17 to conduct an investigation into an older

18 occurrence as to why they didn't get a

19 statement. My role is to pass it off to

20 investigators and go from that, but what I

21 read, and I have to believe what I see, is

22 there was a concern with his

23 professionalism prior to the job. So I'm

24 going to pass that on, in fairness, so that

25 everyone is aware of the total situation.

 - 72 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 To be blunt, maybe it had nothing

 2 to do with it, but maybe it did. That's

 3 not my role. My role is to pass on the

 4 information because it was provided to me,

 5 right.

 6

 7 BY MR. TAPP:

 8 Q. Can you read the two lines under

 9 "Investigation" that details the investigation done

10 into that old occurrence?

11 A. Under "Investigation"?

12 Q. Yes, please.

13 A. "...PC McDermott attended the

14 location and spoke to the manager and read

15 the night security guard report. It is

16 obvious that the night guard [being, I

17 assume, Mr. Jack] did not take the theft

18 seriously as the heading to that part of

19 his report began as follows:

20 "...And now the big and extremely exciting

21 night adventure. Hold your breath, ladies

22 and gentlemen. It is not about the ghost.

23 It is about the thieves.' McDermott

24 attended the room that the youths had been

25 occupying and there was no sign of liquor

 - 73 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 bottles that had been stolen. The stolen

 2 bottles were as follows..."

 3 Do you want me to keep going?

 4 MR. TAPP: No, that's good enough.

 5 We'll ask this be entered as the next

 6 exhibit, please.

 7 THE VICE-CHAIR: Well, it has already

 8 been entered. I have got it entered as...

 9 MR. MANUEL: I don't remember, but I'm

10 not arguing.

11 THE VICE-CHAIR: Yes, occurrence

12 summary, 4th of July, 2005, 110.

13 MR. MANUEL: 110, thank you very much.

14 THE VICE-CHAIR: It looked familiar to

15 me.

16 MR. TAPP: I remember the part, Mr.

17 Vice-Chair. It's just that we had...yes,

18 there were some questions as opposed to Mr.

19 Jack not...

20 THE VICE-CHAIR: So I don't need this.

21 MR. TAPP: Yes, it doesn't matter. So

22 that's in there. We have confirmed that.

23 MR. MANUEL: Yes.

24 THE VICE-CHAIR: Thank you.

25 MR. TAPP: Okay, great. I want to

 - 74 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 suggest just a brief break to allow for Mr.

 2 Stevenson the time to read over those

 3 documents, so we can just get on with the

 4 last issue of the questioning with him, and

 5 then we are done with Mr. Stevenson.

 6 THE VICE-CHAIR: Well, I would like to

 7 take a break for my own sake.

 8 MR. TAPP: I'm sorry, okay.

 9 THE VICE-CHAIR: If you want to read the

10 documents during this break...

11 THE WITNESS: Can we clarify which they

12 were so...I have got, like, a lot of stuff.

13 MR. MANUEL: There is this corporate

14 services confidential briefing report.

15 THE WITNESS: Is there a number on it,

16 Vice-Chair?

17 THE VICE-CHAIR: Fifty-five.

18 THE WITNESS: Fifty-five, 55, sorry,

19 right in front of me.

20 THE VICE-CHAIR: And then the other one

21 is 60.

22 THE WITNESS: Fifty-five and 60, got

23 you.

24

25 --- upon recessing at 11:40 a.m.

 - 75 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 --- A BRIEF RECESS

 2 --- upon resuming at 11:56 a.m.

 3

 4 HUGH STEVENSON, resumed

 5 CONTINUED EXAMINATION-IN-CHIEF BY MR. TAPP:

 6

 7 Q. Have you read those two documents,

 8 Mr. Stevenson?

 9 A. I have, Counsel.

10 Q. And are you familiar with those two

11 documents?

12 A. On document number 60 I can't

13 honestly independently remember reading the outcome

14 of the investigation. I knew I believed that the

15 plate that he ran was an error of the dispatcher,

16 but if you ask me if I knew the outcome of the

17 investigation of the Albanian organized crime thing,

18 I would tell you when I walked in this room I didn't

19 know what that was. So it was interesting reading.

20 On the second document, 55, I have never

21 seen this one before. Neither would I.

22 Q. Fair enough, we'll leave it, but the

23 PSB investigation, having read that document, does

24 jog your memory to a certain degree?

25 A. Honestly, I can't remember what the

 - 76 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 outcome of his Albanian organized crime thing was,

 2 because...

 3 Q. I'm not asking for that.

 4 A. Okay.

 5 MR. MANUEL: Well, that's what the

 6 report deals with.

 7

 8 BY MR. TAPP:

 9 Q. Does it jog your memory that the PSB

10 investigation has detailed...that document anyways

11 you have indicated? Can you look at your notes?

12 Can you see the same names from that document are

13 the same names in your notes?

14 A. I assume they are, yes.

15 Q. Well, they either are or they...

16 A. Do you want me to clarify it?

17 Q. Yes, please.

18 MR. MANUEL: This has been entered,

19 right?

20 MR. TAPP: Not yet. That's why...you

21 wanted to have his verification that he

22 recognizes the document.

23 THE WITNESS: Yes, yes, so "People who

24 are undesirable..."

25 MR. TAPP: Oh, pardon me, it might have

 - 77 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 been entered through Mr. Johnston.

 2 MR. JACK: No, that's internal brief in

 3 the report. "Relief from employment"

 4 that's a different one.

 5 THE VICE-CHAIR: Different one. Sorry

 6 about that.

 7 MR. MANUEL: There is no witness that

 8 has been called that can authenticate that

 9 document.

10 THE VICE-CHAIR: This one here, the

11 internal briefing report "Corporate

12 services confidential".

13 MR. MANUEL: Well, either one.

14 MR. TAPP: Thank you.

15 THE WITNESS: Are we done?

16 MR. TAPP: No, just for that PSB report,

17 we would like that entered as the next

18 exhibit, please.

19 MR. MANUEL: He can't identify it.

20

21 BY MR. TAPP:

22 Q. Have you confirmed...

23 A. Six zero?

24 Q. Yes, six zero. The names are

25 identical to your notes?

 - 78 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. I can't...if I could tell you that I

 2 read this before, I would love to, but I can't

 3 remember whether I did or I didn't, and I do not

 4 have it in my notes. I have the subsequent meetings

 5 in relation to his termination, but there is nothing

 6 in there that I read that would indicate that I had

 7 read this. So I just...I can't tell you.

 8 Q. You did indicate in your testimony

 9 that in all honesty it's not...as in past experience

10 you have been privy to...you did have knowledge

11 of...

12 A. In most situations, yes, I would be

13 aware of the outcome of the report, yes, but if

14 you're asking me specifically, I just don't have an

15 independent recollection of it. To my evidence

16 earlier, when I came into the room I couldn't

17 remember what actually happened in that, because

18 there is a lot of stuff that goes in the region.

19 Q. You don't know?

20 A. Like, I don't know what else to say

21 to you.

22 MR. TAPP: We have tried to enter that

23 report through even Constable German. We

24 have tried to enter it by virtue of his

25 connection with regional command. He

 - 79 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 brought it to the attention of the PSB.

 2 It's only natural that PSB would share the

 3 investigation with the person who brought

 4 it to their attention. We're being

 5 prevented from entering it.

 6 THE VICE-CHAIR: You have to...can

 7 anybody...does anybody know about this

 8 document that you brought forward?

 9 MR. TAPP: Yes.

10 THE VICE-CHAIR: It's your case to make.

11 MR. TAPP: Yes, absolutely. I've got

12 information that Mr. Hugh Stevenson

13 prepared a briefing report that was

14 forwarded to Mr. Armstrong that was

15 involved in the termination of Mr. Jack's

16 employment.

17 MR. MANUEL: We're jumping around here.

18 THE VICE-CHAIR: I'm not following it.

19 I have seen this document before.

20 MR. TAPP: I know you have, Mr. Vice-

21 Chair.

22 MR. MANUEL: They have been attempting

23 to put it in through people that cannot

24 identify it.

25 MR. TAPP: And that is what we have been

 - 80 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 left, that, okay, fine we'll just have to

 2 call a certain witness to enter that

 3 document, and like we have been prevented

 4 from the...Mr. Jack was genuinely led to

 5 believe that he could enter it...the

 6 documents from human resources, corporate

 7 services. He was under the genuine

 8 impression that he could enter it through

 9 Mr. Stevenson. That hasn't been done.

10 Counsel is fully aware that we had

11 two people from corporate services on our

12 witness list that prepared those documents.

13 For the sake of cutting down on witnesses

14 we agreed to certain police witnesses and

15 crucial witnesses.

16 Now, for the sake of entering,

17 there is a substantial amount...there is

18 about...here, in all fairness, there are 30

19 pages over here provided by disclosure from

20 corporate services that would have been,

21 had we been allowed to bring Sergeant Steve

22 Haennel and the authors of these reports,

23 but that would have increased the

24 applicant's witness list considerably.

25 Now, for the sake of bringing them

 - 81 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 down when the next set of dates are decided

 2 for the most of five minutes, "Are you

 3 familiar with these documents?" "Good,"

 4 bang, "Thank you." Entered it, "Thank you.

 5 Let's see you out." Five minutes at the

 6 most they will be required, and if we can

 7 be allowed, then we will be allowed to

 8 introduce and we will be content.

 9 We must have these entered, but

10 obviously we can't enter it through this

11 witness. We have tried enter it...

12 THE VICE-CHAIR: Okay, I get the point.

13 We'll talk about it after...

14 MR. TAPP: Thank you very much.

15 THE VICE-CHAIR: ...we have heard the

16 evidence today and we talk about the next

17 steps.

18

19 BY MR. TAPP:

20 Q. This is the start of the chain of e-

21 mails that started that PSB investigation. It's

22 volume 3...

23 MR. MANUEL: Can I see what you're

24 showing?

25 MR. TAPP: ...B9 and there are...

 - 82 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 THE VICE-CHAIR: Could you give one to

 2 counsel?

 3 MR. TAPP: Yes. Volume 3 of 7, B9.

 4 THE WITNESS: Can I ask something?

 5

 6 BY MR. TAPP:

 7 Q. There are more...yes.

 8 A. You didn't talk about 55. You asked

 9 me to read it.

10 Q. Okay.

11 THE VICE-CHAIR: You said you never saw

12 that.

13 THE WITNESS: No, I never said that.

14 You're good with that?

15 THE VICE-CHAIR: Yes.

16 THE WITNESS: I just didn't want to be

17 misleading about that. All right, 162

18 then. You're done with that, right?

19

20 BY MR. TAPP:

21 Q. Yes. Okay, can you see your name,

22 the communication with you and Mr. Johnston? This

23 is more detailed. It shows a series of

24 communications regarding what generated that PSB

25 investigation.

 - 83 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. There is no number on this one.

 2 Let's just...

 3 Q. It doesn't matter. We will get the

 4 number from Mr. Vice-Chair. Just confirm that it

 5 consists of five pages, please?

 6 A. All right. Five, okay.

 7 Q. Review that, and the questions...can

 8 you confirm the chain of communication leading up to

 9 the 11th?

10 A. So I will just do it aloud. So from

11 Mike Johnston, who worked for me, at 4:53, to me:

12 "...As I discussed with you, I wanted to

13 source some of it, but I have not been able

14 to speak to Mahoney. We have to be

15 careful..."

16 I have read that one before.

17 Q. Yes, go to the next one.

18 A. And then 6:51 from Jennifer Payne...

19 MR. MANUEL: Well, with respect, that

20 has nothing to do with this witness. It is

21 Jennifer Payne to Robert Flindall.

22

23 BY MR. TAPP:

24 Q. Would you not agree that everything

25 from the detachment...it was a concern that went up

 - 84 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 the chain of command as a detachment and made its

 2 way to you? So in essence, the every top e-mail was

 3 when it was brought to your attention?

 4 A. My suggestion is if it was

 5 chronological, it would be easier to follow, but...

 6 Q. Unfortunately, that wasn't in the

 7 disclosure that was provided. It's a chain of e-

 8 mails.

 9 A. If your question is would I get

10 everything? I would only get what I got from my

11 direct report, which is Mike Johnston.

12 Q. Okay.

13 A. So the Jennifer Payne thing, I mean

14 it...well, I'm not copied on it. I highly doubt I

15 got it. It was two weeks later, so I don't know.

16 It was on the 22nd, and it was about a different

17 issue. The second e-mail was about NAS, if

18 it's...yes, it's the occurrence. So she is talking

19 about the occurrence that was written about him. I

20 don't know where that...

21 Q. No, it says...look at the SP number

22 for that occurrence.

23 A. Isn't that the same one?

24 Q. Is it the same as the old

25 occurrence?

 - 85 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 A. Yes, 05112642.

 2 Q. So it's directly related to the old

 3 occurrence?

 4 A. I guess, but it's not to me, though,

 5 Counsel.

 6 MR. MANUEL: That is what he just said.

 7

 8 BY MR. TAPP:

 9 Q. Not to you, though?

10 A. That's what I'm saying.

11 MR. MANUEL: And it's not related to the

12 e-mail to him.

13 THE VICE-CHAIR: Just a minute.

14 MR. MANUEL: The three main subjects

15 relate to the Albanians.

16 THE WITNESS: Yes, the first one is the

17 Albanian connection. This is the

18 occurrence...

19

20 BY MR. TAPP:

21 Q. The old one.

22 A. ...that dealt with his judgment

23 issue as a security guard.

24 Q. Now, you said you forwarded both the

25 one dealing with the connection with the Albanians

 - 86 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 and the old occurrence to PSB, right?

 2 A. Yes, I testified to that, yes.

 3 Q. I direct your attention to the last

 4 page...or second-last page, September 23rd, 2009

 5 from you to Martin Graham.

 6 A. Yes. I read this one before:

 7 "...As per the message, I reviewed the

 8 Niche occurrence involving Jack as a

 9 security guard..."

10 Yes.

11 Q. Okay, that is one you have read.

12 A. This has already been in, yes, or I

13 talked about it.

14 MR. MANUEL: The e-mail dated September

15 11, that has already been entered. This

16 one dated September 23rd has already been

17 entered.

18

19 BY MR. TAPP:

20 Q. Are you aware of the final

21 disposition of the PSB investigation? If you

22 initiated it, if you brought to the attention of

23 PSB, would it be normal for PSB to at least...

24 THE VICE-CHAIR: Okay, you have got

25 three or four questions going on here.

 - 87 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 MR. MANUEL: He has already testified he

 2 would not...he did not remember and he does

 3 not remember the disposition of the

 4 complaint. There is no issue about the

 5 disposition of the complaint. It has been

 6 entered through Mr. Jack. He was told it

 7 was unsubstantiated. We have dealt with

 8 that.

 9 THE VICE-CHAIR: I agree with you.

10

11 BY MR. TAPP:

12 Q. Those pages that I just gave to

13 you...

14 A. The e-mail pages?

15 Q. Yes, the e-mail pages, five pages,

16 do you at least acknowledge that they are all about

17 the same old occurrence?

18 MR. MANUEL: No, they are not.

19 THE WITNESS: No, they are about two

20 separate things.

21 MR. MANUEL: They are about three

22 different things.

23

24 BY MR. TAPP:

25 Q. With the exception of the PSB, the

 - 88 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 Albanian connection...

 2 MR.MANUEL: Oh, really Mr...what is

 3 this?

 4 THE VICE-CHAIR Yes, what is the point

 5 of that?

 6 MR. TAPP: Okay.

 7 THE VICE-CHAIR: The e-mails...they have

 8 been entered.

 9

10 BY MR. TAPP:

11 Q. Were you aware of the disposition of

12 the licence plate that you indicated that Michael

13 Jack ran a suspect plate?

14 A. I took the information from

15 Inspector Johnston and forwarded it to PSB, and the

16 outcome of whether the plate was the wrong plate or

17 not...

18 MR. MANUEL: Look at the second page of

19 the e-mails Mr. Tapp has given you, the top

20 e-mails dated September 23rd.

21 THE WITNESS: "...We have followed up

22 the issue with PC Jack showing

23 possible...undercover...it appears that

24 dispatch ran the wrong plate..."

25 Okay, so I was aware of it, that it

 - 89 - H. Stevenson

 Ex-in-Ch (L. TAPP)

 1 was the wrong plate, okay.

 2 MR. TAPP: We will end it right now. I

 3 have finished. That is entered as an

 4 exhibit two days ago. It consisted of two

 5 pages. I'm aware of that, you entered it

 6 as an exhibit. Thank you very much, Mr.

 7 Stevenson.

 8

 9 BY MR. TAPP:

10 Q. Before you go, did you prepare any

11 report that you forwarded on to Mr. Armstrong?

12 MR. MANUEL: On what?

13

14 BY MR. TAPP:

15 Q. A briefing report?

16 MR. MANUEL: On what?

17

18 BY MR. TAPP:

19 Q. That you were involved in anything?

20 On Mr. Jack.

21 A. The only thing I would have

22 forwarded on would be the e-mail. I wouldn't have

23 prepared a separate document...

24 Q. Okay.

25 A. ...to my recollection. I was simply

 - 90 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 in the chain of command, as you're aware. I would

 2 let my boss know what I got, and what I did with it.

 3 Q. Okay.

 4 A. So he would be aware of the fact

 5 that there was an allegation and that PSB was

 6 investigating.

 7 MR. TAPP: Thank you very much, Mr.

 8 Stevenson.

 9 THE WITNESS: You're welcome.

10 THE VICE-CHAIR: Any cross?

11 MR. MANUEL: No, sir.

12 THE VICE-CHAIR: Thank you, Mr.

13 Stevenson.

14 THE WITNESS: Thank you, Vice-Chair.

15

16 --- DISCUSSION OFF THE RECORD

17

18 MICHAEL ARMSTRONG, affirmed

19 CONTINUED EXAMINATION BY MR. TAPP:

20

21 Q. Good afternoon, Mr. Armstrong. I

22 know you have been waiting patiently for this. Are

23 you familiar with the applicant in this matter, Mr.

24 Michael Jack?

25 A. Yes, I am.

 - 91 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 Q. Are you currently still with the

 2 Ontario...the OPP?

 3 A. No, I retired April 1st, 2014.

 4 Q. 2014, okay. I would imagine you

 5 have prepared a witness summary or a statement

 6 regarding the matters?

 7 A. Yes, I did.

 8 Q. You have that here with you?

 9 A. Yes, I do.

10 Q. And for what purpose may you be

11 referring to that?

12 A. Just to refresh my memory.

13 Q. In whose possession have they been?

14 A. They have been in the possession of

15 the organization, the OPP.

16 Q. Okay. Have you had a chance to

17 review them?

18 A. I did, yes.

19 MR. MANUEL: Are you talking about his

20 notes or his witness summary at this point?

21

22 BY MR. TAPP:

23 Q. Pardon me, I will address. The

24 witness summary.

25 A. The witness summary, I did not

 - 92 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 prepare. It was prepared for me.

 2 Q. Who?

 3 A. I don't know, because it was sent to

 4 me. I assume...I would only have to assume it was

 5 prepared by somebody in our legal section, and I

 6 have my notes, though.

 7 Q. Okay.

 8 A. I have a copy of my notes, which is

 9 actually what I rely on. This is pretty general.

10 Q. Okay, thank you.

11 MR. MANUEL: It was prepared for

12 purposes of disclosure.

13

14 BY MR. TAPP:

15 Q. Okay, with all due respect, I have

16 no problems with that, but I just want to indicate

17 the applicant has never been shared a copy of Mr.

18 Armstrong's...

19 MR. MANUEL: You have his notes.

20 MR. TAPP: We don't have...

21 MR. MANUEL: You don't have what?

22

23 BY MR. TAPP:

24 Q. Have there been any additions,

25 changes or deletions to those notes, please?

 - 93 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 A. No, there have not.

 2 Q. Okay. Please I have no problem with

 3 you referring to them.

 4 A. Okay.

 5 MR. MANUEL: We have produced an extract

 6 from Mr. Armstrong's notes from

 7 Tuesday...it looks like the 15th of

 8 December, 2009, the relevant notes.

 9 MR. TAPP: I withdraw that.

10

11 BY MR. TAPP:

12 Q. Mr. Armstrong, you have indicated

13 you know Mr. Jack. At what point did you become

14 involved with Mr. Jack?

15 A. No, I'm going to have to rely on

16 memory.

17 Q. Okay, please tell us your memory.

18 A. I would assume that I would have met

19 him when he was in the academy, because as part of

20 the normal process, we go in and speak to each new

21 class coming in. So I would likely have met him

22 there, but I don't have a recollection of it, but I

23 would have spoken...unless I was away travelling,

24 then one of the superintendents would do it, but in

25 normal course of business, we go and meet with the

 - 94 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 orientation class, and just tell them their

 2 expectations coming to the region, and welcome to

 3 the region.

 4 Q. Okay.

 5 THE VICE-CHAIR: Mr. Tapp, I don't know

 6 this gentleman. I don't know what his

 7 position is. I know nothing about him.

 8

 9 BY MR. TAPP:

10 Q. I'm sorry. I didn't allow you the

11 time as you have done with every other witness,

12 please.

13 A. Yes.

14 Q. I omitted that and my apologies.

15 It's just that I expected you, Mr. Vice-Chair, to

16 address him first, the name. Can you please

17 announce your name for the record?

18 A. My name is Mike Armstrong. I am a

19 retired chief superintendent with the Ontario

20 Provincial Police. At the time of these events, I

21 was the regional commander for central region.

22 Q. Okay. Would Superintendent

23 Stevenson...what would be his position in relation

24 to yours?

25 A. The way the structure works in a

 - 95 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 region, I had two superintendents. One was in

 2 charge of administration, which would be

 3 Superintendent Stevenson. I had a second that was

 4 in charge of operations, which would be

 5 Superintendent Mark VanZant.

 6 Q. When you say "someone was in charge

 7 of administration"...

 8 A. Director of administration would

 9 have been his title at the time.

10 Q. What kind of files would be under

11 the control of anyone in administration?

12 A. All HR type matters, financial, the

13 business operations, fleet, that type of thing, all

14 the day-to-day business side of the region.

15 Q. Anything from corporate services?

16 A. I would assume, yes, yes.

17 Q. Now, I understand...were you made

18 aware of anything involving a PSB investigation

19 against Mr. Jack?

20 A. I was aware that in...I believe it

21 was in September or late August that there was an

22 allegation that Mr. Jack may have associated with

23 some known organized crime people. That was...and I

24 subsequently received e-mails saying it was being

25 looked into. I would have to go from recollection.

 - 96 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 I don't believe there was anything substantiated as

 2 a result of that, but I can't definitively say that.

 3 Q. But by your position, would it be

 4 normal for PSB to share the final outcome, at least

 5 a copy of it with you?

 6 A. If it was substantiated, yes,

 7 normally I would have got a copy. I don't have

 8 anything in my notes.

 9 Q. Fair enough. Let's just go back.

10 You said the person in charge of administration

11 would have access to the human resources file?

12 A. Yes, and he would access it if

13 needed. Any type of professional standards matter

14 is carried by the professional standard branch.

15 They advise us of what they are doing, but we do not

16 direct them. They just advise us of where they are

17 going as far as any investigations are...

18 Q. So if someone from regional command

19 that oversaw the administration side, as you said,

20 brought the PSB matter to your attention and the

21 Professional Standards Bureau, based on your

22 experience, would you expect that person to do some

23 checking into the member's files?

24 A. The superintendent?

25 Q. Yes.

 - 97 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 A. No.

 2 Q. No?

 3 A. No, he would pass it off, like I

 4 say, to the professional standards. They take

 5 carriage of it. Normal course of business, they

 6 become aware of it, they take carriage. We simply

 7 report any allegations that we become aware of, and

 8 it's their responsibility.

 9 Q. Okay. Specifically what was your

10 relationship with respect to Mr. Jack, how you

11 became involved in...what all that involved? Tell

12 us about that, please.

13 A. It was brought to my attention. I

14 received a...I don't...I would likely have received

15 a phone call as well, but I know I received a memo

16 from our human resources branch, saying that Mr.

17 Jack was going to be terminated. It was actually

18 addressed to him. I received a copy, and that he

19 was scheduled for a meeting with me on December 15th

20 for purposes of dismissal if he did not have a

21 submission that needed to be considered.

22 Q. I'm showing you a briefing report,

23 summarizing...anyways, tell me if that would have

24 been something you have seen relating to the

25 decision to terminate the employment of Mr. Jack.

 - 98 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 MR. MANUEL: That's Exhibit 124, Mr.

 2 Vice-Chair. Is that correct, Mr. Tapp?

 3

 4 BY MR. TAPP:

 5 Q. Yes.

 6 A. I have to assume I did. I don't

 7 have an independent recollection of this, but I

 8 assume I did. As it's addressed to the regional

 9 commander, it would likely have been shared with me.

10 Q. Okay, do you have any indication in

11 your notes about that?

12 A. I do not, no. In my notes I have

13 noted that I reviewed his performance reviews. So I

14 have to assume I saw this, but I can't tell you

15 definitively that I did, but I assume I did.

16 Q. But nonetheless you would have at

17 least reviewed his performance?

18 A. Yes, just for my own...just to see

19 that he wasn't meeting the standards, which is what

20 was the purpose for the dismissal.

21 Q. Okay. Would you have been familiar

22 with the memorandum issued to him, "Notice of

23 proposed release from employment"?

24 A. Yes. Yes, I was given a copy of

25 that.

 - 99 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 Q. Do you have a copy of that with you?

 2 A. Yes, I do, yes.

 3 Q. Okay, that is Exhibit 68 that has

 4 already been tendered?

 5 A. It's dated December the 9th.

 6 Q. No, just a minute before you go,

 7 please.

 8 THE VICE-CHAIR: Yes, Exhibit 68 in this

 9 proceeding.

10

11 BY MR. TAPP:

12 Q. Can you read the third paragraph in

13 that notice, please?

14 A. "...You have the opportunity to

15 prepare a written submission or to meet

16 with Chief Superintendent Armstrong at

17 central headquarters at 13:30 hours on

18 December 15th, 2009 before a decision is

19 made. To assist Chief Superintendent

20 Armstrong's decision relating to your

21 employment status, I will provide him with

22 a copy of this memorandum and attached

23 documentation..."

24 Q. Thank you. Prior to Mr. Jack...put

25 it this way. When did that meeting take place?

 - 100 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 A. On December 15th, and I have in my

 2 notes at 14:30, rather than 13:30.

 3 Q. Thank you. Yes, I'm just looking at

 4 a copy of your transcribed notes. Who would have

 5 transcribed your notes? Do you know that?

 6 A. You mean made the photocopy?

 7 MR. MANUEL: I don't have a transcript.

 8

 9 BY MR. TAPP:

10 Q. Okay.

11 A. Sorry, I just have a photocopy of my

12 originals.

13 Q. We'll leave that.

14 A. Okay.

15 Q. When Mr. Jack was brought into your

16 office, was there anybody else with him?

17 A. Yes, Marty McNamara, who was the OPP

18 representative, and he is a...

19 THE VICE-CHAIR: Sorry, the OPA?

20 THE WITNESS: Sorry, OPPA.

21 THE VICE-CHAIR: Thank you.

22 THE WITNESS: I correct myself. The OPP

23 representative. I believe he was a

24 director with the OPPA at the time, and

25 Karen German, who was the branch number 8

 - 101 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 president.

 2

 3 BY MR. TAPP:

 4 Q. Was there anybody else in the

 5 office?

 6 A. I don't have it in my notes.

 7 Superintendent Stevenson may have been there, but I

 8 didn't make a note if he was.

 9 Q. Fair enough. How long would you say

10 that meeting lasted?

11 A. In my notes, I have it going until

12 15:20 hours. Now, I believe there was a break in

13 there while we contacted HR to answer a question

14 that Mr. Jack had posed to me that I didn't have the

15 answer for.

16 Q. Can I have you review your notes

17 regarding that meeting, please?

18 A. Sure.

19 Q. I think it starts from 14:30 hours.

20 A. Yes.

21 Q. Read that portion, please.

22 A. "...Met with PC Michael Jack of

23 Peterborough, OPPA reps Marty McNarama and

24 branch number 8 president, Karen German. I

25 explained that I have gone over his

 - 102 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 performance reviews and the purpose of

 2 probation is for us to determine if we will

 3 offer employment for the next 30 years. I

 4 told Mike that he has not met requirements

 5 and his option is to resign or be

 6 dismissed. Michael indicated he was going

 7 to resign and it will be immediate. He

 8 then had a question about his benefits.

 9 The OPPA will get him that information..."

10 And I believe Marty McNamara told him that at the

11 time:

12 "...He asked what info will be released if

13 he applies to another police force. I

14 spoke with Inspector Dave Lee, who then

15 contacted our human resources, and he

16 advised that he will be asked to sign a

17 waiver by any other police force. HR will

18 tell them he did not complete probation or

19 meet our standards and he resigned..."

20 Q. Thank you.

21 MR. MANUEL: Can you finish that?

22 THE WITNESS: Oh, sorry, "Michael signed

23 the letter of resignation and I took his

24 badge and warrant card."

25

 - 103 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 BY MR. TAPP:

 2 Q. Thank you. So you presented Mr.

 3 Jack with two options, correct?

 4 A. That's correct. I should add these

 5 notes were to refresh my memory. Mr. Jack, I would

 6 say over the course of my position, I probably

 7 dismissed five or six probationaries, and so I had a

 8 set pattern I followed. For some reason, I didn't

 9 make this in the notebook. My normal course of

10 business was to say, "Is there anything you want to

11 offer in explanation, or anything you want to make

12 me aware of?"

13 THE VICE-CHAIR: The notes...I didn't

14 hear. I was talking to my...the notes, I'm

15 looking for the notes.

16 MR. TAPP: And Counsel doesn't have it

17 either?

18 THE VICE-CHAIR: They have it, I don't.

19 They are going to give me a copy.

20 MR. TAPP: Okay, pardon me, because I

21 assumed you would want to end it.

22

23 BY MR. TAPP:

24 Q. Would you agree that the meeting

25 with you was a crucial point, very important to the

 - 104 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 person you were addressing?

 2 MR. MANUEL: Objection. What is...

 3

 4 BY MR. TAPP:

 5 Q. Was it a serious decision that you

 6 were going to be addressing with Mr. Jack?

 7 A. Yes, we were talking about whether

 8 he was going to continue with the OPP.

 9 Q. So that is not something that one

10 would take lightly?

11 A. No.

12 Q. Okay. That's not something you

13 would take lightly?

14 A. No.

15 Q. No, okay. Did he have any

16 submissions?

17 A. No, not...and I would have

18 noted...as I say, this was not the first time I have

19 been through this process, and he did not offer

20 anything at that time, other than that he did

21 question what would be the process if he wanted to

22 apply to another police force.

23 Q. Granted, because of your position

24 when you go to the college and make presentations

25 with your recruit classes, as you indicated, a

 - 105 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 constable before you, there would be a degree of

 2 concern or fear. Have you ever sensed that from the

 3 people you...constables that you speak to, by virtue

 4 of they are addressing someone of such a high rank?

 5 A. I wouldn't say that they would

 6 be...I don't know if "fear" is the right word, but I

 7 know there is...I mean, just the rank differential,

 8 there is a certain degree of...I don't know what

 9 word I would use. I wouldn't call it "fear", but I

10 have found most constables are respectful towards

11 the rank.

12 Q. Yes. Now, did you give Mr. Jack a

13 memorandum dated December 15th, 2009 regarding

14 release from employment?

15 A. Yes, I did.

16 Q. Do you have a copy of that?

17 A. Yes.

18 Q. Maybe I can assist Counsel. It

19 should be in volume 2N36.

20 MR. MANUEL: Has it been marked as an

21 exhibit?

22 MR. TAPP: We are just confirming to

23 make sure that has not already been entered

24 as an exhibit.

25 MR. MANUEL: Is it dated December 15,

 - 106 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 2009?

 2 MR. TAPP: Yes.

 3 MR. MANUEL: Is it headed "Resignation

 4 from the Ontario Provincial Police"?

 5

 6 BY MR. TAPP:

 7 Q. Yes. Do you have a copy of that,

 8 Mr. Stevenson?

 9 A. Armstrong, yes, and it is

10 addressed...

11 Q. From Mr. Armstrong?

12 A. Yes, and this memo is directed

13 towards me.

14 Q. Yes.

15 MR. MANUEL: It's Exhibit 70, Mr. Vice-

16 Chair.

17 THE VICE-CHAIR: Exhibit 70?

18 MR. JACK: No, no, I'm not sure about

19 it.

20

21 BY MR. TAPP:

22 Q. Mr. Armstrong, were you provided an

23 e-mail detailing what you are to use if termination

24 is required?

25 A. I'm sorry, I don't recall if I was.

 - 107 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 As I say, I have done this a number of times. So I

 2 don't recall that.

 3 Q. Okay. I'm just going to show you

 4 the e-mail. I'm not going to ask you to enter it.

 5 It is just to see if it refreshes your memory.

 6 MR. MANUEL: Can I see it? I would like

 7 to see what you are putting to the witness.

 8 This is a document you have created. You

 9 have created this document.

10 MR. TAPP: It's from your disclosure.

11 MR. MANUEL: No, it's not from our

12 disclosure because we would not have put

13 "December 14, 2009, volume 2N31, volume two

14 point four, four-page letter". This is a

15 document you have created. Where is the

16 document we disclosed? Is his name here?

17 MR. TAPP: True. The only thing on

18 there, we have put on it, is just to

19 identify where it was from your disclosure.

20 MR. MANUEL: You have cut and pasted

21 that e-mail.

22 MR. TAPP: Okay.

23

24 BY MR. TAPP:

25 Q. Do you have any indication in your

 - 108 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 notes or the documentation that you have with you to

 2 refresh your memory of you being provided the

 3 letter, termination letter, specifically a letter

 4 that was prepared if termination is required?

 5 A. I cannot recall receiving that. I

 6 can't tell you I didn't. I just...I don't recall

 7 that. As I say, I have been through this a number

 8 of times, and it's a set procedure.

 9 Q. Okay. I'm going to show you...do

10 you have the December 15th release from employment

11 letter with you?

12 A. Yes, I do.

13 Q. Okay, how many copies do you have?

14 A. Just one.

15 Q. Just one, fair enough. Counsel, can

16 I see that one, please? I'm showing this to counsel

17 before I direct the next question to you. You can

18 see our copy, which we have identified where it

19 comes from and the counsel disclosure, but the whole

20 e-mail...the letter, the body of the letter is

21 identical to what...the ones in the memorandum, the

22 release from employment.

23 MR. MANUEL: Ask the witness.

24 MR. TAPP: You gave me the wrong one. I

25 asked for the release of employment.

 - 109 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 MR. MANUEL: Wait a minute. He said

 2 "Notice of proposed release from

 3 employment". That is what he has

 4 identified.

 5 THE WITNESS: Sorry, are you talking

 6 about the letter from letter from Mary

 7 Silverthorn, dated the 9th?

 8 MR. MANUEL: This is getting hopeless,

 9 Mr. Vice-Chair.

10 MR. JACK: This is December 9, yes,

11 December 9.

12

13 BY MR. TAPP:

14 Q. Yes, the December 9th one.

15 A. It was from Mary Silverthorn, the

16 acting bureau commander, and it is regarding the

17 notice of proposed release from employment, and it's

18 addressed to Mr. Jack, and I was copied along with

19 the OPPA.

20 THE VICE-CHAIR: Is there a question?

21

22 BY MR. TAPP:

23 Q. Yes, there is. Was there a

24 memorandum you gave Mr. Jack on December 15th? Do

25 you have any notation in your notes?

 - 110 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 A. I gave him...I had our clerical

 2 staff prepare a resignation from the OPP and I gave

 3 it to Mr. Jack to sign.

 4 Q. And it's entitled "Release from

 5 Employment"?

 6 A. No, it's regarding resignation.

 7 It's directed to me from Mr. Jack, and it says:

 8 "...Regarding resignation from the Ontario

 9 Provincial Police..."

10 MR. MANUEL: It's Exhibit 70. He

11 identified that.

12 MR. JACK: I'm talking about a scanned

13 copy of the original document. I scanned

14 it to show him.

15 THE VICE-CHAIR: I don't know what turns

16 on this.

17 MR. TAPP: There is, because...

18

19 BY MR. TAPP:

20 Q. Mr. Armstrong, okay, we do have a

21 document. It's authored from you. It says at the

22 bottom "Chief Superintendent Armstrong", dated

23 December 15th, 2009.

24 A. Okay.

25 Q. You are saying you have to use your

 - 111 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 notes to refresh your memory because it has been

 2 long, understandable, and you're no longer with the

 3 organization. This is what we are having

 4 difficulty...we are trying to show you the document

 5 to see if you can recognize it, if it refreshes your

 6 memory. Yes, it is from the disclosure provided by

 7 counsel.

 8 MR. MANUEL: Well, show him the

 9 document.

10 MR. TAPP: Okay.

11

12 BY MR. TAPP:

13 Q. It says "Release from employment".

14 I'm going to show you the document and who it is

15 authored by.

16 MR. MANUEL: It is not authored by

17 anybody. It is not signed by anybody.

18

19 BY MR. TAPP:

20 Q. Who is at the bottom saying who

21 is...

22 A. It has my name at the bottom.

23 Q. Yes, and what does it say, from?

24 A. Well, yes, okay, it's from me and

25 it's addressed to Probationary Constable Michael

 - 112 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 Jack.

 2 Q. Okay, now, can you read that

 3 document, please?

 4 A. Yes:

 5 "...Further to our meeting today, I have

 6 reviewed the circumstances regarding your

 7 continuing employment with the OPP. My

 8 review has included your submission on the

 9 matter. After careful consideration, I

10 must inform you that effective December

11 15th, 2009 you shall be released from our

12 employ as a probationary constable. I

13 trust that you understand that such

14 decisions are not taken lightly. I also

15 wish to acknowledge that this decision will

16 obviously come as a great disappointment to

17 you, and wish you every success in your

18 current and future career endeavours..."

19 Q. Now, does that help you refresh your

20 memory?

21 A. Yes, it does. Yes, I remember that

22 document.

23 Q. Did you serve that document on Mr.

24 Jack?

25 A. No, I did not.

 - 113 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 Q. Okay, but do you acknowledge Mr.

 2 Jack getting that document?

 3 A. No, actually he should not have got

 4 that document because he resigned.

 5 Q. Well...

 6 A. And that's why it's not signed.

 7 Q. Yes.

 8 A. That document.

 9 Q. But according to that document, it

10 was authored by you.

11 A. Yes.

12 Q. You acknowledge it, and you say:

13 "...After careful consideration, I..."

14 That:

15 "...my review has included your submission

16 on the matter..."

17 A. Yes.

18 Q. True?

19 A. Yes.

20 Q. Okay, and the notice of proposed

21 release from employment specifically states that he

22 will have an opportunity to make written submissions

23 before you, correct?

24 A. Actually written submissions or meet

25 with me.

 - 114 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 Q. Or meet with you, correct?

 2 A. Yes.

 3 Q. So you acknowledge preparing that

 4 document, and you say:

 5 "...My review has included your submissions

 6 on the matter..."

 7 Yet you say he never made any. I'm having

 8 difficulty with that.

 9 A. That's why that document was never

10 served on him.

11 Q. Okay.

12 A. Because we prepare the

13 document...sorry, we prepare that document ahead of

14 time. Sometimes people resign. Sometimes they

15 don't, and I can tell you in past dismissals on

16 probation, where people have made submissions, and

17 in fact, we have deferred the meeting and held it

18 off for three and four days while we looked into the

19 submissions, and at the end of the day, if they were

20 still dismissed, then that type of letter is served.

21 It's prepared ahead of time. Obviously we

22 don't want to keep the person waiting.

23 Q. But if you are saying that if a

24 person had submissions it would take three or four

25 days according to...

 - 115 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 A. It could, but sometimes you...at the

 2 time, I have also had them make submissions that,

 3 quite frankly, were not relevant, and so that letter

 4 would be submitted at that time. So I have had it

 5 both ways, where they have raised issues that we had

 6 to look into, and then I have had times where there

 7 weren't any issues. They may have raised things,

 8 but quite frankly, they weren't relevant to why we

 9 were having the meeting.

10 Q. Did you specifically, due to your

11 position, and considering what it is you were

12 dealing with with Mr. Jack, did you specifically ask

13 him, "Do you have any submissions?"

14 A. I do, and I didn't know...I don't

15 know why it's not in my notes, but it's part of my

16 normal procedure, and I do ask that every time,

17 before I...I mean, that is why we are there.

18 Q. So you are saying you do have a

19 recollection of it?

20 A. Yes, I believe I did.

21 Q. Okay. Then if Mr. Jack...if

22 evidence revealed that he had submissions, had

23 written out submissions, would it not...would you

24 not agree if that if that question was posed to him,

25 immediately he would show you those written

 - 116 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 submissions?

 2 MR. MANUEL: I object.

 3 MR. TAPP: That he would at least...

 4 MR. MANUEL: I object.

 5 MR. TAPP: ...address that, that

 6 question, he would make a response?

 7 THE WITNESS: I don't even know what the

 8 question is.

 9

10 BY MR. TAPP:

11 Q. Okay. You said you have a

12 recollection of asking him the question, "Do you

13 have submissions?"

14 A. I believe I did, yes.

15 Q. You believe you did, okay. So what

16 was the response, if you asked that question?

17 A. I believe there wasn't one, or I

18 would have noted it.

19 Q. Yet you don't...would you not agree

20 that that is a significant point to note, based that

21 it is directly reflective of what is contained in

22 the notice that was served on him?

23 A. Yes, which is...and I believe the

24 notice states "written submissions or meet with me".

25 Q. So would you not agree that your

 - 117 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 notes, at least...

 2 A. If I had received written

 3 submissions, I would have noted it, yes.

 4 Q. But you would at least also have

 5 noted that...noted his response to your question

 6 that you put to him?

 7 A. Yes, I agree that normally I would.

 8 I don't know why I didn't at this time.

 9 Q. Okay. Could it be that he was never

10 posed that question and you have asked that question

11 from many others, and possibly it slipped your mind?

12 A. I don't believe it did because this

13 is a significant process. This is determining

14 whether we are going to hire this person for the

15 next 29, 30 years into the OPP. So it's

16 significant. It's...you know, I don't take it

17 lightly.

18 Q. Okay. So you have acknowledged that

19 it is a significant question?

20 A. Yes.

21 Q. So would you not want to write a

22 response to that significant question?

23 A. Yes.

24 Q. Okay, yet you don't have any

25 notation anywhere?

 - 118 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 A. No, I don't.

 2 Q. Okay. Did Mr. Jack, prior to him

 3 even coming to the office, was your...was it the

 4 OPP's decision to follow through with his

 5 termination?

 6 A. Yes, as indicated in the letter,

 7 barring any submissions, yes.

 8 Q. Barring any...okay, we have

 9 addressed the submissions.

10 A. Yes.

11 Q. So really your mind was made up at

12 the time he walked into the office, right?

13 A. I would say at the time he left the

14 office when he signed that paper, yes, my mind was

15 made up at that point. Walking in...

16 Q. Your mind was not made up before he

17 walked into the office?

18 A. No, because I have...because I

19 indicated in the past, I have had people raise

20 issues that we had to look into. So I'm there to

21 hear from them.

22 Q. Okay, just bear with me just for a

23 minute while I consult with my client. Would it

24 cause you concern if there were credibility issues

25 with the performance evaluations, the credibility of

 - 119 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 the performance evaluation itself? Would it cause

 2 you concern if there were identified credibility

 3 issues?

 4 A. Yes, I would have concerns. Any

 5 documentation that comes in front of me, I have to

 6 rely on the credibility of the author.

 7 MR. TAPP: Thank you.

 8 MR. MANUEL: Mr. Tapp, it's coming off

 9 to one o'clock.

10 MR. TAPP: Okay.

11

12 BY MR. TAPP:

13 Q. One question. You indicated you had

14 an opportunity to review his performance

15 evaluations, right?

16 A. Yes.

17 Q. Okay. One particular performance

18 evaluation showed that he refused to sign it, on a

19 specific date, okay?

20 A. I don't have an independent

21 recollection, but okay.

22 Q. No, I'm not asking you to testify.

23 I'm telling you what it says...

24 A. Yes, okay.

25 Q. ...specifically because you had

 - 120 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 acknowledged seeing the briefing report regarding...

 2 A. Yes.

 3 Q. ...the performance evaluations,

 4 right?

 5 A. Yes.

 6 Q. Now, if evidence revealed that that

 7 refusal was done on his regular scheduled days off,

 8 would that have been of concern to you?

 9 A. I'm sorry, I am missing...

10 Q. If evidence revealed that he never

11 did refuse it because he was off on that day the

12 supposed refusal was done?

13 A. Then I don't know how he can refuse,

14 if he is not there.

15 Q. Exactly, but that particular...if

16 evidence revealed that particular evaluation was not

17 disclosed on September 11th, but disclosed toward

18 the end of September, 11th, okay, and when he was

19 given that evaluation he already saw it had

20 "Refused" on it?

21 THE VICE-CHAIR: Would you be concerned?

22

23 BY MR. TAPP:

24 Q. Would you be concerned?

25 A. I would have some questions, yes.

 - 121 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 MR. TAPP: Okay, good, thank you very

 2 much.

 3

 4 BY MR. TAPP:

 5 Q. Did you see...did your review also,

 6 and upon reading the briefing note, did you take

 7 into account the point form chronology that would

 8 have...

 9 A. The briefing note you're...

10 Q. The briefing notes on the summary of

11 the performance evaluations, okay, one. Did you

12 also take into account the point form chronology of

13 the officers involved with Mr. Jack from the

14 detachment?

15 A. I don't know that document.

16 Q. Okay, I'm just going to show you

17 because we addressed this earlier. This is a point

18 form chronology regarding Mr. Jack, okay.

19 A. Yes, I don't know that I have seen

20 this before.

21 MR. TAPP: Okay, fine, thank you. We

22 won't ask any more about that. Mr.

23 Armstrong, thank you. I thank you very

24 much. I was on a time frame and I beat it

25 by two minutes.

 - 122 - M. Armstrong

 Ex-in-Ch (L. TAPP)

 1 THE VICE-CHAIR: Any cross?

 2 MR. MANUEL: No cross.

 3 THE VICE-CHAIR: Okay, thank you, Mr.

 4 Armstrong.

 5 MR. MANUEL: Perhaps we can just

 6 schedule a case conference call at the

 7 earliest opportunity to deal with next

 8 steps.

 9 THE VICE-CHAIR: Yes, of course.

10

11 --- upon recessing at 12:58 p.m.

 - 123 -

 1 INDEX OF EXHIBITS

 2

 3

 4 EXHIBIT NO. DESCRIPTION PAGE NO.

 5

 6

 7 128. Individual regional structure

 8 chart, January 5, 2009 16

 9

10 129. Individual regional structure

11 chart, December 5, 2008 17

12

13 130. Hugh Stevenson's notes, six pages 27

14

15 131. Two e-mails from Mike Johnston to

16 Hugh Stevenson, both dated

17 September 11, 2009 35

18

19 132. Two e-mails from Mike Johnston to

20 Hugh Stevenson, both dated

21 September 11, 2009 50

22

23 133. E-mail from Hugh Stevenson to

24 Martin Graham et al 67

25

 - 124 -

 1

 2

 3

 4

 5 I hereby certify the foregoing to be a true and

 6 accurate transcription of the above noted

 7 proceedings held before me on the 12th DAY OF

 8 FEBRUARY, 2016 and taken to the best of my skill,

 9 ability and understanding.

10

11 }

12 } Certified Correct:

13 }

14 }

15 }

16 }

17 }

18 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

19 } Arianna M. Rodriguez

20 } Verbatim Reporter

21 }

22

23