Tribunal File No.: 2010-07633-I

HUMAN RIGHTS TRIBUNAL OF ONTARIO

AR/am

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

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HELD BEFORE: Keith Brennenstuhl, Vice-Chair

HELD AT: HRTO - Human Rights Tribunal of Ontario

655 Bay Street, 14th Floor

Toronto, Ontario

HELD ON: September 8, 2016

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APPEARANCES:

LLOYD TAPP -- for the Applicant

MIMI SINGH -- for the Respondent

HEIDI BLUTSTEIN

ALSO PRESENT:

Michael Jack

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- 4 - General Discussion

1 --- upon convening at 9:30 a.m.

2 --- upon commencing at 9:40 a.m.

3

4 GENERAL DISCUSSION:

5 THE VICE-CHAIR: Still your witness.

6 MR. TAPP: Thank you, Mr. Vice-Chair.

7 THE VICE-CHAIR: Mr. Campbell, I would

8 just remind you that you remain bound by your

9 affirmation to tell the truth.

10 THE WITNESS: Okay, thank you.

11 MR. TAPP: Thank you. Before I start,

12 Mr. Vice-Chair, and Mrs. counsel, yesterday evening

13 I took the time to carefully review how much I

14 succeeded in asking Mr. Campbell and how much is

15 still left. I can assure you, Mr. Vice-Chair and

16 Mrs. Counsel, that I need Mr. Campbell on the stand

17 for at least this day. That all depends on

18 counsel's objections. Mr. Campbell has been giving

19 us straightforward answers, and I do not see him as

20 being a delay. Counsel raised many objections

21 yesterday, and they were very lengthy. Counsel

22 raised objections to matters that had already been

23 decided upon during the previous several hearing

24 days, such as your request, Mr. Vice-Chair, for

25 transcripts of the previously disclosed and played

- 5 - General Discussion

1 audio recordings. Objecting to entering an exhibit

2 that was their own piece of disclosure

3 Gravelle's...entering point-form chronology as an

4 exhibit that was decided upon...

5 THE VICE-CHAIR: Sorry, Mr. Tapp. I am

6 not quite clear why these submissions are being

7 made.

8 MR. TAPP: It will become very clear,

9 Mr. Vice-Chair.

10 THE VICE-CHAIR: Well, could you make it

11 clear quickly?

12 MR. TAPP: Okay.

13 THE VICE-CHAIR: I mean, this is part of

14 the reason why we are...

15 MR. TAPP: Okay...

16 THE VICE-CHAIR: ...taking so long.

17 MR. TAPP: ...your time. I will read it

18 a little faster, and that is just to name a few. If

19 counsel had not raised the lengthy objections

20 yesterday to these apparent matters and much more,

21 we would have moved faster and would have

22 accomplished much more. Given all this, I can

23 assure you that I need Campbell on the stand for

24 this day. I will take my time to do my job right.

25 I reiterate, Mr. Campbell, Counsel has taught me

- 6 - General Discussion

1 yesterday that Mr. Jack had his opportunity to

2 testify about certain things during his

3 examination-in-chief, and we had our opportunity to

4 question previous witnesses, totally disregarding

5 although she wasn't knowledgeful of the time

6 restraints we had. So, I am advising you this

7 clearly of what I am doing today. And I thank Mrs.

8 Counsel for that. I learn as we go. If counsel was

9 conscientious with the amount and length of her

10 objections, I hope to finish Mr. Campbell at the end

11 of this day. I went through only a portion of what

12 is prepared, and I will address all the materials I

13 have prepared today. And all I can suggest to you,

14 Mrs. Counsel, is to contact Mr. Filman and let him

15 know beforehand that his presence is not needed

16 today. And he will be dealt with in entirety on

17 Friday. Thank you, I will continue.

18 MS. SINGH: Mr. Vice-Chair, can I make

19 some submissions? I would ask, you know, we are now

20 here for the respondent to put in their case. And

21 the applicant has not closed their case. We have

22 Mr. Campbell. We have Mr. Filman coming today and

23 tomorrow, and Mr. Filman is not available after

24 tomorrow. Would it be possible, sir, in light of

25 the need to get this case closed...it has been going

- 7 - General Discussion

1 on for eight years. This is very, very unfair to my

2 witnesses...that there be time limits imposed here.

3 The applicant thinks, for whatever reason, that the

4 witness needs to read in the documents before

5 answering a question. The witness is more than

6 capable of looking at a document, identifying it.

7 If he recognizes it, he can answer a question. We

8 are wasting a lot of time, and it has been eight

9 years, sir. So, I would, in my respectful

10 submission, ask that time limits be imposed. Mr.

11 Filman will be here at 1:00. The applicant will

12 then close his case. I will then open the

13 respondent's case, and we can put Mr. Filman on the

14 stand, and get him in and out tomorrow on schedule.

15 I think that these delays will never end, and it is

16 in no one's interests, it is in no one's interests.

17 The case does not improve by lengthening the case.

18 THE VICE-CHAIR: I appreciate that.

19 MS. SINGH: Thank you, sir.

20 MR. TAPP: Okay.

21 THE VICE-CHAIR: I am going to take up

22 the suggestion about putting a time limit on this

23 witness. I think you have had him for how long now?

24 MR. TAPP: Two hours yesterday.

25 THE VICE-CHAIR: Two hours?

- 8 - General Discussion

1 MR. TAPP: Yes, because we took a lunch.

2 So, at the most three hours yesterday.

3 THE VICE-CHAIR: Okay. I am suggesting

4 that you tailor your questions so that we finish

5 with this witness by 1:00. Okay?

6 MR. TAPP: Well, I will try to keep with

7 that.

8 THE VICE-CHAIR: I would appreciate it.

9 MR. TAPP: I cannot guarantee, but I

10 will try.

11

12 MELVILLE RONALD JEROME CAMPBELL, resumed

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

14 Q. So, yesterday...you have that e-mail

15 still before you, the two e-mails, August 16 and 17,

16 subject, "Mr. Jack, deceit"?

17 A. Which number does it have on the

18 top?

19 Q. It will be Exhibit 152, but on the

20 top...

21 MR. JACK: Well, 30, there is a number

22 on them...

23 MR. TAPP: 32 on the top-right?

24 THE WITNESS: Okay. I have it in front

25 of me, sir.

- 9 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1

2 BY MR. TAPP:

3 Q. Okay. In essence, what Police

4 Services Act offence was Mr. Flindall accusing Mr.

5 Jack of?

6 A. Mr. Flindall was not accusing

7 anyone. This e-mail is from Trevor Banbury.

8 Q. Sorry. Mr. Banbury. By virtue of

9 that subject, what accusation was Mr. Banbury

10 accusing Mr. Jack of?

11 A. Feigning illness.

12 Q. But that is not an actual offence in

13 the police...it is under a category of...

14 A. Code of conduct.

15 Q. Code of conduct. Would deceit and

16 deceitfulness be correct?

17 A. It is, but there is a section for

18 feigning illness.

19 Q. Thank you. Did you at any time in

20 your correspondence, e-mails with Mr. Banbury,

21 indicate or state, that Banbury should know all

22 about that?

23 A. I did.

24 Q. Yes. Could you tell us about that,

25 please?

- 10 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. I can. As I was the operations

2 manager, and there were a number of rules put into

3 place when I was doing that job because people would

4 call in sick, or later they would claim that it was

5 a reoccurrence of a WSIB injury. And as a result,

6 instead of...when they called in sick originally,

7 they would have sick credits taken out of their

8 bank. Later at the end of the year, they would say,

9 "Oh, no, that was a reoccurrence".

10 So, when someone called in sick, they had

11 to talk to a supervisor. They had to provide...we

12 didn't need to know any health details other than

13 they were sick, and the supervisor took that

14 information. One of Mr. Banbury's members missed a

15 shift. This person had attendance issues.

16 As a result, I investigated that further,

17 and the reason he called in sick was he had said he

18 was at his specialist's appointment in Toronto. I

19 just asked who his doctor was. I made a call, and I

20 explained to the health professional, "I don't need

21 to know any diagnosis, any health issues. All I

22 need to know is did this office have an appointment

23 that day?" And the answer was, "No, we haven't seen

24 this officer for some time", and the investigation

25 revealed that the person had actually been in

- 11 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Toronto and wanted to see a Toronto Blue Jays game,

2 and was absent from work without excuse.

3 So, in that case, Sergeant Banbury was the

4 supervisor who had approved it. PSB initiated an

5 investigation, and this was prior to Mr. Banbury

6 coming forward and saying that Mr. Jack had feigned

7 illness. So, that is what I meant by that comment.

8 Q. Thank you. But with respect to Mr.

9 Jack, was Sergeant Banbury's allegation towards him

10 substantiated? You did an investigation of that,

11 right?

12 A. Yes, it was not.

13 Q. Thank you. I direct your attention

14 to the point-form chronology you have on your desk.

15 Specifically I direct your attention to your entry

16 of 16th of August, 2009, please, at 19:40 hours.

17 A. Yes.

18 Q. You made that notation in your notes

19 to reflect that?

20 A. Yes.

21 Q. Thank you. If Banbury wanted to

22 initiate an internal complaint, would that be a

23 Professional Standards Bureau complaint?

24 A. What happens is there is a form when

25 you initiate a complaint. It is either an internal

- 12 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 or public...it goes forward, it comes to the next

2 person in charge, which would have come to me. And

3 I initiated my own investigation. And it was

4 terminated at that point.

5 Q. Okay.

6 A. But he didn't actually initiate any

7 paperwork. That was just his verbal statement that

8 this was feigning illness, and he wondered if an

9 internal complaint should be launched. But before

10 anything happened, it was investigated, found to be

11 unfounded, and that was the end of it.

12 Q. Thank you. And I don't believe he

13 did initiate one. But you clearly indicated to

14 Banbury the importance of what? Read your last

15 sentence in that note.

16 A. "...In any situation, there are two

17 sides and different perspectives to a

18 story. You may have one side, and it may

19 look damaging, but there could be a

20 perfectly reasonable explanation for

21 anything..."

22 Q. And did you take the opportunity to

23 speak to Michael about this allegation?

24 A. I am not sure, but I think that it

25 may have been brought up in conversation. But it

- 13 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 wasn't a disciplinary or it wasn't a...it was just a

2 general conversation. I don't remember

3 specifically.

4 Q. Okay. Did you ask Mr. Banbury if he

5 had taken the opportunity to speak to Mr. Jack

6 before making this allegation, or bringing it to

7 your attention?

8 A. I don't recall what the exact

9 conversation eight years ago were, but I assure

10 you...

11 Q. Well, maybe you have a notation in

12 your notes on that date. That is okay, Mr.

13 Campbell. I am going to...

14 A. But I do have this notation in my

15 notebook on the back of page 1. My notebook, 17th

16 of August to the 14th of September, Sergeant Banbury

17 told Agotini to put in a duty report. He wanted to

18 know what we were going to do about it, referring to

19 Mr. Jack being absent from work. I advised that on

20 the surface, it may look pretty damaging, but we

21 need to hear his side, and also such time...there

22 has not been an issue with Mr. Jack abusing sick

23 time.

24 Q. Thank you. So, then, by August

25 17th, you were aware that Sergeant Flindall

- 14 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 threatened Mr. Jack's employment by telling him his

2 job was in jeopardy. Sergeant Flindall disallowed

3 Jack to work overtime for shift shortages and cover

4 shifts for others. Sergeant Flindall charged Mr.

5 Jack under the Highway Traffic Act with your full

6 knowledge, and Sergeant Banbury had made an

7 accusation towards Mr. Jack to you, brought it to

8 your attention, of Mr. Jack's possible deceit with

9 respect to a sick day. Correct?

10 A. On the 17th, I did speak to Sergeant

11 Flindall about matters being investigated before

12 coming to a conclusion. Yes, Sergeant Flindall

13 charged him under the HTA. Yes, Sergeant Banbury

14 brought forward a complaint that he had feigned

15 illness. But as per the not working extra shifts

16 and overtime dealt with his need to be more closer

17 supervised. In this chronology, it talks about him

18 being tired and overtired from shifts. It had more

19 than one facet to it. It wasn't simply that they

20 were denying him to work on other shifts because

21 they wanted to ensure that he was rested, he was

22 getting the proper supervision, and he was doing his

23 job. And he did acknowledge, he did, in my view,

24 for what I knew at the time, to me he had skipped

25 the progressive steps of discipline.

- 15 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. So, he made progressive steps of

2 discipline towards Mr. Jack, correct?

3 THE VICE-CHAIR: No.

4 THE WITNESS: No, he...what he did was

5 when you have progressive steps of

6 discipline, you start out by identifying

7 the problem to the person, giving them a

8 chance to correct it. Mr. Jack is a

9 probationary officer. You will make

10 mistakes in your career. You just can't go

11 from making mistakes to you are going to

12 lose your job. You have to have a plan in

13 place so the person can improve. And I

14 think that Mr. Flindall had lost that focus

15 of being...

16

17 BY MR. TAPP:

18 Q. A mentor?

19 A. Of being a mentor, because I think

20 it is like...you know, I will give you the analogy

21 in sports. If Mr. Flindall is the quarterback and

22 he throws the ball to Mr. Jack and every time he

23 drops the ball, he is not going to throw the ball to

24 him, but it is important that Mr. Jack learn to

25 catch the ball or do his job. He is going to make

- 16 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 mistakes. So, he had become frustrated.

2 Q. Good. So, as of August 17th, you

3 realized all of that, that you just talked about?

4 A. Yes.

5 Q. Yet I am curious to why, on page 9

6 of month 5 evaluation, you make the comment of:

7 "...No issues with the member's development

8 have been raised..."

9 And it is dated August 17th?

10 A. Because this evaluation is an

11 evaluation period from the 9th of May to the 9th of

12 June. If it had have been on time, then it wouldn't

13 be fair of anyone to put in it on the 17th of

14 August, these problems came to light. These are

15 talking about his work period of time between the

16 9th of May and the 9th of June. So, for that period

17 of time, between the 9th of May and 9th of June,

18 despite it being signed in August, it is in May to

19 June, there were no new issues identified to me,

20 although I know now there were plenty of issues and

21 they should have been brought forward, but they

22 weren't.

23 Q. Okay, fair enough. But like you

24 said, if it had have been disclosed in a timely

25 manner...but you agree it was not disclosed in a

- 17 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 timely manner, correct?

2 A. Correct.

3 Q. Okay. Which is why Mr. Jack...there

4 are certain comments in Mr. Jack's section that also

5 talks about as of August 19th what he was aware of.

6 Correct?

7 A. Correct, and that would be coming up

8 in the next evaluation.

9 Q. Good. So, really, to anybody

10 looking at that evaluation, mainly regional command,

11 as of August 17th, there are no issues, yet August

12 19th, Mr. Jack is making comments of issues that

13 have been addressed or brought to his attention...

14 A. Actually, what you are saying is not

15 true.

16 Q. Okay.

17 A. As of his evaluation period between

18 the 9th of May and the 9th of June, there were no

19 issues documented or brought forward to my attention

20 or in this document which was evaluating that time

21 frame. So, it would not be prudent or fair to write

22 that, "But in the next evaluation that we aren't

23 even talking about, or don't have examples in here,

24 there are all these issues".

25 Q. Okay.

- 18 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. Do you understand what I am saying?

2 Q. I understand what you are saying,

3 Mr. Campbell. Now, when was the next evaluation

4 shared with Mr. Jack?

5 A. I believe from memory, it is within

6 a few days.

7 Q. Pardon me?

8 A. Within a couple of days.

9 Q. Okay. Would you be surprised to

10 know within 24 hours?

11 A. Would that not be within a few days?

12 24 hours is a day, so two days.

13 Q. Yes, it would, thank you. What

14 prompted the decision to move Mr. Jack to a shadow

15 platoon?

16 A. To an opposite platoon?

17 Q. Yes.

18 A. At first, when the problems came to

19 light, and as in human nature, it is always easier

20 to sort of ignore the problem, things will get

21 better. But they don't get better on their own.

22 And it is always more difficult, and a lot more

23 work, for the coach and the supervisor to actually

24 identify and work with the problem. But these

25 problems with his performance did not go away. So,

- 19 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 when it became apparent that, in my view, it was my

2 view that Rob Flindall, Sergeant Flindall, had lost

3 his focus, that it needed another set of eyes. My

4 first thoughts were that this was a problem on that

5 shift, that they should do the work to correct the

6 problem, and help Mr. Jack meet his goals. But it

7 became evident that Mr. Flindall's confidence in

8 him...as I said, you throw the ball to the guy,

9 every time he drops it, you are not going to throw

10 the ball to him. He needed...in consultation with

11 acting Superintendent Doug Borton, that with his

12 guidance, that the only choice was to move him,

13 because I learned that Mr. Flindall...and through

14 Trevor Banbury, had asked him to...he told him he

15 would be documenting his performance.

16 And not only do you need to document

17 negative performance, you need to document positive

18 performance. And you also...my view, it wasn't fair

19 that the shift that followed Flindall's would be

20 looking to see if Mr. Jack wasn't doing something

21 right. He needed a fresh set of eyes, and that was

22 the decision. Because under...it could turn into a

23 poisoned work environment, and under workplace

24 harassment, discrimination is also prevention. So,

25 to move him it was a prevention so it would not

- 20 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 escalate or grow.

2 Q. Did you not think it strange that as

3 of month 5, his previous three evaluations revealed

4 no negative ratings, and then all of a sudden the

5 evaluation period for 9th of June to 9th of August

6 revealed...which is the very next one, revealed 17

7 negative ratings? Ten negative ratings?

8 A. It was documented that these were

9 the issues, and the problem was that, as his

10 association rep had pointed out, it was unfortunate

11 that the evaluations weren't on time. And it was

12 also unfortunate that the supervisor and coach

13 officer didn't do it in a timely manner, because in

14 my opinion, looking back, there were these

15 performance issues that were ignored until they

16 built up.

17 Q. Fair enough. We will probably get

18 to that later. I am directing your attention to an

19 August 18th e-mail from you to Inspector Johnston.

20 MR. JACK: It is a tendered exhibit

21 already, 99.

22 THE VICE-CHAIR: Thank you.

23 MR. JACK: So we don't need to tender it

24 again.

25

- 21 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 BY MR. TAPP:

2 Q. You acknowledge sending that e-mail?

3 A. I do.

4 Q. On the content of that e-mail, it

5 looks like you did do some checking, or some sort of

6 investigation of your own, and came up to some

7 conclusions?

8 A. From...yes.

9 Q. Okay. I need you to read that,

10 please.

11 A. Which part do you need me to read?

12 Q. That e-mail. Forget about who it is

13 from, we have already identified that. Start with

14 Mike.

15 A. "...Mike, I know Sergeant Flindall

16 was in to see you last week and this week

17 when I came back and wanted to move

18 Constable Jack from shift. Your response

19 at the time was, no, he had more or less

20 been in charge of ensuring proper

21 supervision occurred. Since that decision

22 was made with the background of Constable

23 Jack's call to Staff Sergeant Kohen and

24 Sergeant Flindall's statement to Constable

25 Jack.

- 22 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A) his job was in jeopardy for

2 failing to follow direction given to him on

3 the cc investigation he answer shopped

4 [it], and [he] didn't do as instructed; B)

5 he would be watching his every move and

6 documenting it; C) a charge under the HTA

7 for driving error on the 12th of August; D)

8 apparent discussions, Sergeant Flindall has

9 asked his entire shift to monitor Jack's

10 actions and contact him for any issues

11 this also spread to Platoon B.

12 On Sunday Jack called in sick, and

13 there was some talk by Platoon Sergeant

14 "B", Sergeant Banbury, because he called in

15 sick, he thinks he was deceitful and wants

16 to investigate why he told a person on an

17 incident on Saturday, prior to calling in

18 on Sunday, that he was not coming in and

19 was sick. I will look into this on

20 Wednesday, the first shift back. It is my

21 feeling that it is because he is feeling

22 vulnerable as a new employee with a

23 language issue, and an immigrant to the

24 country, that he is feeling the stress of

25 his supervisor's comments.

- 23 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 No matter how well-intentioned, it

2 is likely resulting in a poisoned work

3 environment and/or a possible HR complaint

4 [human rights complaint]. I think the

5 supervisor has lost the focus. He is here

6 to assist and correct Constable Jack, as

7 well as discipline him for transgressions

8 that are not learning issues. I have

9 touched on this with Sergeant Flindall and

10 will do so again on Wednesday in private.

11 Both you and I discussed this, and it

12 appears this officer is being left on his

13 own to fully investigate matters beyond his

14 experience level. When Sergeant Flindall

15 came to me, this was addressed as he knew

16 it was an issue. Sergeant Flindall insists

17 he was given proper direction and fully

18 understood the directions; he just did not

19 complete..."

20 Q. Okay.

21 A. "...As per your request, I followed

22 up, updated the briefing note for Acting

23 Superintendent Borton and Inspector Lee and

24 sent a message directly to Kent Taylor

25 asking for a driving assessment of Jack. I

- 24 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 received a call back from Acting

2 Superintendent Borton today, and he thinks

3 some fresh eyes are needed to continue this

4 member's evaluation and give a fresh

5 perspective on the suitability with the

6 OPP.

7 I am moving him completely away from

8 the A and B side to platoon D. I have

9 discussed with Sergeant Rathbun and

10 Sergeant Smith, and with the bodies coming

11 back in September and the new transfer of

12 Rowe from Haldimand in October, each

13 platoon will be left with 12 persons.

14 Platoon D gives him a new start, and I am

15 awaiting Rich Nie to awaken for shift

16 tonight to advise him of the decision that

17 he will be the new coach officer for the

18 remainder of Constable Jack's probation.

19 Rich is a very level-headed person, and by

20 having him on the opposite side gives Jack

21 a new start from the side with the

22 assignment...from the alignment of A and B

23 sergeants of not only being relatives, but

24 good friends, will assist in having an

25 objective look at this employee.

- 25 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 The tentative date for the movement

2 is the 30th of August, 2009. Since his

3 seven-month evaluation will be due on the

4 27th of August...and outline the issues

5 from his present coach and sergeant,

6 although this start prior to the end of the

7 current schedule, which runs to the 12th of

8 September may violate the Memorandum of

9 Understanding, or MOU, as it is now called

10 the collective agreement, that all rest

11 days are set in stone until the new

12 schedule is posted. It still complies with

13 giving him at least seven days notice of a

14 shift change. The new schedule will not be

15 posted until tomorrow at noon. So, I am

16 sure the parties will agree to the move to

17 give everyone a fresh start..."

18 Q. Thank you. So, it is clear that it

19 was your feeling that Mr. Jack was vulnerable, due

20 to his vulnerability as a new employee, and his

21 language issues, and as an immigrant to the country,

22 that he was feeling the stress of everything?

23 A. Yes, I try to put myself in others'

24 shoes.

25 Q. Thank you. So, is it correct that

- 26 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 you warned Flindall of this when you made these

2 assertions in here that he had lost objectivity or

3 lost focus on Mr. Jack?

4 A. Yes, I spoke to him.

5 Q. Thank you. And you also talked to

6 him about helping create or possibly create a human

7 rights complaint by his actions?

8 A. I felt if it was not checked...it is

9 prevention policy, that it could lead to that.

10 Q. Yes.

11 A. Those are my feelings.

12 Q. I direct your attention...keep that

13 open. I direct your attention to your point-form

14 chronology of August 17th, please. August 17th,

15 2009. Do you see why I asked the question that you

16 addressed, that you specifically discussed with

17 Flindall the potential of a human rights complaint?

18 A. I am not sure I am following you.

19 On the 17th...

20 Q. Okay.

21 A. ...of August, it is in point form at

22 13:30 and 14:00 hours, prior to this e-mail, I had

23 spoken to Flindall.

24 Q. Yes, because you would have...thank

25 you. Read your 14:00 hours comment, please.

- 27 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. "...Staff Sergeant Campbell

2 discussed with Flindall the potential of a

3 human rights complaint and the importance

4 of being objective, and also getting a

5 learning plan to correct PC Jack's issues.

6 Staff Sergeant Campbell would be

7 resubmitting the briefing note for the

8 driving incident at the request of Acting

9 Superintendent Borton..."

10 Q. Thank you. In that August 18th

11 e-mail, you touched on and talked about

12 Campbell...rather, Mr. Jack contacting Staff

13 Sergeant Kohen, correct?

14 A. In the 18 point form or...

15 Q. No, the August 18th e-mail, that

16 lengthy e-mail that you read.

17 A. Yes.

18 Q. Okay. Now, I am showing you an

19 e-mail, August 20th, from you to Sergeant Flindall.

20 Copies are being handed out. Flindall was concerned

21 about what Mr. Jack said to Staff Sergeant Kohen,

22 correct?

23 A. From this e-mail? He is concerned

24 about regional command staff. I don't know whether

25 it is specifically Sergeant Kohen.

- 28 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Can you read the original message

2 dated...

3 A. 20th of August?

4 Q. ...20th of...from Flindall to you,

5 and then your response.

6 A. "...A question for you when you are

7 not busy. What has been the view of Region

8 in regards to PC Jack? Are they all with

9 anything we have done, not done, a.k.a. are

10 we in any shit? Or are they satisfied with

11 everything that has happened [I believe it

12 is to 'to date'. It is blurred]..."

13 Q. Okay, fine. Can you read your

14 response to Flindall above?

15 A. "...I have no idea. No one has

16 mentioned anything to me..."

17 Q. So, it does look like Flindall was

18 concerned that somebody be might in shit, by the use

19 of the term "we"? Well, you tell us, what did you

20 interpret...

21 MS. SINGH: This witness can't comment

22 on what Mr. Flindall was thinking. You

23 will have your opportunity to ask that

24 question of the witness.

25 MR. TAPP: All right.

- 29 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MS. SINGH: Mr. Flindall is coming in

2 next week.

3

4 BY MR. TAPP:

5 Q. What did...when Flindall sent that

6 original e-mail to you, you knew what he was talking

7 about, correct? Or were you totally oblivious, and

8 you asked him, "What is this e-mail about? What

9 kind of shit are you talking about?"

10 A. I understood what he was talking

11 about.

12 Q. Okay. What was he talking about?

13 A. He was feeling that there hadn't

14 been proper...in my view, there hadn't been proper

15 supervision or documentation in regards to Constable

16 Jack, and that Region would be not happy that he

17 felt...I really can't answer what he felt, but...

18 Q. Fair enough.

19 A. ...it is my opinion that he felt

20 whether there would be repercussions from Region,

21 because you have a job to do, and obviously he

22 hadn't supervised enough.

23 MR. TAPP: Thank you. At this point,

24 Let's turn to an August 18th in succession

25 as the next...yes. This as the next

- 30 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 exhibit, please, August 20th, because the

2 August 18th e-mail is already tendered.

3 THE VICE-CHAIR: Okay, 154.

4 MR. TAPP: One page.

5 THE VICE-CHAIR: One page.

6

7 --- EXHIBIT NO. 154: E-mail exchange between Messrs.

8 Campbell and Flindall, dated August

9 20, 2009

10

11 BY MR. TAPP:

12 Q. I am having Mr. Jack hand out

13 another e-mail from you between you and Mr.

14 Johnston, dated August 21st, 2009. This has not

15 been entered as an exhibit. Okay, rather than read

16 it all the way, I need you to read this entire

17 e-mail, that one page, please. It is from you, date

18 and time, to who?

19 A. From myself, 21st of August, 2009 at

20 9:22 a.m. to Mike P. Johnston, subject re Michael

21 Jack platoon D:

22 "...In answer to your question why was he

23 moved. I had cc'ed you and Acting

24 Superintendent Bolton regarding the driving

25 issue. I also added my thoughts on the NCO

- 31 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Flindall losing objectivity with him. He

2 has his shift and Sergeant Banbury's shift

3 all watching the officer and reporting any

4 screw-ups. Coupled with this, the

5 statement from Sergeant Flindall he admits

6 making, but not in the context that

7 Constable Jack has reported.

8 One, his job is in jeopardy. Two,

9 he will be documenting his every move, and

10 he will be getting paper on issues that

11 have been discussed. This was after not

12 following his direction on a criminal

13 harassment charge. Then he screws up with

14 the cruiser, witnessed by Flindall and

15 Payne, and is given a ticket under the HTA

16 and a 233/10. Sergeant Banbury comes to me

17 complaining Jack has feigned illness the

18 next day. I investigated and thank

19 goodness he wrote his medical issues in his

20 daily journal.

21 Saturday afternoon, along with the

22 witness who assisted him in the CP

23 community policing office in Buckhorn that

24 Saturday afternoon, he reports this

25 continued through the night. I really

- 32 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 think it is stress-related from the

2 scrutiny he is under. Banbury wanted him

3 charged with deceit (he should know all

4 about that). In any event, this is

5 unfounded. Finally, his present coach,

6 Shaun Filman, is going off on four months

7 parental leave starting in September.

8 So, with all the issues in the

9 e-mail to yourself and Doug Borton, Doug

10 Barton advised he felt the only thing to do

11 was move him. You will note I advised this

12 was against an earlier decision you had

13 made, but with this further info, I think

14 we are heading to an issue, as Mike is

15 basically an immigrant of Jewish

16 background. You and I discussed we felt he

17 was being targeted. To his own demise, he

18 has alienated his shift by not being 100

19 percent truthful when shopping for answers.

20 On Wednesday, Mike Jack, Rob Flindall, his

21 OPP alternate rep, Mitch Anderson and

22 myself sat down and all the issues

23 surrounding Mike were discussed in his

24 presence with the OPPA rep.

25 Long and short, Sergeant Flindall

- 33 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 was advised that supervision is an issue

2 here, that Constable Jack needs one-on-one

3 supervision to correct the problems. Work

4 improvement plans need to be in place and

5 direct supervision from a coach. Both he

6 and Mitch brought up everything has been

7 thrown at him at once without proper issues

8 reported on his PCS-066. It is also

9 apparent Constable Jack is not following

10 direction. Constable Jack will be given an

11 independent assessment by Rich Nie to avoid

12 a possible HR complaint.

13 Interestingly, Constable Jack

14 brought up in a meeting he felt he had been

15 left on his own to investigate matters in

16 which he had no experience. He also

17 brought up but refused to name officers on

18 his shift for inappropriate remarks and

19 berating him in front of his shift, as

20 well. In other words, workplace harassment

21 and discrimination policy. I assume it is

22 in relation to his ethnic origin. Anyways,

23 I stressed the importance of him coming

24 forward, and also stressed this issue to

25 his new coach. I stressed in Rob's

- 34 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 presence the duty of management to stop it

2 if it occurred.

3 Then yesterday I got a call from

4 Brian Glikinson about the utter poor

5 quality of three Crown briefs handed in by

6 Constable Jack. He stated there was no

7 basis for a charge in any of these cases,

8 as all of it amounts to a collection of

9 one-line statements by the alleged

10 complainants with no basis or facts to

11 prove that the accused actually did...did

12 it nor it is pretty faded here] nor

13 [something] harassment, exactly what

14 Sergeant Flindall had given him a negative

15 233-10.

16 Interestingly enough, Sergeant

17 Flindall had just got done complaining to

18 me about Bob L. from the Court sending the

19 very brief back, saying there was no

20 offence for the same reasons that the Crown

21 is now stating. So, I brought this to his

22 attention that, again, it was simply

23 unsubstantiated rumours and investigation

24 needed to be completed. The same goes for

25 a brief on [I don't know which case it was.

- 35 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 It is blanked out.] So, again, I ask Rob,

2 where is the coach officer who should be

3 guiding this? And where is the vetting of

4 the briefs by him? Sergeant Flindall has

5 now taken on the responsibility of

6 following up on both cases involving

7 Constable Jack's briefs and investigations,

8 as this is as much of a screw-up by him..."

9 Q. Thank you, Mr. Campbell. That was a

10 rather detailed document you prepared to Mr.

11 Johnston. Now, I am curious about your comment in

12 paragraph 6, the second-last line:

13 "...Without prior issues reported on the

14 PCS-066..."

15 That is his performance evalution reports?

16 A. Okay, yes.

17 MR. TAPP: Okay. So, can we have this

18 entered as the next exhibit, please?

19 THE VICE-CHAIR: So, 155.

20

21 --- EXHIBIT NO. 155: E-mail exchange between Messrs.

22 Campbell and Johnston, dated August

23 21, 2009

24

25 BY MR. TAPP:

- 36 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Were you aware that in the first

2 eight months of Mr. Jack's probationary term,

3 Sergeant Flindall had only one performance

4 evaluation meeting with him?

5 A. No.

6 Q. Thank you. But you did know, at

7 least as of that August 21st e-mail that you just

8 read, that Sergeant Flindall had lost objectivity

9 with Mr. Jack, correct?

10 A. That was my opinion, yes.

11 Q. Your opinion. And did...I ask you

12 to refer to your notes of July 22nd, 2009, please.

13 A. June or July?

14 Q. July 22nd, 2009.

15 A. Can you tell me which page, please?

16 MR. JACK: The page is 66.

17

18 BY MR. TAPP:

19 Q. Page 66, please.

20 A. Yes, a ten...

21 Q. We have a copy of those notes over

22 here, and a copy of the transcript that previous

23 counsel provided regarding those notes. I am going

24 to show you a copy of the transcript of that

25 particular page that was disclosed to us. Would you

- 37 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 agree that transcription is accurate for the portion

2 of the page it relates to?

3 A. Page 66, and into the back of 66?

4 Q. Well, whatever that transcription...

5 counsel provided it to us. Whatever that

6 transcription will relate to. You have...

7 A. These are my notes, yes.

8 Q. Okay. It is an accurate

9 transcription of your notes?

10 A. It is a summary of what was

11 discussed, to cue my memory, yes.

12 Q. Thank you. Can you read what you

13 have in that transcription, please? Or in that

14 transcription of your notes...

15 A. From?

16 Q. "Robert Flindall discussed".

17 A. Okay:

18 "...Robert Flindall discussed FOCA [which

19 is Federation of Cottage Owners private

20 roads]. Constable Jack issue with him and

21 Jenn Payne assisting as mentor. Not able

22 to multi-task, not able to take direction.

23 Out at CPO [which is 'community policing

24 office'] in Buckhorn. Working on a fraud,

25 multiple jurisdictional video interview of

- 38 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 witness. Quick synopsis point form not

2 transcribed three hours later. [It says]

3 up zone notebook for time, separate

4 notebook..."

5 And I wrote:

6 "...Can't have two notebooks. I advised to

7 document problems by coaches, work

8 improvement plan, track all issues on his

9 PCS-066. This is why they need to be

10 up-to-date. Synopsis needs to be brief.

11 Was 1.5 pages for three hours. Social

12 issues [I think 'in', 'on'] his shift,

13 advises up to him to look after...to me

14 before person work environment to ensure

15 people are professional..."

16 I believe that is what it says.

17 Q. So, you agree you gave Sergeant

18 Flindall some specific direction?

19 A. Yes.

20 Q. Thank you. And you gave those

21 specific directions as early as July 22nd?

22 A. Yes, concerning that supervision

23 and...

24 Q. Thank you. Now, you are fully aware

25 of OPP orders respecting how many notebooks a road

- 39 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 officer is supposed to maintain?

2 A. Yes.

3 Q. Thank you. Does the OPP orders say,

4 "May obtain", "Could obtain", or "Shall maintain"?

5 A. In relation to what?

6 Q. How many notebooks.

7 A. Police orders dictates that an

8 officer shall maintain, in the course of his regular

9 duties, one notebook. There are exceptions for such

10 things as confidential informants, or a large

11 investigation.

12 Q. Good. Of which Constable Payne, as

13 you being operations manager, as of that date, was

14 not involved with it. She wasn't involved in the

15 drug unit, not involved in confidential informants.

16 She was not involved in a huge, complex

17 investigation that would warrant the authorization

18 of two notebooks?

19 A. The two notebooks didn't refer to

20 Constable Payne. It referred to Constable Jack.

21 Q. Okay, thank you. But you were aware

22 that she was maintaining a second notebook solely on

23 Mr. Jack?

24 A. No, references here is to Constable

25 Jack having two notebooks on the go. That was my

- 40 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 understanding.

2 Q. You are saying Mr. Jack had two

3 notebooks on the go at the same time?

4 A. That was the information I

5 understood from Sergeant Flindall, that notebook for

6 time...separate notebook, can have two notebooks,

7 that Mr. Jack had two notebooks on the go. That was

8 my understanding. That is why I say problems

9 of...advise...

10 "...Document problems by coaches, work

11 improvement plan, track all issues on his

12 PCS-066..."

13 Q. So, you are saying Flindall told you

14 Jack was maintaining two notebooks?

15 A. That was my understanding from our

16 conversation.

17 Q. Wow. Thank you. We will explore

18 that from the appropriate officers. Based on your

19 notes over there, as far as you know, did Flindall

20 insure Mr. Jack had a poison-free work environment?

21 A. I believe yes, I didn't hear again

22 until August that there were other issues, but they

23 were based on performance matters. And in that

24 meeting with Constable Jack, he advised there were

25 some inappropriate things that happened on shift,

- 41 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 but he wouldn't expand on it, wouldn't advise who it

2 was. I advised him I can only take action if he

3 comes forward.

4 Q. But you did determine that Flindall

5 had two shifts, Mr. Jack was being targeted, right?

6 A. Yes, I felt that was the loss of

7 objectivity, and it could lead to that down the

8 road.

9 Q. Okay. Did you know that Sergeant

10 Flindall and Constable Filman called you Staff

11 Sergeant Beaker behind your back?

12 A. No.

13 Q. And if it was used, would you agree

14 that it was not used within your hearing or your

15 presence, which would explain why you don't know?

16 A. That would make sense.

17 Q. Thank you. Would you have been

18 offended if you knew it?

19 A. I would have been disappointed and

20 hurt, but they were only words.

21 Q. Do you agree that Sergeant Flindall

22 was negligent in his duties and responsibilities

23 towards Probationary Jack?

24 A. I would not say he was negligent. I

25 would say that he had some issues with it, but not

- 42 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 to the point of negligence. People from time to

2 time do miss things. People do make mistakes.

3 Q. But if you found he was negligent in

4 his responsibilities towards Mr. Jack, it would be

5 obligatory to you to document it and issue a 233-10?

6 A. If there are issues and mistakes, it

7 is my discretion as to how I handle them. I can

8 handle them by speaking to the person. I can handle

9 them by having a non-disciplinary discussion. I can

10 handle them by issuing a negative 233-10 as a

11 corrective measure to bring the matter to the

12 person's attention, and correct that behaviour. If

13 I felt it was negligent, I could initiate an

14 internal complaint against the member and have

15 it...the allegation set out and investigated. So, I

16 felt that correction of Sergeant Flindall...I did

17 issue a negative 233-10 to him. In relation to his

18 supervision of Constable Jack and the Crown brief

19 areas, it was quite a lengthy 233-10 spelling out

20 the issues, and why Sergeant Flindall needed to do a

21 better job.

22 MR. TAPP: Thank you. I am going to

23 give you a copy of a 233-10 disclosed to us

24 that you gave Sergeant Flindall. Okay.

25 While you are reviewing that, I am going to

- 43 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 ask this Tribunal to enter those two pages.

2 The one page of Staff Sergeant Campbell's

3 notes and the transcribed page, and to the

4 next exhibit. Rather, it is two pages, and

5 a one-page transcription. So, three pages

6 in total as the next exhibit.

7

8 --- EXHIBIT NO. 156: Two pages of Mr. Campbell's

9 handwritten notes (and one-page

10 transcription)

11

12 BY MR. TAPP:

13 Q. Okay, Mr. Campbell. I have just got

14 a few brief questions regarding that. You issued

15 Mr. Flindall a Negative 233-10 with regards to three

16 specific investigations, correct?

17 A. Yes.

18 Q. Okay. At the top of your narrative,

19 read in those...the current numbers of those three

20 specific investigations, please.

21 A. SP09164458, SP09175128, RM09092516.

22 Q. Thank you. And they were regarding

23 Sergeant Flindall's lack of job knowledge skills and

24 leadership skills with respect to supervising Mr.

25 Jack, correct?

- 44 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. Correct.

2 MR. TAPP: Thank you. Next exhibit,

3 please. That will be five pages. The next

4 number, please, Mr. Vice-Chair, for that?

5 THE VICE-CHAIR: 157.

6 MR. TAPP: Thank you. Were the notes

7 that I mentioned earlier 156?

8 THE VICE-CHAIR: Yes.

9 MR. TAPP: Thank you.

10 THE VICE-CHAIR: Thank you.

11

12 --- EXHIBIT NO. 157: Negative 233-10 issued by Mr.

13 Campbell to Mr. Flindall

14

15 BY MR. TAPP:

16 Q. So, Mr. Campbell, obviously your

17 verbal reprimand to Sergeant Flindall was

18 insufficient, which was why you gave him those

19 negative 233-10s?

20 A. Yes.

21 Q. Pardon me?

22 A. Yes.

23 Q. Thank you. As a detachment manager,

24 do you recall the ongoing neighbour dispute that

25 lasted seven years by the summer of 2009 between

- 45 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Jeff Standaert and Douglas Anderson?

2 A. I remembered the dispute. I don't

3 remember the length of time of the dispute, but I do

4 remember it was a lengthy neighbour dispute.

5 Q. Would you agree that officers had

6 been called numerous times to there, and it appeared

7 that nothing seemed to be...or appeared to be

8 resolving the issue, which is why it is so long?

9 A. Yes.

10 Q. In your opinion, was it appropriate

11 for Sergeant Flindall to assign that investigation,

12 that ongoing neighbour dispute, to a front-line

13 probationary officer?

14 A. I can answer that with a

15 clarification.

16 Q. Thank you.

17 A. It may have been appropriate. It

18 may not have been, but what should have happened,

19 there should have been supervision and direction for

20 it. And there wasn't enough supervision and

21 delegation that should have been done in the review

22 of the brief, was not done because if he would have

23 vetted it, he would have known there weren't any

24 grounds for a charge. And, so, yes, a probationary

25 officer could be assigned that, but he should have

- 46 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 had supervision and help, and he knew that he needed

2 supervision and help.

3 Q. And wasn't given that help?

4 A. In my opinion, according to my

5 perspective, no.

6 Q. Thank you. And that is one of the

7 reasons you mentioned in your August 18th, 2009

8 e-mail to Inspector Johnston that Constable Jack was

9 being left on his own to fully investigate matters

10 beyond his experience level, correct?

11 A. I believe this is what Michael Jack

12 had stated, and I reiterated that in the message.

13 Q. But didn't that meeting take place

14 on the 19th?

15 A. Yes.

16 Q. So, how could he have made that

17 statement prior to the 19th, please?

18 A. This e-mail is on the 21st that you

19 are referring to.

20 Q. On the August 18th, you note that

21 comment on the August 18th e-mail, not the 21st.

22 A. Can you tell me which e-mail that

23 is?

24 Q. Yes. The first e-mail that you read

25 in length, in entirety, August 18th, 2009 to

- 47 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Inspector Johnston.

2 A. Okay. I see:

3 "...Mike, both of you had discussed it

4 appears the officer is being left on his

5 own to fully investigate matters beyond his

6 experience level..."

7 Q. Yes.

8 A. Yes, that was on the 18th.

9 Q. Okay. So, it was before Mr. Jack

10 brought it up on the 19th, correct?

11 A. Correct.

12 Q. Good. Do you recall that another

13 senior officer and specialized officer, Detective

14 Constable Heather McLeish was eventually assigned to

15 deal with that ongoing saga?

16 A. No.

17 Q. Okay. I am going to have Mr. Jack

18 hand out performance evaluation reports 6/7 and 8 to

19 you.

20 MR. JACK: They have already been

21 tendered as exhibits. I don't remember the

22 numbers, but it was during

23 examination-in-chief...

24 MR. TAPP: Yes, PER 6/7 is Exhibit 33,

25 and performance evaluation report 8 is

- 48 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Exhibit 35. I direct your attention to

2 listing skills in 6/7, performance

3 evaluation report, please, which is page 6.

4 Are you there?

5 THE WITNESS: Yes, sir.

6

7 BY MR. TAPP:

8 Q. Okay. I don't need you to read it,

9 but SP09164458, is that one of the investigations

10 that you issued a Negative 233-10 to Sergeant

11 Flindall?

12 A. Just to repeat the number, that is

13 SP09164458? Yes, it is.

14 Q. I said 6. My eyes. Is that one of

15 the investigations that you issued the Negative

16 233-10 to Sergeant Flindall for?

17 A. Yes, I believe it is.

18 THE VICE-CHAIR: Sorry, where are we?

19 What...

20 MR. TAPP: Page 6.

21 THE VICE-CHAIR: Page 6?

22 MR. TAPP: Page 6 of the performance...

23 MR. JACK: Exhibit 33.

24 THE VICE-CHAIR: Which performance?

25 MR. TAPP: 6/7. There is a number 7 at

- 49 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 the top.

2 THE VICE-CHAIR: Okay, perfect, thank

3 you. And we are at page 6. Just give me a

4 moment, please. Mr. Tapp?

5 MR. TAPP: Yes.

6 THE VICE-CHAIR: Could you please repeat

7 your question?

8 MR. TAPP: Okay.

9

10 BY MR. TAPP:

11 Q. At the bottom of that performance

12 evaluation report in the category of "Listening

13 skills", the SP09164458, criminal harassment, was

14 that one of the three investigations that you issued

15 a Negative 233-10 to Sergeant Flindall for?

16 A. Yes, sir.

17 Q. Thank you. Now, in that listening

18 skills is Mr. Jack rated positively or negatively?

19 A. He does not meet requirements. So,

20 negatively. And with the Negative 233-10 to

21 Flindall, it is for his supervision of that, and it

22 still doesn't alleviate the fact that it is written

23 here that Mr. Jack did not listen to him. It was

24 Flindall's job to follow up and make sure that he

25 did follow direction.

- 50 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Thank you. Now, that same

2 evaluation report, flip over to page 9, personal

3 accountability, please. Does that...does the

4 specific example used meet the definition of the

5 OPP's specific example, taking responsibility for

6 one's own actions?

7 A. May I have a moment to read it over,

8 sir?

9 Q. Okay. I will modify my question,

10 Sergeant Campbell, just to expedite time. Would you

11 not agree that Filman or Sergeant Flindall or

12 whoever prepared that report used the same criminal

13 harassment occurrence to rate Mr. Jack with a "does

14 not meet requirements" in personal accountability?

15 A. I don't believe so, because this is

16 a different incident number that is listed on

17 page...I am sorry, in follow-up orientation, there

18 is page 8 or 9.

19 Q. No, personal accountability.

20 A. Sorry, I was reading the wrong one.

21 It is the same occurrence, but that is allowable in

22 the definition of the evaluations. You can use the

23 example in more than one category.

24 Q. Okay.

25 A. My apologies for being on the wrong

- 51 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 page.

2 Q. So, are you aware of what direction

3 was given to Mr. Jack regarding that criminal

4 harassment?

5 A. I do believe I have seen a list of

6 specific instructions at some point in time, yes.

7 Q. What were they?

8 A. To be exact at this time, I don't

9 recall them.

10 Q. Do you have any recollection as to

11 what they were?

12 A. Going from what I am reading here,

13 about the transcription about locating and arresting

14 the person. Just general terms. I don't have

15 specific...

16 Q. Preparing a show cause? Would that

17 refresh your mind?

18 A. It may.

19 Q. I direct your attention to your

20 point-form chronology that you made for 24th of

21 July, 2009, please. Okay. Have you read all of

22 that entry, 24th July, 2009?

23 A. Yes.

24 Q. Okay.

25 A. And I do recall it.

- 52 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Pardon me?

2 A. I do recall it.

3 Q. Okay, thank you. Okay. So, tell us

4 what you recall first.

5 A. I recall getting a call, and being

6 asked to return to detachment to create a briefing

7 note on another matter. When I arrived there, I

8 remember Constable Jamie Brockley was there, and

9 Constable Michael Jack were there. They seemed to

10 be working on something together. I started to do

11 the task I had come into. One of the other officers

12 had come forward with another matter, and we

13 discussed it.

14 I completed my duties about quarter to

15 1:00. Michael Jack came to my door, which was open,

16 and advised me he was tired. He could do no more.

17 And from my own experience, I understood this. I

18 told him to go home and sleep because, you know,

19 when you are not tired things take less time. He

20 assured me it would only be a couple more hours, or

21 a few more hours in the morning. And I approved him

22 coming in the next day for a few hours. It would

23 have been overtime, yes.

24 Q. So, you approved him his overtime

25 for that?

- 53 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. For a short few hours, yes.

2 Q. Okay. Are you aware that Mr. Jack

3 never got paid for any of those even short few hours

4 overtime?

5 A. I am aware that the overtime was

6 denied in consultation with Sergeant Flindall and

7 Inspector Johnston. And the reasons for it, and

8 that Constable Jack was in for some 13 hours the

9 next day.

10 Q. But would you not agree that based

11 on your authorization, he ought to have been

12 authorized for even...

13 A. A few hours?

14 Q. ...a portion of that?

15 A. Yes, for what I had...he had

16 explained to me, he would need a few hours.

17 Q. But he wasn't.

18 A. I assume not, no.

19 Q. Thank you. I direct your attention

20 now in that month 6 performance...6/7 performance

21 evaluation report you have before you. Page 9,

22 when...planning and organizing. Is it the same SP

23 number and criminal harassment that you issued

24 Sergeant Flindall with a Negative 233-10?

25 A. The criminal harassment one? Yes.

- 54 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 The other example below, no.

2 Q. Well, we will not dealing with

3 number 8. We are dealing with...

4 A. But there are two listed.

5 Q. Okay, fair enough. Was Mr. Jack

6 rated negatively there?

7 A. On planning and organization, yes.

8 Q. Read the first five lines of that

9 narrative, please, beginning with "SP0916".

10 A. "...Criminal harassment, PC Jack was

11 given a list of specific instructions for

12 dealing with this call by Sergeant

13 Flindall. They were to have night shift

14 make attempts to locate and arrest suspect,

15 do up a brief for this case, and submit

16 before going home. Brief to include

17 synopsis, photocopies of witness

18 statements, summary of victim's video

19 statement, the show cause hearing report.

20 If not arrested, then brief can be

21 submitted for warrant..."

22 Q. Thank you. As a staff sergeant and

23 operations manager, you have also been in

24 specialized units in your past?

25 A. Yes.

- 55 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Thank you. You know, you are

2 familiar with the authority governing show cause and

3 grounds for a continued detention, aren't you?

4 A. Yes.

5 Q. Thank you. And when you show cause

6 an accused, one is seeking one of three things:

7 Detained until trial, released before a judge or

8 justice on an undertaking, released before judge or

9 justice on a recognizance of bail. Correct?

10 A. Yes.

11 Q. You are also familiar with the

12 release authorities of an undertaking before an

13 officer in charge, correct?

14 A. Yes.

15 Q. Are you aware of the differences of

16 an undertaking before judge or justice, and an

17 undertaking before an officer in charge?

18 A. Generally, yes.

19 Q. Thank you. Each of the authorities

20 have similar conditions one can seek to place on an

21 accused, except a judge or justice can write in

22 whatever additional condition he or she deems

23 necessary?

24 A. I believe it is Section H on the

25 form.

- 56 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Thank you. Mr. Campbell, what is

2 the difference between a recognizance and an

3 undertaking before a judge or justice?

4 A. You mean a recognizance by a judge,

5 or...

6 Q. A recognizance before a judge or

7 justice, and an undertaking before judge and

8 justice.

9 MS. SINGH: I am just wondering where

10 this is going.

11 THE VICE-CHAIR: I am, too. I am...

12 MR. TAPP: It is pertinent. It goes

13 towards the directions that were noted in

14 that specific...

15 MS. SINGH: Is there a question...

16 MR. TAPP: ...directions about a show

17 cause.

18 MR. JACK: Yes, there is a question.

19 MS. SINGH: Is there a question?

20 THE VICE-CHAIR: Yes, let's get to the

21 question.

22 MR. TAPP: Yes.

23 THE VICE-CHAIR: We are at 11:08.

24 MR. JACK: Okay. This is very

25 important.

- 57 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 THE WITNESS: Okay. To give you an

2 accurate answer, Mr. Tapp, I would have to

3 see the section of the Criminal Code to

4 review it.

5

6 BY MR. TAPP:

7 Q. I am going to suggest the only

8 difference being one cannot ask the sureties of cash

9 with an undertaking, whereas that can be done so

10 with a recognizance. Would that help refresh your

11 memory?

12 A. I know even an officer in charge...

13 Q. I am not talking about an officer in

14 charge.

15 A. Well, I am just explaining an

16 officer can also ask for a surety up to so much

17 money. I think it is $500.

18 Q. Yes. But we are dealing with a

19 judge or justice. Okay, fair enough. Certainly you

20 are aware that the Criminal Code specifically states

21 that an accused must be released unless grounds for

22 a show cause exist, correct?

23 A. Correct.

24 Q. Actual terminology used is "shall

25 not continue the detention of an accused unless

- 58 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 certain criteria are met", right?

2 A. Correct.

3 Q. Do you need a break, Mr. Campbell?

4 A. No, I just pushed my glasses up.

5 Q. I am sorry, I thought you...pivotal

6 in the criteria must be that the accused must have

7 other charges before the courts that have not yet

8 been dealt with. Correct?

9 A. Again, if you wish to put the

10 sections of the Criminal Code in, that is great. I

11 would agree that there are different criteria. You

12 have to satisfy that the protection of the witness,

13 repetition of the offence, all those listed,

14 R.I.C.E. and the 4 Ps before you really sell money.

15 Q. And that the accused is not before

16 the courts on other charges?

17 A. Yes.

18 Q. Correct?

19 A. You still have an option of

20 releasing them still on a promise to appear, even if

21 the person does have other charges.

22 Q. Yes. And also, if...coupled with an

23 undertaking before an officer in charge with certain

24 conditions to guarantee...

25 A. Yes.

- 59 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. ...what you said, protection of the

2 victim...

3 THE VICE-CHAIR: Okay, I don't know

4 where this is going.

5 MR. TAPP: All right.

6 THE VICE-CHAIR: I have been patient.

7 Please get to your question.

8 MR. TAPP: Okay, all right.

9

10 BY MR. TAPP:

11 Q. So, it is true that Flindall wanted

12 Mr. Jack to show cause the accused?

13 A. That is what this says, yes.

14 Q. That would be to have him released

15 before a judge or justice with conditions, correct?

16 A. Correct.

17 Q. Did you know that the accused never

18 had any other charges before the courts?

19 A. I don't recall.

20 Q. Okay. You did review the case also?

21 A. I did at one time, yes.

22 Q. Then you would have seen that his

23 CPIC check contained in there revealed no other

24 charges before the courts?

25 A. I don't remember.

- 60 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Don't recall, okay. So, here is the

2 problem. The same conditions, protect the victim,

3 prevent the accused from going within a certain

4 radius of the victim's address, no contact directly

5 or indirectly with the victim, if they can be

6 achieved by an undertaking before an officer in

7 charge, where was the need to show cause the

8 individual to have those same conditions imposed on

9 the accused by a judge or justice?

10 MS. SINGH: Again...

11 MR. TAPP: That deals with the show

12 cause.

13 THE WITNESS: That would be whatever

14 Sergeant Flindall and him had discussed

15 that I was not involved in.

16

17 BY MR. TAPP:

18 Q. But wouldn't that...

19 THE VICE-CHAIR: I don't understand this

20 whole line of questioning.

21 MR. TAPP: Well, I think it will...show

22 causing the individual would mean that Jack

23 was continuing the detention, right?

24 THE WITNESS: Yes.

25

- 61 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 BY MR. TAPP:

2 Q. Okay. So, if the Criminal Code

3 specifically stated that it was unlawful to continue

4 the detention, would that make the Order from

5 Sergeant Flindall...

6 MS. SINGH: Mr. Vice-Chair, I really

7 have problems with this line of

8 questioning. Mr. Tapp is just putting all

9 kinds of information in the record. He is

10 not an authority on the Criminal Code.

11 This case is not about the Criminal Code.

12 If there is a question for this witness,

13 could he just put the question to the

14 witness?

15 MR. TAPP: Did you believe...

16 THE VICE-CHAIR: I agree.

17 MR. TAPP: ...Mr. Jack was given an

18 unlawful authority order from Flindall to

19 show cause the individual?

20 THE WITNESS: No, and I can't fully

21 answer that without knowing exactly their

22 conversation and why Sergeant Flindall

23 asked...

24

25 BY MR. TAPP:

- 62 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Okay, we will explore that...okay.

2 You reviewed it. What happened to the charge of

3 that? You already addressed comments from Brian

4 Gilkinson, the chief Crown attorney?

5 MS. SINGH: Asked and answered. It is

6 already asked and answered.

7 MR. JACK: It was not asked.

8 MR. TAPP: Okay. It was not asked. It

9 wasn't asked.

10

11 BY MR. TAPP:

12 Q. Was it dismissed or was it

13 substantiated?

14 A. I know that the 233-10 talks about

15 three of them. I don't specifically know if the

16 first...this one, what happened with the charges, or

17 whether they were withdrawn? I know that he had

18 concerns about not enough information. Just looking

19 here:

20 "...Similarly, in case a synopsis a case

21 contained a significant amount of

22 irrelevant information, there is little

23 proved on the allegation of criminal

24 harassment..."

25 I am just reading through here, if you will bear

- 63 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 with me. It was suggested that the charge of

2 criminal harassment be withdrawn.

3 Q. Thank you. Would you agree that

4 there were insufficient grounds, then, for that

5 duress, show cause, whatever the direction given to

6 Mr. Jack was?

7 A. I would say there was insufficient

8 investigation in this matter resulting in no

9 grounds. And nothing was presented to the Crown to

10 persuade him otherwise.

11 Q. You talked about a meeting with

12 Inspector Johnston regarding the amount of overtime

13 Mr. Jack incurred in that investigation, correct?

14 A. Can you point me to a document that

15 you are referring to, please?

16 Q. You just said he incurred 13 hours

17 of overtime, as opposed to the few hours you

18 authorized him to?

19 A. Yes, I remember reading that

20 somewhere, but if you are referring me to a

21 document, can you point me to that document, sir?

22 And I know it was substantially more from

23 conversations than a few hours. It was something

24 like 13. I may have that wrong. It may have been

25 more. It may have been less, but it was around

- 64 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 there.

2 Q. Did you know that there was a

3 substantial amount of firearms that Mr. Jack seized

4 in that investigation and arrest of the accused?

5 A. I do.

6 Q. Pardon me?

7 A. Yes.

8 Q. Did you care to learn that in order

9 to seize the accused's firearms who lived outside of

10 Peterborough County, Mr. Jack had to enlist the

11 support of another OPP detachment?

12 A. I believe the gentleman lived in

13 City of Kawartha Lakes area in Omemee.

14 Q. Okay. Based on your experience, do

15 you agree that entering firearms in the OPP's vault

16 it a paper-consuming job?

17 A. Yes.

18 Q. Takes time, right?

19 A. It does.

20 Q. And did you know how many firearms

21 he had to enter?

22 A. I can guess.

23 Q. It might be hard for you to recall.

24 If I were to suggest he had 16, would that suggest

25 that that is a considerable amount of time involved?

- 65 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. It would take some time, yes. Not

2 13 hours, but some time.

3 Q. I am going to show you a copy of

4 Jack's Negative 233-10 that Sergeant Flindall issued

5 to him. Mr. Jack is obtaining copies of that.

6 Okay. This Negative 233-10, was it in respect of

7 that same criminal harassment investigation? Look

8 at the XP number.

9 A. Yes, it was.

10 Q. Okay.

11 THE VICE-CHAIR: Has this been entered

12 as an exhibit?

13 MR. JACK: Well, Mr. Vice-Chair, we

14 believe it was, but we don't have the

15 exhibit number.

16 MS. SINGH: I think it is 42.

17 THE VICE-CHAIR: Yes, very good, thank

18 you.

19 MR. BLUTSTEIN: It should be three pages

20 to...

21 MR. TAPP: Although the exhibit shows

22 reflects six pages, that is for two

23 233-10s. We are dealing with one of them.

24

25 BY MR. TAPP:

- 66 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Okay. Can you read the first two

2 lines in the first paragraph, please? On the 23rd?

3 A. "...On the 23rd of July, 2009, PC M.

4 Jack investigated a criminal harassment

5 complaint in which allegations were

6 substantiated that a brother had been

7 criminally harassing his sister as a result

8 of..."

9 Q. Thank you, that is all. But they

10 were not substantiated, were they?

11 A. According to the note from the

12 Crown, no.

13 Q. Thank you. And who authored that

14 Negative 233-10 to Mr. Jack? The name on the

15 document, just read the name.

16 MS. SINGH: Mr. Vice-Chair, this witness

17 is not the author of this document. So...

18 MR. TAPP: This is...

19 MS. SINGH: ...beyond reading the

20 document, if he has any knowledge about it

21 independent of the document, he can simply

22 be asked about that recollection. But to

23 be asked about the document itself, and

24 what the author of the document was

25 thinking or not thinking, that, in my

- 67 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 respectful...

2 MR. TAPP: No, I am not asking what he

3 is thinking about...not thinking here.

4 THE VICE-CHAIR: I don't know who the

5 author...oh, it is Flindall...

6 MR. TAPP: On the page.

7 MS. SINGH: Yes. Yes.

8 MR. TAPP: That is all there is to it.

9 MS. SINGH: You will have your

10 opportunity to ask Mr...

11 MR. TAPP: Okay, fine.

12 MS. SINGH: ...Flindall about the

13 document next week.

14 MR. TAPP: Okay.

15

16 BY MR. TAPP:

17 Q. Looking at that, who signed it?

18 A. The name on the bottom is R.

19 Flindall.

20 Q. Yes, okay, thank you. Read the

21 third line, please, in the second paragraph of page

22 1. Please starting with "PC Jack".

23 A. "...PC M. Jack was advised to remain

24 in the office and complete his show cause

25 hearing brief..."

- 68 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Thank you. Okay. We are just

2 pulling out a copy of tendered Exhibit 100,

3 just...Mr. Jack is pulling out a copy. For the

4 benefit of the Tribunal and counsel, it is Exhibit

5 100. You address a specific e-mail to Mike Johnston

6 in regards to certain actions you did with respect

7 to Sergeant Flindall, correct?

8 A. Correct.

9 Q. Okay. Read what you did, please:

10 "Served Rob"...

11 A. "...Served Rob your 233-10 and

12 discussed the brief issues. I advised him

13 he would be getting one and I would draft

14 up the 233-10 for this, as there are

15 aggravating factors. He was not happy

16 about this. We then discussed his comments

17 to Mike Jack, and we have left that as a

18 discussion. And it has been covered off.

19 We also discussed the domestics he advises

20 he is aware of, and will review the matter.

21 I brought this to his attention, and will

22 get them done tonight..."

23 And it is supposed to be "he will get them done

24 tonight":

25 "...He then proceeded to tell me info that

- 69 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 he thinks Mike Jack is hanging out with

2 organized crime, at the GM. He went to, as

3 Jamie Brockley recognized people who are

4 his friends that he knows from drug unit

5 dealings. I told him to put it in an

6 e-mail and attempt to confirm some of these

7 statements, to send it to you, and he may

8 need to do a briefing note on after your

9 review. He did not have the full names,

10 and was going to spell it out in an e-mail

11 tonight..."

12 Q. So, you served Sergeant Flindall

13 with a 233-10 regarding his supervision of Mr. Jack,

14 after which he immediately proceeds to bring forth

15 an allegation of Mr. Jack associating with

16 undesirables?

17 A. Yes.

18 Q. Thank you. I refer your attention

19 to your point-form chronology for the 3rd of

20 September, 2009, please.

21 A. Are you talking to me?

22 Q. Yes, please, Mr. Campbell.

23 September 3rd, 2009. Okay.

24 A. What are we looking at?

25 Q. We are looking at the point-form

- 70 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 chronology that says "3rd September, 2009, Staff

2 Sergeant Campbell". And it should be about halfway

3 through the document, but it will be higher, in bold

4 print. Staff Sergeant Campbell, 3rd of September,

5 okay. At 16:15 hours, you had a meeting on that

6 date with Sergeant Flindall to discuss performance

7 issues with Mr. Jack, or Mr. Flindall's performance

8 issues? Because I am not clear about that.

9 A. It was to discuss Mr. Flindall's

10 performance issues, and it was 16:50. 16:50.

11 Q. 16:50, that is 4:50? Thank you.

12 Read your next entry, please. 17:20 hours.

13 A. "...Sergeant Flindall discloses that

14 PC Jack is involved with organized crime,

15 and is running OPP undercover cars involved

16 in an ongoing investigation. Sergeant

17 Flindall advised this information came from

18 a gym photo shown by Jack to other shift

19 members in the spring. Sergeant Flindall

20 advised to confirm his information and put

21 it in writing. Sergeant Flindall advised

22 to forward these to Inspector Johnston, as

23 Staff Sergeant Campbell was away, 04

24 September 09..."

25 Do you want me to continue?

- 71 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Read the next entry, please.

2 A. "...Sergeant Flindall and Staff

3 Sergeant Campbell discussed earlier

4 comments made by Sergeant Flindall, WDHP

5 and the vulnerability of probationary

6 immigrant, language difficulties..."

7 Q. Thank you. Now, before delving into

8 that complaint, as operation manager, was that

9 Professional Standard Bureau complaint

10 substantiated?

11 A. I believe not, but as a clarifier,

12 the Peterborough detachment was told to do nothing

13 in regards to the allegations that the matter went

14 to PSB.

15 Q. Did Mr. Jack actually run an

16 undercover licence plate?

17 A. I have no idea.

18 Q. Okay.

19 A. As we were told to stand down, and I

20 was away, and by the time I had came back, Sergeant

21 Flindall had gone to Inspector Johnston and the

22 matter wase dealt with.

23 Q. But you can flip over to the

24 previous page, and look at August 17th, 2009 entry.

25 A. Are you referring to August 17th to

- 72 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 August...

2 Q. August 17th, 2009, Staff Sergeant

3 Campbell. Did you not make it clear to Flindall

4 that he was to explore an allegation being that

5 there were always two sides to the story before?

6 A. What I told him was the importance

7 of the matter being investigated prior to coming to

8 a conclusion.

9 Q. And the potential of...

10 A. In the next...discussed again with

11 him the potential human rights complaint and the

12 importance of being objective. And this refers to

13 the performance issues, and getting a learning plan

14 to correct Constable Jack's issues.

15 Q. And did he appear to heed your

16 advice?

17 A. I believe so.

18 Q. You believe so?

19 A. Yes.

20 Q. So, he did investigate it, the

21 running of the licence plate by Mr. Jack, before

22 making the PSB complaint?

23 A. I don't know. I was away the next

24 day, and he went to Inspector Johnston. And I

25 believe that a PSB investigation ensued, but when I

- 73 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 was also told that we were to do nothing, I didn't

2 follow it up. I didn't look into anything. It was

3 going to PSB.

4 Q. Okay. Maybe we will explore that

5 further with Flindall. But all that information

6 about the PSB investigation. Correct me if I am

7 wrong, came from Flindall, correct?

8 A. Well, he is...

9 Q. The allegation?

10 A. His original information came from,

11 I believe, Constable Brockley.

12 Q. But Brockley didn't make the PSB

13 complaint. It was Flindall, right?

14 A. I don't know.

15 Q. Yes, and who was Brockley, please?

16 A. Jamie Brockley was a drug unit

17 member of the...I think it was called the...is it

18 tri-counties or...there is a drug unit, and he is a

19 member. He was assigned to Peterborough with

20 detachment, but he was seconded to the drug unit.

21 Q. And what is his relation to

22 Constable Payne?

23 A. He is...I believe they are common

24 law spouses. I don't know whether they are actually

25 married or not.

- 74 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Okay, thank you.

2 THE VICE-CHAIR: What was the name of

3 the common law spouse of Payne?

4

5 BY MR. TAPP:

6 Q. Can you tell Mr. Vice-Chair, please?

7 A. His name is Jamie Brockley, as in

8 the vegetable. Jamie Brockley.

9 Q. As a detachment manager, you would

10 have got or been advised by a Professional Standards

11 Bureau of the memorandum to be served or issued to

12 Mr. Jack regarding an official investigation?

13 A. Most likely, yes.

14 Q. This has already been entered as an

15 exhibit, 103. You are familiar with that document,

16 correct?

17 MS. SINGH: Again, you know, this

18 document is not to Mr. Campbell. So, I

19 would ask that Mr. Tapp not be asking him

20 about documents that he did not author...

21 MR. TAPP: I am not asking a question

22 pertaining to that. As an operations

23 manager, he is certainly familiar with all

24 documents coming to his subordinates under

25 him, especially a formal investigation.

- 75 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 THE VICE-CHAIR: Okay, but what is your

2 question?

3 MR. TAPP: Yes.

4

5 BY MR. TAPP:

6 Q. You are familiar that an official

7 PSB investigation as a result of Flindall's

8 allegation to you was launched against Mr. Jack?

9 A. Yes.

10 Q. Yes. And this documentation is

11 proof of that?

12 A. Yes

13 Q. Okay. And to the best of your

14 knowledge, who were the so-called undesirables?

15 A. I don't know.

16 Q. Okay. But it referred to people

17 nonetheless, not an object like this table or

18 anything, right?

19 A. Correct.

20 Q. Good. Look at the last page of that

21 document. Does that help refresh your memory that

22 you were aware that that complaint was

23 unsubstantiated?

24 A. No, it doesn't, because my last day

25 of work at Peterborough detachment was November

- 76 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 27th. I don't recall seeing this. I was reporting

2 to West Perry Sound detachment on the 30th of

3 November. And I do not know when this is

4 date-stamped as received at detachment, so...

5 Q. Thank you, Mr. Campbell, but you can

6 see that I wasn't sure...I was aware of when you

7 were going, but I had to ask that question.

8 A. I don't know whether I would have

9 seen this...

10 Q. No, that is fine, I understand. I

11 appreciate your response. So, clearly, was it

12 substantiated?

13 A. According to this, no.

14 Q. Thank you. And to the best of your

15 knowledge, was the HTA charge substantiated?

16 A. To my knowledge, from reading later,

17 is that it was not, but I had no knowledge until I

18 read it in the materials provided.

19 Q. Thank you. The HTA charge was the

20 charge that Flindall laid against Mr. Jack?

21 A. Yes.

22 Q. And that was the one that was

23 dismissed in courts?

24 A. As I say, I didn't follow it, but I

25 have read in the materials that it was.

- 77 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Okay, thank you. I want you to look

2 at the following e-mails Mr. Jack is going to be

3 handing to you. There are e-mail communications

4 between you and other officers of rank. Okay, I

5 direct your attention to the top e-mail from

6 Inspector Johnston to you and Flindall. Okay?

7 Inspector Johnston was being told that you are to

8 stand down on that PSB investigation?

9 A. Yes, I mentioned that earlier,

10 that...

11 Q. Okay.

12 A. ...I didn't do any follow-up or

13 anything because it was going to be looked after by

14 PSB.

15 Q. Okay. And it was in relation to the

16 bottom e-mail?

17 A. Yes.

18 Q. Thank you. Can you point out, it

19 was in relation to the bottom e-mail, who all in

20 that bottom e-mail were being advised of the PSB

21 investigation?

22 A. Would you like me to go ahead, Mr.

23 Tapp?

24 Q. Yes, please, go ahead.

25 A. It is from Martin Graham to Ken

- 78 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Smith, Paul Beesley, Paul Powers, Mike Armstrong,

2 Hugh Stevenson, Chuck Cox and Mike P. Johnston.

3 Q. Are they all regional command,

4 superior officers?

5 A. Ken Smith is, Paul Beesley is

6 Criminal Investigations Bureau. Paul Powers, I am

7 not sure. He might be. PSB Mike Armstrong was the

8 regional commander. Hugh Stevenson was a

9 superintendent, and directly...the supervisor

10 Inspector Johnston reported to. Chuck Cox was a

11 regional crime unit member, and Mike Johnston was

12 the detachment commander with Peterborough

13 detachment.

14 Q. So, all of them became aware of that

15 PSB allegation from Sergeant Flindall that was later

16 unsubstantiated, correct?

17 A. They were well aware that it was an

18 internal complaint about Michael Jack.

19 Q. Thank you. That was

20 unsubstantiated, right?

21 A. Yes, I just read that from the other

22 memo.

23 THE VICE-CHAIR: What are we...has this

24 been entered?

25 MR. TAPP: No, it hasn't. I am going to

- 79 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 ask that these two pages be entered as the

2 next one, please. Let Mr. Vice-Chair read

3 them.

4

5 --- EXHIBIT NO. 158: E-mail exchange between Messrs.

6 Campbell and Johnston, et al, dated

7 September 11, 2009

8

9 BY MR. TAPP:

10 Q. Mr. Campbell, what is the opposite

11 of objectivity?

12 A. Being not objective. Being

13 narrow-minded.

14 Q. Subjectivity.

15 A. Okay. Again, it could be part of

16 that definition...

17 Q. Thank you. Which one...

18 A. Not being open...okay.

19 Q. Objectivity and subjectivity. Which

20 one of the two would be congruent with the Human

21 Rights Code, the best of your knowledge?

22 A. I don't know.

23 Q. Thank you. But you knew Sergeant

24 Flindall had lost objectivity with Mr. Jack,

25 correct?

- 80 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. Earlier, from my message, from my

2 discussions with him, and the points I made, yes, in

3 my opinion, yes.

4 Q. Which is why you reprimanded him,

5 and stressed the importance of not losing

6 objectivity, and the potential of a humans right

7 complaint as mentioned in your point-form chronology

8 entries?

9 A. Yes.

10 Q. Thank you. And your e-mails, dated

11 August 18th and 21st to Inspector Johnston?

12 A. Yes, referring to the same subject

13 matter, obviously...

14 Q. Yes.

15 A. ...he hadn't read the first one when

16 he asked me the question.

17 Q. Yes. And what human rights

18 violations were you concerned about?

19 A. That perception of Michael Jack

20 being a new person to the country, feeling

21 vulnerable, and that he needed...he would make

22 mistakes and he needed to learn to those mistakes,

23 and he just...to being objective in his evaluation.

24 Q. I am going to ask you, you have on

25 your desk the August 20th e-mail. It is a one-page

- 81 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 document wherein Sergeant Flindall asks you:

2 "...Are we in any shit?..."

3 Can you locate that, please?

4 A. Yes. And I provided your answer

5 earlier to that.

6 Q. But isn't that the subject content

7 of that August 20th e-mail, is losing objectivity,

8 possibility of a human rights complaint, as you have

9 already testified to?

10 A. I think it is his not properly

11 supervising the member, and the issues that he had

12 to be moved from shift.

13 Q. Okay. We are at a point now

14 that...where there is ample documentary evidence on

15 file that specific directions were disseminated

16 regarding Mr. Jack and Mr. Campbell would be

17 cognizant of. But I am going to suggest...if I

18 start now, I will be going right through to 1:00.

19 That would be with no break. Okay?

20 THE VICE-CHAIR: And you will be

21 finished with this witness?

22 MR. TAPP: No, not at 1:00, definitely

23 not. Okay.

24 THE VICE-CHAIR: Then earlier. I want

25 this done by 1:00.

- 82 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MR. TAPP: Well, no, it will never be...

2 THE VICE-CHAIR: Well, then, he will

3 have to come back another time. I want

4 this other witness.

5 MR. TAPP: Well, yes, after lunch,

6 because we already made that clear.

7 THE VICE-CHAIR: I would like to hear

8 from this other witness.

9 MR. TAPP: Okay, then, I have no

10 problems pausing this and starting with the

11 other witness, absolutely.

12 THE VICE-CHAIR: Your other witness is

13 here?

14 MS. SINGH: I would...sir, it would be

15 very prejudicial to the OPP. The applicant

16 needs to close their case before we start

17 with the OPP witnesses. And, so again, I

18 would respectfully ask that time limits be

19 imposed. Going until 1:00 with a

20 ten-minute break, it seems to me, is

21 perfectly reasonable. This witness has

22 been in the stand for hours. If there are

23 questions...you know, put the questions to

24 the witness. He is here.

25 MR. TAPP: I can't believe counsel's

- 83 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 suggestion, perfectly...she is putting time

2 restraints...I mean, you certainly...

3 THE VICE-CHAIR: The Courts put time

4 constraints all the time.

5 MR. TAPP: He will be finished, like I

6 addressed earlier today, by the end of

7 today we will done with him...absolutely.

8 Which is why I clearly advised counsel,

9 "Make the phone call". I suggested,

10 insinuated, "Tell Constable Filman we will

11 be done with him tomorrow".

12 THE VICE-CHAIR: Okay, we are just

13 wasting more time. Let's take a ten-minute

14 break.

15

16 --- upon recessing at 11:47 a.m.

17 --- A BRIEF RECESS

18 --- upon resuming at 12:00 p.m.

19

20 GENERAL DISCUSSION:

21 MR. TAPP: Okay, Mr. Vice-Chair, I took

22 the opportunity at the break to eliminate quite a

23 bit of questions just in line with the time

24 restraints over here, and the objections from

25 counsel. So, I can assure you and assure this

- 84 - General Discussion

1 Tribunal that I will be done by 3:00 p.m. for sure

2 with Mr. Campbell. And if Mr. Filman has not been

3 cancelled, we can at least...I will have closed my

4 case, and it is entirely in counsel's hands that...

5 THE VICE-CHAIR: Counsel, I am going to

6 indulge him in terms of this witness.

7 MR. TAPP: Thank you.

8 THE VICE-CHAIR: He is a key witness, I

9 think, for you, and I think Mr. Tapp should be

10 granted the time to thoroughly examine him.

11 MR. TAPP: Thank you.

12 THE VICE-CHAIR: He is saying by 3:00.

13 What would you suggest in terms of Mr. Flindall? I

14 see somebody sitting out there. Is that him?

15 MS. SINGH: Yes, Mr. Filman.

16 THE VICE-CHAIR: Filman?

17 MS. SINGH: Filman, yes. No, I know, it

18 is confusing. It took me the longest time to get

19 the names right.

20 THE VICE-CHAIR: Oh, Filman?

21 MS. SINGH: Filman, yes.

22 THE VICE-CHAIR: Okay.

23 MS. SINGH: The first coach officer,

24 sir. So, Mr. Filman is here, and I have asked him,

25 you know, to stay, and sort of put him on notice

- 85 - General Discussion

1 that...so, I think if we can...if Mr. Jack will

2 close his case by 3:00, then we would be

3 prepared...I am not sure if I will have any

4 clarifying questions for this witness, but assuming

5 that I do, I wouldn't be more than five minutes.

6 And then we can open our case and start Mr. Filman.

7 And...if that is acceptable, sir.

8 THE VICE-CHAIR: Yes, that is

9 acceptable. I wouldn't be averse to telling Mr.

10 Filman...

11 MS. SINGH: Yes, Filman.

12 THE VICE-CHAIR: ...to go home and come

13 back first thing tomorrow morning. It is up to you.

14 MS. SINGH: You know, he does have that,

15 you know, time constraint, but I will leave it to

16 him. You know, if he is prepared to stay and

17 perhaps not be called...

18 THE VICE-CHAIR: He is available today

19 and tomorrow.

20 MS. SINGH: And tomorrow, too.

21 THE VICE-CHAIR: I can't imagine that he

22 is going to take...it is going to be a day.

23 MS. SINGH: I don't think so. So, yes,

24 sir, with your permission, I will just go and tell

25 him that if he wants to leave and come in the

- 86 - General Discussion

1 morning...

2 THE VICE-CHAIR: Yes.

3 MS. SINGH: ...and, you know, Mr. Jack

4 can finish at 3:00, I will then ask any clarifying

5 questions, and then he will close his case, and the

6 respondent will open...

7 THE VICE-CHAIR: Okay.

8 MS. SINGH: ...the OPP's case.

9 MR. JACK: Do we need a lunch break, as

10 well, or no?

11 THE VICE-CHAIR: We are going to take a

12 break at 1:00.

13 MR. TAPP: Okay, fair enough.

14

15 MELVILLE RONALD JEROME CAMPBELL, resumed

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

17 Q. So, continuing, Mr. Campbell...

18 THE VICE-CHAIR: Just wait until we

19 hear...

20 MR. TAPP: Pardon me, sorry.

21 THE VICE-CHAIR: ...from Filman in terms

22 of whether he will be staying or not.

23 MS. SINGH: Mr. Filman will be back

24 tomorrow. So...

25 THE VICE-CHAIR: Will be?

- 87 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MS. SINGH: Back tomorrow.

2 THE VICE-CHAIR: Okay.

3 MS. SINGH: Thank you.

4

5 BY MR. TAPP:

6 Q. Mr. Campbell, can I direct your

7 attention to your other witness summary that was

8 prepared for you? In particular, it is a shaded

9 document. If we...

10 MS. SINGH: Again, just...

11 MR. TAPP: Okay. I will just ask you...

12 MS. SINGH: The witness did not...

13 THE VICE-CHAIR: Prepare that.

14 MS. SINGH: ...prepare this document.

15 MR. TAPP: I know that. That was

16 prepared for him.

17 MS. SINGH: Well...

18 MR. TAPP: That is what he said.

19 MS. SINGH: ...it was prepared for the

20 Tribunal.

21 MR. TAPP: Okay.

22 MS. SINGH: And, so, you know, you can't

23 attribute...you have to ask this witness...

24 MR. TAPP: I will, I will. I am just

25 directing it so he has it before his eyes,

- 88 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 that is all.

2

3 BY MR. TAPP:

4 Q. See where it says:

5 "...Staff Sergeant Campbell will address

6 the efforts that were put in place..."

7 A. It is page...sir?

8 Q. Pardon me?

9 A. It is two pages?

10 Q. Yes. There is a paragraph there

11 that says:

12 "...Staff Sergeant Campbell will address

13 the efforts that were put in place to

14 assist Mr. Jack..."

15 A. Yes.

16 Q. What were the efforts mentioned here

17 that were put in place, please?

18 A. Mr. Jack was provided an additional

19 resource person, Jennifer Payne, to assist him with

20 his learning. He was also sent for a driving

21 assessment to...I am just trying to think of the

22 gentleman's name, Dave McNeely, and also Kent

23 Taylor, were both driving instructors to improve his

24 driving and the safety of himself and other people.

25 And he was also later on moved from platoons and

- 89 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 assigned Rich Nie and a new supervisor to further

2 his chances of being successful in obtaining

3 permanent status.

4 Q. Thank you. And weren't their

5 driving instructions, those courses by McNeely as a

6 result of the HTA charge?

7 A. That, and his earlier decision or

8 collision in which he was deemed the operator of a

9 vehicle that was, firstly, put in a ditch with no

10 damage, and then towed through a couple of signs.

11 Q. Thank you. This vehicle damage

12 report that is before you is in regards to what you

13 have just said, an earlier incident where you put a

14 vehicle in the ditch?

15 A. Yes, sir.

16 Q. Thank you. Do you recall telling

17 Mr. Jack that PC Gilliam and him should have shared

18 the responsibility in this incident?

19 A. Yes, I recall telling him that

20 Constable Gilliam should have also been documented.

21 Q. Okay. Because Gilliam was not on

22 probation, am I right? At that time?

23 A. I don't remember whether he was or

24 wasn't.

25 Q. Well, would he have been senior to

- 90 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Mr. Jack?

2 A. He would have been...

3 Q. He would have been.

4 A. ...senior.

5 Q. But only Mr. Jack was documented?

6 A. He was deemed the driver. This

7 is...TP-22s are reviewed by regional command staff

8 of TP-22 committee. They review the information

9 provided in the explanation, and they deem it either

10 non-preventable or preventable, and this was a

11 preventable collision, with Constable Jack as the

12 operating member. The operating member is

13 responsible for the car.

14 Q. Yes, but you knew that it was Mr.

15 Gilliam that gave Mr. Jack the authorization to make

16 a particular manoeuver with that cruiser, which is

17 why you said Jack and Gilliam should have shared

18 that documentation?

19 A. Gilliam wasn't driving the cruiser.

20 Q. No, he wasn't.

21 A. Mr. Gilliam was certainly there when

22 they made the poor decision to have it towed, and

23 both got in the cruiser with no way of signalling

24 the passerby to stop, and the passerby pulled them

25 through several signs, two or three signs.

- 91 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MR. TAPP: Okay. We need this as the

2 next exhibit, please.

3 THE VICE-CHAIR: Just give me a moment.

4

5 --- EXHIBIT NO. 159: Vehicle damage report

6

7 BY MR. TAPP:

8 Q. So, you said the driving

9 instructions that Mr. Jack got...so, the further

10 driving instructions that Mr. Jack got from Mr.

11 McNeely were after the HTA charge, correct?

12 A. They were.

13 Q. They were. And there were several

14 months between that vehicle damage incident and the

15 HTA charge, correct?

16 A. Yes.

17 Q. Yes.

18 A. The committee meets every so often,

19 and they render the decision and send it back to the

20 detachment to be implemented. So, this document

21 would have been submitted shortly after the vehicle

22 damage, and we await regional review and their

23 decision to come back to us, yes.

24 Q. And as operations manager, you would

25 have to review that document, correct?

- 92 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. I believe I...yes, I did.

2 Q. Okay. Can you read the last

3 sentence in part C, please? "Although"...

4 A. "...Although PC Jack was not driving

5 the cruiser, this collision is deemed

6 preventable..."

7 By driving the cruiser, he means he was sitting in

8 the cruiser, and it was being towed at that point

9 when the damage happened, but he was the officer who

10 put the vehicle in the ditch.

11 Q. Okay. Go up and read, the fourth

12 line in that part C, beginning with "PC Jack",

13 please.

14 A. I would say it is the third line.

15 Q. Okay.

16 A. But:

17 "...PC Jack and PC Gilliam's decision to

18 accept the offer of a passing motorist

19 versus calling a tow truck resulted

20 ultimately in the damage to the cruiser..."

21 Q. Thank you.

22 A. "...This..."

23 Q. That is all. (???) to say, was that

24 a poor decision on their part?

25 A. That is what it says, yes.

- 93 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Q. Thank you. Yet only Jack was

2 documented negatively?

3 A. The driver on the TP-22 is

4 responsible for the vehicle.

5 Q. Albeit he wasn't driving at the

6 time?

7 A. Well, he was in the driver's

8 position being towed.

9 Q. Thank you, Mr. Campbell. You

10 mentioned Constable Payne was assigned as a

11 mentoring officer for Mr. Jack?

12 A. Yes. She was originally to be his

13 coach officer.

14 Q. Okay. Why was she assigned to be a

15 mentoring officer?

16 A. To help with his development, to

17 help both Constable Filman and Sergeant Flindall.

18 Q. But didn't he have an official coach

19 officer at that time?

20 A. Yes.

21 Q. On the same platoon?

22 A. Yes.

23 Q. Thank you. So, why was there a need

24 for the mentoring officer?

25 A. I guess they felt that he needed

- 94 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 more help. I have seen other times when a coach

2 officer has been assisted by other officers on

3 platoons with a probationary officer. I have also

4 seen where, in my own experience as a coach officer,

5 where you know that Officer B has a certain skill

6 set in certain areas, that you have your

7 probationary ride with them so they can learn some

8 different things.

9 Q. Mr. Campbell, could it possibly be

10 that Detachment was aware that the coach officer

11 wasn't fulfilling his responsibilities towards Mr.

12 Jack?

13 A. I would say no.

14 Q. Okay. I am showing you Exhibit 116.

15 I am showing you an e-mail here, rather, my mistake,

16 from you to Constable Jason Postma. My question to

17 you, looking at the original e-mail from Jason

18 Postma to you, first of all, who is Jason Postma?

19 A. Jason Postma was an officer at the

20 Peterborough detachment who was interested in

21 developing as a supervisor. He was eventually

22 promoted to Sergeant. He was the...because of

23 Sergeant Butorac's absence, his wife had passed away

24 suddenly, Jason Postma was the acting sergeant.

25 Q. Of the shift Mr. Jack was going to

- 95 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 be going to?

2 A. Yes.

3 Q. Thank you. That is D platoon,

4 Delta?

5 A. Yes.

6 Q. Thank you. So, as of the date of

7 that e-mail, Monday, August 24th, was Mr. Jack on

8 Mr. Postma's platoon?

9 A. No, I think if you go further, he is

10 to start shortly thereafter.

11 Q. Thank you. So, Mr. Jack is not yet

12 on Mr. Postma's platoon, but Postma, naturally, has

13 been made aware that Mr. Jack is coming to his

14 platoon, correct?

15 A. Correct.

16 Q. And that would have been through a

17 staff meeting that you all would have had, correct?

18 A. Yes.

19 Q. Okay. Mr. Postma addresses some

20 concerns he has about Mr. Jack?

21 A. He addresses some concerns he has

22 overall.

23 Q. Yes. So, he is obviously hearing

24 some things, and he addresses them in that e-mail,

25 correct?

- 96 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. Yes. He says...

2 Q. Okay.

3 A. "...Thank you for letting me

4 vent..."

5 Q. I want you to read what Postma is

6 telling you of the environment of his shift, knowing

7 that Mr. Jack is going to be coming there. It

8 starts with the word "moral".

9 A. "...D Platoon is the laughing stock

10 of the office because of these

11 developments. People are viewing..."

12 Q. People are viewing, or people are

13 not viewing?

14 A. It says:

15 "...People are not viewing..."

16 And it is blurred:

17 "...has a second chance or refocus, they

18 look at it...it is not our problem anymore.

19 Our shift is not happy, but we will give

20 Mike every chance to succeed. It is

21 surprising how many people knew about this

22 before I did, and before Rich [something].

23 Any comments on this..."

24 Q. Read the next note, please, another

25 note...oh, pardon me, before reading that...so, Mr.

- 97 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Jack is not yet on that platoon as of the date of

2 that e-mail, correct?

3 A. Correct.

4 Q. Okay. And his platoon, and everyone

5 on that platoon, is aware of this transfer, correct?

6 A. That is what he says, yes.

7 Q. Well, what it says over there. That

8 is why Postma says:

9 "...It is surprising to know how many

10 people knew about this before he did..."

11 Correct?

12 A. Correct.

13 Q. Okay. And he notes that his platoon

14 is not happy about Mr. Jack coming there, correct?

15 A. Correct.

16 Q. Thank you. Now, read what Mr.

17 Postma is telling you of regarding coaching, please.

18 A. "...Rich is a good coach officer,

19 but he has been in this coaching role way

20 too long. He needs a few years of [I

21 believe it is 'no recruits'] to get that

22 front-line groove back, my opinion. I

23 don't want him to burn out, and if Mike

24 requires extra documentation process, he

25 will do the job, and will do it right, but

- 98 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 I am sensing a negative side of him [and I

2 believe it says 'lately']..."

3 Q. Now read another note, please:

4 A. "...Another note from experience:

5 Problem officers or rising stars define

6 which coaches are successful in terminating

7 probationaries, or making positive

8 recommendations. Everyone wants the good

9 one, but very few are equipped to document

10 and terminate employment if they don't meet

11 the standards. We need to examine [I

12 believe it is] potential coaches more

13 thoroughly in the future..."

14 Q. So, what did you make of that

15 comment from Mr. Postma needing to explore potential

16 coaches more thoroughly?

17 A. He is saying that coach officers

18 should be selected with a more thorough, I guess,

19 investigation as to their abilities prior to getting

20 the probationaries.

21 Q. Okay. And surely you have a Duty

22 roster in your officer, and also a detachment

23 listing copy in your office at that time?

24 A. Yes.

25 Q. Okay. And looking at that

- 99 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 detachment listing, you would be aware that

2 Constable Nie and Sergeant Flindall were next-door

3 neighbours?

4 A. No.

5 Q. Okay. Thank you. But on that

6 detachment listing, it also lists the telephone

7 number and address of every officer at that

8 detachment on those platoons, correct?

9 A. Yes.

10 Q. Thank you. That is all. Oh, yes,

11 can you read your response regarding that e-mail

12 from Postma, please? Campbell to Postma?

13 A. Okay. So, in response to him,

14 "Thanks for letting me vent", I said:

15 "...No problem. This is a problem of the

16 original Sergeant coach not properly

17 supervising. I do not look at Platoon D as

18 a laughingstock whatsoever. I think that

19 four months will tell the tale with Mike

20 Jack. I know Rich has experience with

21 Colleen Kohen, and she is available for

22 advice. As far as Peter coming back, yes,

23 he will be back by September.

24 You are familiar with the issue, and

25 I think a good group effort and something

- 100 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 you can use on a resume is that you should

2 continue to work with this, with Peter and

3 Rich on addressing the shortcomings of 2

4 and A, that platoon D was required to clean

5 up, and that they could not finish. In

6 other words, I am looking forward to them

7 helping Mike be successful..."

8 MR. TAPP: Thank you, Mr. Campbell. I

9 know it says on top, number 3, but I don't

10 believe this has been entered into an

11 exhibit, Mr. Vice-Chair, and I ask that it

12 be...

13 MR. JACK: I can explain it because you

14 were not here last time.

15 MR. TAPP: Yes, there were two days I

16 was not here. So, I would like Mr.

17 Jack...go ahead, Mr. Jack.

18 MR. JACK: Well, my friend got sick last

19 time and I represented myself, and I

20 questioned Inspector Johnston on the

21 contents of this e-mail. Since...sorry, I

22 apologize, I questioned Sergeant Jason

23 Postma on this e-mail. And then when

24 I...as a matter of fact wanted a response

25 from Sergeant Campbell, I was objected by

- 101 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 the counsel, but we asked to wait for when

2 the matter extend. So, this exhibit was

3 partially entered, only I believe the first

4 thing. That is why we have the entire

5 correspondence on these two pages. At last

6 the counsel raised the objections that the

7 exhibits must be tendered in their

8 entirety, and you supported it, as opposed

9 to just excerpts. So, that is what we are

10 doing this day, at this time. That is why

11 we need to enter it, because I don't

12 believe it had...

13 THE VICE-CHAIR: I have no problems with

14 entering it. 161.

15

16 --- EXHIBIT NO. 160: E-mail exchange between Messrs.

17 Campbell, Postma et al., ending

18 August 26, 2009

19

20 BY MR. TAPP:

21 Q. Based on your testimony just now,

22 Mr. Campbell, are you sure that Mr. Jack had four

23 months to attempt to pass his probationary period?

24 A. September, October, November,

25 December, would have been the 12 months. So, that

- 102 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 is why I was figuring...because he came on in

2 January 2009, and your probation starts in that

3 period for 12 months. So, January to January is 12

4 months. So, September, October, November and

5 December is four months more.

6 Q. Okay. Now, you were part of a

7 teleconference call with regional officers on

8 November 12th, 2009?

9 A. Yes, I was.

10 Q. Okay. Now, on November 12th, 2009,

11 read what you have written in your notes for 15:15

12 hours, please.

13 A. "...Teleconference with Colleen

14 Kohen, Rich Nie, acting Staff Sergeant

15 Flindall and myself, discussion of resign

16 or be fired. Grievance, not proper coach.

17 Too late now. English is third

18 language..."

19 Q. That is it. Okay. So, as of

20 November 12th, there was a telephone conference

21 call, and it was not about having four months to go,

22 but as of November 12th, it was only about an

23 option: Resign or be fired, correct?

24 A. Correct, but in August, on the 24th

25 and 26th, when this message was sent to me, my

- 103 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 belief would be he would have four months to meet

2 the standards. When we had our discussion on the

3 12th of November, it was put to me that probation is

4 only 12 months long. There can be no extension.

5 Was Michael Jack meeting the standards, the

6 knowledge, skills and abilities demonstrating the

7 knowledge to practical application, and could he

8 overcome the number of deficiencies he had by that

9 time, which it was concluded he could not. There

10 were just so many performance issues that he would

11 not be able to complete them in the short period

12 that was left, just over a month. So, at that time,

13 on the teleconference with Hugh Stevenson in

14 December it was put over that that would be the

15 decision of...

16 Q. Okay. Mr. Campbell, you agree that

17 on August 26, 2009, you also wrote:

18 "...I think that four months will tell the

19 tale..."

20 And two and a half months later, on November 12th,

21 you are privy to and part of a conference call where

22 his options are resign or be fired?

23 A. Yes.

24 Q. Okay. I ask you, please read out

25 your notes for 15:46 hours, please? 12th of

- 104 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 November, 2009?

2 A. "...Rob Flindall brought forward

3 concern that he has firearms, concerned

4 about his mental state. Rich Nie,

5 Constable Jack [something about] HR checked

6 on my firearms...interview president of

7 club. HS's [Hugh Stevenson]'s perspective,

8 it made references to firearms and being

9 inappropriate: Example, violence. If not,

10 have to wait due diligence via PSB

11 investigation..."

12 Q. Thank you. So, correct me if I am

13 wrong: how would Sergeant Flindall know about or be

14 concerned about Mr. Jack's mental status, unless

15 somebody kept him well-informed?

16 A. You would have ask Sergeant Flindall

17 that.

18 Q. Thank you. Would it be rational to

19 assume that Flindall's next-door neighbour, Nie,

20 kept him well-informed?

21 A. I don't know.

22 Q. Okay, thank you. And why would

23 Flindall be concerned in the first place, unless he

24 did so...

25 MS. SINGH: Objection.

- 105 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MR. TAPP: Okay.

2 MS. SINGH: This witness cannot give you

3 evidence about another witness'...

4 MR. TAPP: Objection taken. I will

5 address it to Flindall, okay.

6 MS. SINGH: I make my objections to the

7 Tribunal, Mr. Tapp, not to you directly.

8 THE VICE-CHAIR: I understand your

9 concern.

10 MR. TAPP: Okay, thank you.

11

12 BY MR. TAPP:

13 Q. Mr. Campbell, based on your comments

14 and your notes of that teleconference call, do you

15 have any evidence that Mr. Jack ever resorted to

16 violence before his probationary term?

17 A. No.

18 Q. Thank you. How about during his

19 probationary term, sir?

20 A. No.

21 Q. Thank you. Lastly, after his

22 dismissal from the employment to this date, to the

23 best of your knowledge, do you have any evidence of

24 Mr. Jack resorting to violence?

25 A. No.

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Ex-in-Ch (L. TAPP)

1 Q. Thank you. Yet you do agree that it

2 was a concern, as you have documented, of Sergeant

3 Flindall, voiced to regional commander in that

4 teleconference call?

5 A. Yes.

6 Q. Thank you. Would you agree that

7 that concern was yet another one that turned out to

8 be unsubstantiated?

9 A. I don't know the reference or state

10 of mind of Sergeant Flindall. Anybody can have a

11 fear or a belief, but I can't testify to that.

12 Q. Fair enough. Fair enough. You are

13 going to be getting an e-mail from you, Mr.

14 Campbell, to Jennifer Payne, dated September 10th,

15 2009. Mr. Jack is just fishing it out. It will

16 have a number 23 on the upper-right corner. Having

17 reviewed that e-mail, do you recall which notes of

18 Constable Payne you read through, where she

19 identified her concerns?

20 A. I believe it would have been in her

21 chronology.

22 Q. Pardon me?

23 A. Part of the chronology, I believe.

24 I am not sure, but I think...

25 Q. But if the chronology was only done

- 107 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 in November, how could that possibly be so?

2 A. It was...that is what I said. I

3 believe. I don't know for sure, but I became aware

4 of it.

5 Q. Okay. But you are saying you read

6 over her notes.

7 A. Yes, I don't know which notes, but I

8 thought it was the chronology.

9 Q. Okay. You agree that if it was only

10 done in November, it could not possibly have been

11 the chronology?

12 A. Probably not.

13 Q. Thank you. So, who brought it to

14 your attention? Was it Constable Payne or Constable

15 Flindall? Sergeant Flindall, pardon me.

16 A. I am not sure, sir.

17 Q. Okay. I am going to suggest to you

18 that the only notes Constable Payne identified these

19 concerns were in her second surreptitiously kept

20 notebook of Mr. Jack.

21 MS. SINGH: Asked and answered.

22 MR. TAPP: And not...

23 MS. SINGH: Asked and answered.

24 MR. TAPP: ...her official notebook.

25 MS. SINGH: This witness has already

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Ex-in-Ch (L. TAPP)

1 given an answer that he does not know the

2 answer to your question.

3

4 BY MR. TAPP:

5 Q. But you recall looking at her

6 notebook, right?

7 A. What I have written here is:

8 "...I have read through your notes..."

9 And I don't know what those notes...their origin

10 was. I was believing it was the chronology. But,

11 as you stated, it could not be the chronology

12 because it was not completed. I am not sure when

13 the chronology was started, but certainly I

14 completed my portion of the chronology in November,

15 and as a result of that, because I was addressing

16 her concern to...under the WDHP.

17 Q. We will address that with Constable

18 Payne, okay? But weren't you concerned, as per your

19 direction, there is always two sides to the story,

20 and the importance of investigating something before

21 coming to a conclusion prematurely?

22 A. Yes, I understand that. This person

23 is, on three occasions...and she addressed the issue

24 with the person. And when I spoke...I did speak to

25 her, but she had informed Inspector Johnston that

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Ex-in-Ch (L. TAPP)

1 she had dealt with it. And when I spoke to her, she

2 had dealt with the issue.

3 Q. You chose to make no discussions

4 with Mr. Jack regarding this, did you?

5 A. No, because she had dealt with the

6 issue.

7 MR. TAPP: Okay, fair enough. Can we

8 enter that as the next exhibit, please?

9

10 --- EXHIBIT NO. 161: E-mail from Mr. Campbell to Ms.

11 Payne, et al., dated September 10,

12 2009

13

14 MR. TAPP: Mr. Vice-Chair, I know it is

15 only 12:44, but I am seeing, and that is

16 the purpose of our discussions back and

17 forth...we can shorten it tremendously if,

18 through lunch, we review it, and even be

19 finished with Mr. Campbell well before

20 3:00. So, we would like to have your

21 blessing to take the lunch break now and

22 discuss...

23 THE VICE-CHAIR: I don't know about

24 blessing, but I have no problems with

25 breaking for lunch now.

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Ex-in-Ch (L. TAPP)

1 MR. TAPP: Thank you.

2 THE VICE-CHAIR: So, if we come back

3 at...an hour.

4 MR. TAPP: Okay.

5

6 --- upon recessing at 12:45 p.m.

7 --- A LUNCHEON RECESS

8 --- upon resuming at 1:55 p.m.

9

10 MELVILLE RONALD JEROME CAMPBELL, resumed

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

12 Q. Okay, Mr. Campbell, continuing,

13 Exhibit 161, that e-mail, September 10th, 2009, that

14 you should have before you from you to Jennifer

15 Payne?

16 A. Yes.

17 Q. Okay. In it, she was alleging that

18 Mr. Jack had winked at her?

19 A. Actually...

20 Q. In her notes, rather, probably.

21 A. My recollection, yes, looked her up

22 and down, making a clicking noise with his mouth and

23 winking.

24 Q. Okay. I am going to be showing you

25 some photographs that have already been shared with

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Ex-in-Ch (L. TAPP)

1 counsel and this Tribunal.

2 MS. SINGH: If the witness doesn't know

3 anything about the photograph, I would

4 again request that documents...pictures not

5 be put to the witness that he can provide

6 no evidence, reliable evidence about.

7 MR. TAPP: It is pertinent to the

8 questions at hand, please, thank you.

9 THE VICE-CHAIR: Have these been

10 entered?

11 MR. TAPP: No, not yet entered as

12 exhibits. They have been disclosed.

13 MS. SINGH: I don't have a copy...

14 MR. TAPP: Yes, you have. Yesterday at

15 the start of the day, I gave you a copy,

16 and you put it there.

17 MS. SINGH: Excuse me. Excuse me. I

18 direct my questions to the Tribunal, and

19 not to you, Mr. Tapp.

20 MR. TAPP: In compliance with counsel's

21 ongoing disclosure obligations...

22 THE VICE-CHAIR: I have no idea how

23 these can be...how is it relevant to him?

24 MR. TAPP: Okay, I will tell you right

25 now. We have got...those photographs,

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Ex-in-Ch (L. TAPP)

1 okay? The date of them are July 2009,

2 okay? And August 2009. They are pertinent

3 to the time frame, and they are pertinent

4 to the allegation that Payne made, and Mr.

5 Campbell just mentioned, of a clicking

6 sound and a winking to her. Furthermore,

7 there is another document in an e-mail that

8 is going to be furnished and entered as an

9 exhibit, that Flindall sends to Campbell of

10 Mr. Jack's apparent dislike for women. So,

11 now, those photographs and the time frame

12 become extremely important...

13 THE VICE-CHAIR: Well, I am...

14 MR. TAPP: ...if those photographs...

15 THE VICE-CHAIR: I am not prepared to

16 have these entered at this point in time.

17 MR. TAPP: Okay.

18 MR. JACK: Can you just look at them?

19 THE VICE-CHAIR: Well, there is no

20 reason for him to look at them. What

21 information does this impart?

22 MR. TAPP: It imparts that if he has a

23 dislike for women, okay? And his mentoring

24 officer has been assigned to him...

25 MS. SINGH: Sir...

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Ex-in-Ch (L. TAPP)

1 MR. TAPP: ...how can he...

2 THE VICE-CHAIR: Yes, no, no, no.

3 MR. TAPP: Okay.

4 THE VICE-CHAIR: Take them back.

5 MR. TAPP: Take them back. Okay.

6

7 BY MR. TAPP:

8 Q. You are going to be getting a single

9 sheet of paper with some e-mails, top-right corner

10 is number 3. I direct your attention, Mr. Campbell,

11 to the e-mail in the middle of that page, read who

12 it is from and date and to whom, and to the subject.

13 Read the whole thing, the body, too.

14 A. From Robert Flindall, dated the 15th

15 of August, 2009, to myself and Mike Johnston. It

16 says:

17 "...HTA charge against Michael Jack while

18 operating force vehicle today..."

19 And it says:

20 "...I have been made aware by PC Moran that

21 when she was on the coach course, a

22 sergeant from the police vehicle operations

23 at Aylmer was there. He advised her that

24 there were two issues with PC Jack while at

25 the College: His driving and his apparent

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Ex-in-Ch (L. TAPP)

1 dislike of women. It is quite apparent

2 that his driving has not improved since

3 then. His is just for your information,

4 should..."

5 I take it it is supposed to be:

6 "...This is just for your information,

7 should we need it later..."

8 Q. Thank you. So, Flindall is making

9 you aware of...aside from his driving observations,

10 Mr. Jack's apparent dislike of women, correct?

11 A. Yes.

12 MR. TAPP: Thank you. Can we have this

13 entered as the next exhibit, please?

14

15 --- EXHIBIT NO. 162: E-mail exchange between Messrs.

16 Flindall, Campbell and Johnston,

17 dated August 15, 2009

18

19 BY MR. TAPP:

20 Q. So, would you agree that if his

21 apparent dislike of women were true...so, if it were

22 apparent that he had a dislike for women, would that

23 not cause you to question the winking of her? Mr.

24 Jack's winking at a woman?

25 A. In my opinion, in my understanding,

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Ex-in-Ch (L. TAPP)

1 it is not that he doesn't like women. He doesn't

2 like women in authority, supervising him or

3 directing him. That is what my take was, not that

4 he dislikes women, like...do you understand what I

5 am saying?

6 Q. I am trying to, but do you have any

7 documentary proof to support that understanding,

8 other than the...

9 A. You asked me what my impression of

10 this was. That is what I am giving you.

11 Q. Okay.

12 A. My impression. That is how I took

13 the message.

14 Q. Okay. I would like you to consider

15 the following facts, Mr. Campbell. Mr. Jack is a

16 probationary constable at the detachment, correct?

17 A. Yes.

18 Q. He is currently on his...at that

19 time, he was currently on his own in Canada,

20 correct?

21 A. Yes.

22 Q. Okay. He is an outsider and a

23 minority at the detachment, correct?

24 A. No, he had lived in Peterborough

25 County for, as far as I know, seven years.

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Ex-in-Ch (L. TAPP)

1 Q. But he...

2 A. But he is new to the detachment.

3 Q. And he is a minority at the

4 detachment, correct?

5 A. In a sense, yes.

6 Q. Thank you. And from meeting and

7 speaking to him, you realize he invested a lot in

8 his education and getting a job as a police officer,

9 because you talked about...he talked about speaking

10 with Armand Le Barge and being inspired?

11 MS. SINGH: Is there a question, sir?

12 MR. TAPP: Yes. Okay.

13

14 BY MR. TAPP:

15 Q. He made an effort...would you agree

16 he made a considerable effort in getting the job as

17 a police officer?

18 A. I can't give you an opinion on that.

19 I know he pursued a career as a police officer.

20 Q. Thank you. And his entire future,

21 life in Canada, depended on him passing that

22 probationary period?

23 A. Again, I can't give you an answer...

24 Q. You can't.

25 A. ...about his future.

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Ex-in-Ch (L. TAPP)

1 Q. Okay. Constable Payne was assigned

2 to be his mentoring officer?

3 A. Yes.

4 Q. And you made a certain determination

5 from your August 18th and August 21st e-mails to

6 Inspector Johnston that Flindall had lost

7 objectivity, was targeting...Mr. Jack had been

8 targeted, and had members watching him?

9 A. Yes.

10 Q. Okay. I am not going over

11 everything.

12 MS. SINGH: Objection.

13 THE VICE-CHAIR: We have heard all this.

14 MS. SINGH: Yes. And Mr. Tapp is

15 putting words in this witness' mouth.

16 There was no conclusion about that in the

17 e-mails. And I would ask that if he is

18 going to ask the question, that he ask an

19 accurate question, and not attribute things

20 to this witness that this witness did not

21 agree to.

22 MR. TAPP: He did.

23 MS. SINGH: This witness has never

24 agreed that he had been targeted.

25

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Ex-in-Ch (L. TAPP)

1 BY MR. TAPP:

2 Q. You did determine that Mr. Jack was

3 being targeted, right?

4 MS. SINGH: And, sir, I would ask that

5 he be given direction.

6 MR. TAPP: Okay.

7

8 BY MR. TAPP:

9 Q. You did determine that Mr. Jack was

10 being targeted?

11 A. It was a conversation with Inspector

12 Johnston and myself that the other shift members

13 were asked to watch Mr. Jack so he was under

14 increased scrutiny.

15 Q. And you specifically noted and used

16 the word "being targeted", right?

17 A. Yes.

18 Q. Thank you. And I think you touched

19 on this. Constable Payne and Constable Brockley

20 were in a common-law relationship at that time at

21 the detachment?

22 A. Yes.

23 Q. Okay. Now, do you realistically

24 believe that Mr. Jack was stupid and unprofessional

25 enough to hit on his mentoring officer, who was in a

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Ex-in-Ch (L. TAPP)

1 common-law relationship with somebody that he had

2 occasion Constable Brockley, earlier, to work with?

3 MS. SINGH: Objection.

4 THE VICE-CHAIR: I object to the

5 question, too.

6 MR. TAPP: Okay.

7 THE VICE-CHAIR: Thank you.

8

9 BY MR. TAPP:

10 Q. Okay. You were privy to the...okay,

11 I am giving you an e-mail from you to Professional

12 Standards Bureau investigator. Okay. That e-mail

13 is from you to V. Grimmett...is it Vic or V.

14 Grimmett?

15 A. It is actually Vi Grimmett.

16 Q. Okay.

17 A. She was in PSB. She has retired.

18 Q. Thank you. And the date and time,

19 please.

20 A. It was September 11th, 2009, when

21 the information had come forward at some point to my

22 knowledge that there was this videotaping.

23 Q. It says:

24 "...Subject Mussington..."

25 Is Mussington a constable there?

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Ex-in-Ch (L. TAPP)

1 A. There were several matters that I

2 dealt with PSB over the same time frame.

3 Q. Okay. Can you read the bottom, the

4 last paragraph in that e-mail, please, above

5 "Gentlemen"? The issues below, to the end of that

6 paragraph?

7 A. Are you wanting me to read the

8 middle...

9 Q. Yes.

10 A. ...where...

11 Q. The top e-mail, the paragraph

12 immediately above "gentlemen"?

13 A. Immediately above, okay.

14 Q. Okay.

15 A. "...The issue below involves Mike

16 Jack. He has had difficulties on his

17 shift, and in some documentation by one of

18 the officers mentoring him, I have read

19 yesterday that he is video/audiotaping

20 persons including a female on his shift. I

21 don't know why he did this, as the officer

22 does not say, and is in today, and I have

23 asked her to come and speak with me.

24 She is not the female that was

25 video/audiotaped on his pen, but she is the

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Ex-in-Ch (L. TAPP)

1 one who has come forward. I see all sorts

2 of disclosure issue with the AV-ing of the

3 public while he is working, and I am

4 wondering, although it doesn't leave me

5 with a warm fuzzy, if I knew every time I

6 spoke to a fellow worker, he was taping me.

7 But as long as he is a party to the

8 conversation, other than me not liking it,

9 is he violating any code of conduct?..."

10 Q. Thank you. Who do you mean by those

11 deatchment members that accused Mr. Jack, please?

12 A. Just 13-14 in the...what I have just

13 read here, if you will just give me a second. It

14 says:

15 "...He was having difficulties on his shift

16 in some documentation by one of the

17 officers mentoring him. I read yesterday

18 he was audio/videotaping persons, including

19 a female on his shift..."

20 Q. Who was the female that came

21 forward, Mr. Campbell?

22 A. I believe, in reading this, it would

23 have been Jennifer Payne.

24 Q. Thank you. So, who were those

25 detachment members that accused Mr. Jack of using

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Ex-in-Ch (L. TAPP)

1 recording...the recording device amongst staff and

2 the public?

3 A. At that time, I know Jennifer Payne.

4 I know from Robert Flindall, and I think there is

5 some reference later from Richard Nie in its

6 separate situation. But after this, not at this

7 time.

8 Q. Thank you, and we are going to hear

9 from them later on. Thank you. Were they the same

10 detachment members that you...with the exception of

11 Mr. Nie, were they the same detachment members that

12 you and Inspector Johnston felt were targeting Mr.

13 Jack, and poisoning his work environment?

14 MS. SINGH: Objection.

15 THE VICE-CHAIR: Yes.

16 MR. TAPP: Okay.

17

18 BY MR. TAPP:

19 Q. Was there any documentary or audio

20 evidence to substantiate their allegations?

21 A. None that came to me.

22 Q. Thank you. So, they were just

23 verbal concerns, were they?

24 A. It was mentioned verbally, and I

25 went to this person, and that was about the same

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Ex-in-Ch (L. TAPP)

1 time frame that PSB were looking into the

2 allegations of organized crime. So, it was left at

3 that.

4 Q. Thank you. Did you at least speak

5 to Mr. Jack and ask him about those allegations

6 being made against him? To hear the other side of

7 the story and what he had to say?

8 A. No. I made an inquiry to this

9 person in PSB, not asking them to go forward, but

10 asking them about violating the code of conduct.

11 They spelled out what certain things could be. And

12 it didn't go any further than that, that I am aware

13 of.

14 Q. But you admit that in that e-mail,

15 you were specific that it involved Mike Jack,

16 correct?

17 A. I was, yes.

18 Q. Yet you chose not to speak to Mr.

19 Jack?

20 MS. SINGH: Asked and answered.

21 MR. TAPP: No. He answered others, but

22 he never said whether he spoke to Mr. Jack.

23 THE WITNESS: I didn't go any further

24 than making the inquiry and sending this

25 e-mail...

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Ex-in-Ch (L. TAPP)

1 BY MR. TAPP:

2 Q. Okay. But in your August 16, 2009

3 point-form chronology, Mr. Campbell, you wrote the

4 importance of getting both sides of the story,

5 correct?

6 A. Yes.

7 Q. So, what about your own instructions

8 on the importance of investigating prior to coming

9 to conclusions with respect to those accusations?

10 A. I would say that if I had gone

11 forward with these, certainly it would have been my

12 practice to carry on. It ended with the e-mail.

13 Q. I guess when it came down to dealing

14 with Mr. Jack, there was no need to speak to him

15 about it?

16 A. I have answered your question, sir.

17 I did not carry on with this...

18 Q. Okay.

19 A. ...matter, other than making my

20 inquiry.

21 MR. TAPP: Okay, let's move on. Can we

22 have that single-page document entered as

23 an exhibit? And the upper-right portion is

24 in black print, number 18.

25 THE VICE-CHAIR: Okay.

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Ex-in-Ch (L. TAPP)

1 --- EXHIBIT NO. 163: E-mail from Mr. Campbell to Ms.

2 Grimmett dated September 11, 2009

3

4 BY MR. TAPP:

5 Q. Okay. You were present for the

6 November 12th, 2009 teleconference call involving

7 Staff Sergeant Kohen?

8 A. Yes.

9 Q. Okay. I am going to hand out

10 the...okay.

11 MR. JACK: These were transcribed notes,

12 disclosed by the respondent...Kohen,

13 because her notes are unreadable, which we

14 entered an exhibit, but we didn't enter

15 this one for some reason, I don't remember.

16 And they should have been entered along

17 with her original notes, which no one can

18 read.

19 THE VICE-CHAIR: Okay.

20 MR. TAPP: I have a specific question of

21 you only because I do not have a copy of

22 your notes for this. At least the

23 references that are made that were

24 discussed during this teleconference call.

25 MS. SINGH: Yes, sir, I hate to rise

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Ex-in-Ch (L. TAPP)

1 again but, again, these are the notes from

2 another witness. And I don't think that

3 this witness is in a position to give any

4 evidence about this exhibit, doesn't bear

5 his name anywhere. Perhaps he can answer

6 what he knows, and not be asked to answer

7 about what another witness, who has been

8 here, who testified, advised the Tribunal.

9

10 BY MR. TAPP:

11 Q. So, Mr. Campbell, isn't it apparent

12 that during this teleconference call, Mrs. Kohen was

13 aware, by her documentation, or made it known that

14 Sergeant Flindall had a strong dislike of Mr. Jack?

15 THE VICE-CHAIR: Maybe...

16 MS. SINGH: Objection.

17 THE VICE-CHAIR: Maybe you could

18 rephrase that question.

19 MR. TAPP: Okay. All right.

20 THE VICE-CHAIR: Without referring to

21 the documents.

22 MR. TAPP: Okay.

23 THE VICE-CHAIR: Test his memory...

24 MR. TAPP: Okay.

25 THE VICE-CHAIR: ...if you like.

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Ex-in-Ch (L. TAPP)

1 MR. TAPP: All right.

2 THE VICE-CHAIR: Counsel...yes, okay.

3

4 BY MR. TAPP:

5 Q. Mr. Campbell, were you made aware,

6 during that telephone conference call, and

7 conversations with Kohen, that she noted that Mr.

8 Flindall had a strong dislike of Mr. Jack?

9 A. And you are referring to the 12th of

10 November?

11 Q. Yes, maybe to jog your memory. And

12 August 31st teleconference letter.

13 MS. SINGH: These are not your notes,

14 you can only be answering about your

15 knowledge, not her knowledge. If you don't

16 have a recollection...

17 THE WITNESS: Yes.

18 MS. SINGH: ...it is not for you to

19 guess.

20 MR. TAPP: I am following Mr.

21 Vice-Chair's direction.

22

23 BY MR. TAPP:

24 Q. Does it jog your memory that you

25 were made aware that Sergeant Flindall had a strong

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Ex-in-Ch (L. TAPP)

1 dislike of Mr. Jack?

2 A. No.

3 MR. TAPP: Thank you. I am going to ask

4 that this be entered as an exhibit, please,

5 the next one for the pertinent question at

6 hand, for the telephone conference call.

7 THE VICE-CHAIR: On what basis?

8 MR. JACK: We have to know were they

9 tendered as exhibit...Exhibit 125. This

10 note, for some reason, they don't enter

11 last time, and nobody can read this.

12 MR. TAPP: Nobody can read that, Mr.

13 Vice-Chair. I couldn't read it, and had to

14 request counsel to make a transcription of

15 it, get Kohen to transcribe it. We can't.

16 THE VICE-CHAIR: Who transcribed it?

17 MR. TAPP: Kohen.

18 THE VICE-CHAIR: Okay.

19 MR. TAPP: Kohen transcribed it. I

20 mean, it can just be added to that exhibit,

21 125B.

22 THE VICE-CHAIR: 125B?

23 MR. TAPP: 125 is Kohen's notes, and as

24 you can see, is illegible.

25 THE VICE-CHAIR: Okay. So, we can add

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Ex-in-Ch (L. TAPP)

1 it to...

2 MR. TAPP: 125.

3 MS. SINGH: Sir, I am advised that we

4 have copies of what she has approved, not

5 this document, and that I have copies for

6 the Tribunal. If you just give me a

7 moment...

8 MR. TAPP: But she transcribed it, and

9 they provided it to us.

10 MS. SINGH: No, she...

11 MR. TAPP: We don't have it otherwise.

12 MS. SINGH: Sorry, sir. I think what

13 happened was that it was transcribed by

14 someone else working with her, but she

15 hadn't reviewed it. So, she has gone back

16 and gone through it. There were a couple

17 of typos. It doesn't change the essence of

18 any of it, but there were a couple of

19 corrections that she made...

20 MR. TAPP: Okay, please give it to us,

21 because we don't have that one. And then

22 obviously there should be no objection in

23 adding it to that. Thank you. Can we have

24 a copy so we can compare it, please? Yes,

25 the applicant has reviewed it, compared it,

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Ex-in-Ch (L. TAPP)

1 and we are satisfied to have this version

2 entered, Mr. Vice-Chair.

3 THE VICE-CHAIR: I am going to...I think

4 I have.

5 MR. TAPP: Mr. Jack is just going to get

6 the other copy back from her.

7 THE VICE-CHAIR: What was the exhibit

8 number for the...

9 MR. TAPP: 125.

10 THE VICE-CHAIR: 125?

11 MR. TAPP: Yes.

12 MR. JACK: And that must have been the

13 reason why they don't enter it, because

14 they were pending her final revision. Now

15 that is the reason.

16 THE VICE-CHAIR: Okay. So, I am going

17 to add the material that counsel provided

18 me to...

19 MR. JACK: Number of pages?

20 THE VICE-CHAIR: ...125.

21 MR. JACK: It is supposed to be five

22 pages. Five written pages.

23 MR. TAPP: Yes.

24 MR. JACK: Two-sided.

25 THE VICE-CHAIR: Maybe you can refresh

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Ex-in-Ch (L. TAPP)

1 my memory. I have 125 as an exhibit,

2 Kohen's notes.

3 MR. TAPP: Yes.

4 THE VICE-CHAIR: But I don't have the

5 exhibit.

6 MR. TAPP: Okay.

7 THE VICE-CHAIR: Did we mark it?

8 MR. TAPP: We have her original notes as

9 125, okay?

10 THE VICE-CHAIR: And I do, too.

11 MR. JACK: Well, no one can read from

12 them anyway.

13 THE VICE-CHAIR: I understand that.

14 MR. TAPP: So, we have what counsel has

15 just handed, three pages of transcribed

16 notes, double-sided.

17 MR. JACK: If you would like to see how

18 Kohen's notes look like, I can present it

19 to you.

20 THE VICE-CHAIR: No, we have been there

21 already. I am just going to enter this as

22 125, Kohen's notes, transcribed, I guess.

23 MS. BLUTSTEIN: Thank you, sir.

24 MR. TAPP: Okay.

25 THE VICE-CHAIR: Three pages.

- 132 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MR. JACK: How many pages, Mr.

2 Vice-Chair?

3 THE VICE-CHAIR: Three pages.

4 MR. TAPP: Double-sided, so...

5 THE VICE-CHAIR: Yes, they are

6 double-sided.

7 MR. JACK: Okay.

8

9 BY MR. TAPP:

10 Q. Testimony of the month 5 time frame

11 period, and you said your comments were specific to

12 that time period, correct? 9th of May to 9th of

13 June?

14 A. Yes.

15 Q. Okay. That meant issues were

16 identified after June 9th, correct? The outside of

17 that time period?

18 A. Yes, 21st information to me was

19 roughly 22nd of July. The Crown brief issues may

20 have been brewing all along, but I am not sure if...

21 Q. That is outside of that...after that

22 time period, correct?

23 A. I assume so.

24 Q. Okay. The time period when Flindall

25 was given the one Negative 233-10, correct? After

- 133 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 June 9th?

2 A. I believe he was given that on the

3 3rd of September, was it? 1st of September.

4 Q. September would be after June 9th,

5 right?

6 A. Yes, yes. I am just trying to

7 reference the date.

8 Q. Okay.

9 A. And it was served on someone, yes.

10 Q. Okay, thank you. The time period

11 after June 9th, which was when Payne was assigned to

12 be his mentoring officer, correct?

13 A. Yes.

14 Q. Thank you. The time period when

15 Flindall's actions toward Mr. Jack, as you

16 documented, would possibly, or could possibly result

17 in human rights violations, correct?

18 A. Yes.

19 Q. Could lead to?

20 A. May.

21 Q. Okay. The period of time when

22 Flindall had members of at least two platoons

23 watching Mr. Jack, correct?

24 A. Correct.

25 Q. Okay. The period of time wherein

- 134 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 you determined, as you noted, Mr. Jack was being

2 targeted, correct?

3 MS. SINGH: Is there a question?

4 MR. TAPP: There is a question. That is

5 a question.

6 THE VICE-CHAIR: It is "correct?", with

7 a question mark after it, I guess.

8 MS. SINGH: But these questions have

9 been asked and answered.

10 MR. TAPP: They are being reiterated to

11 enforce a point, Mr. Vice-Chair. Come on.

12 This is...

13 MS. SINGH: This is not an opportunity

14 to make argument.

15 THE VICE-CHAIR: Okay. Continue the

16 question.

17 MR. TAPP: Okay.

18

19 BY MR. TAPP:

20 Q. For the period of time Flindall, on

21 August the 31st, during that telephone conference

22 call...okay. My client, Mr. Jack, was reminding me

23 that you are not aware of it, but nonetheless, the

24 period of time of that telephone conference call of

25 August 31st, when Flindall made it a point to make

- 135 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 regional command aware of a possible PSB complaint,

2 correct?

3 A. On that teleconference?

4 Q. Yes. For that HTA charge, of which

5 you talked to him, and decided that...he didn't

6 follow through?

7 A. I am kind of confused here, because

8 the HTA charge had been laid.

9 Q. Yes.

10 A. What was the PSB...

11 Q. Okay.

12 A. ...matter from the HTA charge?

13 Q. We went over this earlier, that

14 Flindall did also talk to you about trying to

15 initiate an internal complaint about the HTA charge.

16 A. I am sorry, I don't remember that.

17 Q. Okay.

18 A. That is in the transcript...

19 Q. So, during this time period, this

20 month 6/7 evaluation, 9th of June to 9th of August,

21 two months?

22 A. Yes.

23 Q. When you reviewed the evaluation

24 report, were you not curious as to why there was a

25 sudden increase of ten negative ratings?

- 136 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. I was not curious. I understood

2 that these had been issues that were not documented,

3 that had come to fruition, or had sort of come to a

4 head over this time frame of the evaluation. This

5 was the time frame of the rejected Crown briefs of

6 the not listening to his supervisor, of not

7 following direction. And, so, they came forward in

8 that time frame. So, it didn't surprise me that

9 they were mentioned in this evaluation, his

10 performance issues.

11 Q. Okay. You remember getting that

12 document on or around the 25th of September 2009,

13 Mr. Campbell?

14 A. Yes, I do.

15 Q. Okay.

16 A. And that is my writing to Sergeant

17 Flindall. And, so, it is to me from...on the 25th

18 of September, from Peter Butorac, or Peter B., as it

19 is signed. And then I sent it to Sergeant Flindall

20 because my understanding is this had all been

21 discussed between them.

22 Q. With who?

23 A. Well, it says:

24 "...Sergeant Flindall, I understand you

25 spoke to Inspector Johnston the 5th of

- 137 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 October 2009 and wanted a copy of this,

2 Ron..."

3 Q. Thank you. And what does the body

4 of that letter to you from Peter Butorac state?

5 A. It stated:

6 "...Staff Sergeant Campbell, 25 September

7 2009, attached is PC Jack's response to his

8 six months evaluation. He is willing to

9 sign it, but when I check the file, it has

10 already moved ahead. This could be sent on

11 or added to the current one merged into his

12 current one. I will leave it with you.

13 Thanks, Pete..."

14 MR. TAPP: Can we add this as the next

15 exhibit, please?

16

17 --- EXHIBIT NO. 164: Letter from Mr. Butorac to Mr.

18 Campbell, dated September 25, 2009

19

20 MS. BLUTSTEIN: Isn't it already Exhibit

21 34?

22 MR. TAPP: No.

23 THE VICE-CHAIR: Sorry, do your records

24 indicate that it is part of Exhibit 34?

25 MS. BLUTSTEIN: They do. It is the

- 138 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 first page, and then there is the rebuttal.

2 Then it was attached.

3 THE VICE-CHAIR: Okay. I have Exhibit

4 34 to the rebuttal.

5 MR. TAPP: Yes, and maybe I can shed

6 some light. We specifically were prevented

7 from asking questions regarding the cover

8 page because that can be put forward to the

9 witness when they came in hand.

10 THE VICE-CHAIR: Okay, fair enough.

11 MR. TAPP: So...which is why we are

12 entering that now, and that can be on its

13 own a separate exhibit.

14 THE VICE-CHAIR: Okay, let's do it that

15 way, then. I recall that. So, I am going

16 to put it as Exhibit 164.

17

18 BY MR. TAPP:

19 Q. You have performance evaluation 6/7

20 before you, Mr. Campbell?

21 A. I do.

22 Q. Okay. Can you turn to page 12 of

23 that document, please?

24 THE VICE-CHAIR: What performance

25 evaluation are we looking at?

- 139 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MR. TAPP: 6/7.

2 THE WITNESS: 9th of June to 9th of

3 August.

4 THE VICE-CHAIR: 9th of June to

5 9...okay. And we are looking at...

6 MR. TAPP: Page 12, please.

7 THE VICE-CHAIR: ...12.

8

9 BY MR. TAPP:

10 Q. Mr. Campbell, did you write the word

11 "refused" in place on Mr. Jack's 6/7 signature?

12 A. It appears to be my writing.

13 Perhaps I did when I got it back, yes.

14 Q. Perhaps you also wrote that in when

15 Sergeant Flindall gave you some information?

16 A. I believe so, probably.

17 Q. Thank you.

18 A. But it does look like my writing.

19 Q. But you acknowledge that looks like

20 your writing?

21 A. Yes.

22 Q. Thank you. Why is your coach

23 officer's signature missing, Mr. Campbell?

24 A. He was probably absent.

25 Q. Thank you. Did you care to find out

- 140 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 why it was missing, Mr. Campbell?

2 A. I don't recall.

3 Q. Okay. But looking at page 1, does

4 this evaluation not purport to be done by Constable

5 Filman?

6 A. Yes.

7 Q. Thank you. Did you authorize

8 Sergeant Flindall to prepare that performance

9 evaluation report?

10 A. I don't recall. I knew that it

11 needed to be done, but I don't recall telling

12 Flindall to do it.

13 Q. Thank you. I am showing you the

14 list of calls for service from the respondent's

15 disclosure, okay? For Mr. Jack?

16 MS. SINGH: This witness did not create

17 that document that you are showing to the

18 witness.

19 THE VICE-CHAIR: What document are...let

20 me look at the document, please.

21 MR. TAPP: Maybe you should hear my

22 question first, instead of assuming...

23 THE VICE-CHAIR: Let's not...

24 MR. TAPP: Okay. He will recognize who

25 prepared that document by the badge number

- 141 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 and name at the bottom, that is it.

2 THE VICE-CHAIR: Okay, well, ask him

3 who...

4 MR. TAPP: Okay.

5 THE VICE-CHAIR: ...has the badge

6 number?

7 MS. SINGH: I am advised that that

8 solely indicates who printed the document.

9 Not who created the document, not whether

10 it is authentic, not whether the contents

11 of it are particularly accurate. But if

12 there is a question that doesn't have to do

13 with the document, then, Mr. Vice-Chair...

14 MR. TAPP: Mr. Vice-Chair, I would like

15 to...

16 MS. SINGH: ...I would ask that the

17 question be put...

18 MR. TAPP: ...put the question to you,

19 because on the top it says:

20 "...Evaluation period summary for period

21 9th of June to 9th of August, 2009..."

22 Specifically for this performance

23 evaluation period that questions are on,

24 and printed by whom it says, Flindall.

25 Now, if I can't put that to him, and have

- 142 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 this entered, there is a direct relevance.

2 Flindall did prepare that evaluation

3 report, because why else has he

4 typed...that he printed this up...

5 MS. SINGH: Mr. Vice...

6 MR. TAPP: ...and has his name on...

7 THE VICE-CHAIR: We know from that,

8 obviously, that it was printed, right?

9 MR. TAPP: Yes.

10 THE VICE-CHAIR: By Flindall.

11 MR. TAPP: By Flindall and for that time

12 period.

13 THE VICE-CHAIR: According to that

14 document.

15 MS. SINGH: And Mr. Flindall will be

16 here...

17 THE VICE-CHAIR: And he can...

18 MS. SINGH: ...and you can ask your

19 questions to the person who has printed the

20 document.

21 MR. TAPP: Okay, fair enough.

22

23 BY MR. TAPP:

24 Q. Would you agree that based on that

25 one-page letter from Peter Butorac to you on or

- 143 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 about the 25th of September, okay, that information

2 you got from Flindall about Mr. Jack refusing could

3 simply not be true? I am sorry if I am getting

4 excited, Mr. Campbell.

5 A. My understanding is that Michael

6 Jack did not wish to sign it. So, if he refused to

7 sign it, then he refused to sign it.

8 Q. And you...

9 A. I understand later that if he

10 provided a response, it was documented in there.

11 Q. So, you printed the word "refused"?

12 A. I believe I must have, yes.

13 Q. And isn't it ironic that regional

14 command, upon getting that document really believed

15 Mr. Jack refused...

16 A. That is...

17 THE VICE-CHAIR: How do we know what...

18 THE WITNESS: ...was my information.

19 MR. TAPP: Okay.

20

21 BY MR. TAPP:

22 Q. There is a September 28th e-mail

23 from you to Flindall that you are going to get right

24 now.

25 MR. JACK: It has already been tendered

- 144 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 as Exhibit 107.

2 THE VICE-CHAIR: Thank you.

3

4 BY MR. TAPP:

5 Q. Can you read what you write to

6 Sergeant Flindall, please?

7 A. "...On the 28th of September, 2009,

8 says Rob, 'Mike Jack has provided a

9 rebuttal to his last evaluation'. Please

10 sit down with Inspector Johnston and

11 myself, as we would like to go over. When

12 are you next in? Thanks, Ron..."

13 Q. Did you discuss any rebuttals with

14 Mr. Jack?

15 A. Did I personally?

16 Q. Yes.

17 A. Not that I recall.

18 Q. Well, will it...being that you

19 overlooked his evaluations, are you aware of anyone

20 else having discussed that with him?

21 A. I don't know whether it was

22 discussed with Flindall or Johnston. No, I don't.

23 Q. Pardon me?

24 A. I don't know.

25 Q. Okay. But you agree that by

- 145 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 September 28th, he was well into his new platoon,

2 right?

3 A. Yes.

4 Q. Thank you.

5 THE VICE-CHAIR: Are we entering this?

6 MR. JACK: No, it is 107, I believe.

7 THE VICE-CHAIR: Right. Thank you.

8

9 BY MR. TAPP:

10 Q. I am showing you another e-mail that

11 you authored, Mr. Campbell. It is coming to you.

12 A. Thank you.

13 Q. It might be on two sides. I have

14 the original version which is double-sided. So, you

15 just have two pages, the second page reflecting what

16 is on the rear of page 1. Okay, I direct your

17 attention to page 1 of the two pages you have. At

18 the bottom of that page 1, there is an e-mail from

19 you to Kohen. Can you read that, please?

20 A. On the bottom of which page, sir?

21 Q. Page 1, the first...

22 A. Yes.

23 Q. ...of the two pages.

24 A. "...Staff Sergeant Kohen, I have

25 spoken to you in the past concerning Neal

- 146 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 Read, and would ask that I be able to

2 approach you for assistance again

3 concerning another recruit we have in

4 Peterborough. His name is Michael Jack,

5 and I think you may be familiar with him.

6 Mike is having some difficulties, and it is

7 my opinion from a review of his first six

8 evaluations and information that came to

9 light in the seventh, he was not receiving

10 help he needed, and might need some more

11 one-on-one tutoring.

12 Added to this were his supervisor's

13 comments at the beginning of the whole

14 scenario that I think added to Mike's

15 stress, and were not warranted at the time.

16 With these comments that his job was in

17 jeopardy, and that he would be documenting

18 everything he did, it appeared to me that

19 the supervisor was not being objective, and

20 Mike's work environment may be poisoned.

21 In addition..."

22 MR. TAPP: That is all I need you to

23 read. Okay, I ask that this e-mail be

24 entered as the next exhibit, please.

25 THE VICE-CHAIR: 165.

- 147 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 --- EXHIBIT NO. 165: E-mail exchange between Mr. Campbell

2 and Ms. Kohen, et al., dated August

3 27, 2009

4

5 BY MR. TAPP:

6 Q. The next e-mail that is going to

7 come across to you will be dated September 11th,

8 2009, 9:02 a.m., from you to Colleen Kohen. It

9 should be two pages. I ask you to first direct your

10 attention to the bottom of page 1, "Original

11 message", who it is from and who it is to, and read

12 that short e-mail, please.

13 A. Where do you want me to start again?

14 Q. From the original message, please,

15 at the bottom of page 1. There is an indentation.

16 It says "Original message", and under it, "From

17 Flindall to"...pardon me.

18 A. This is sort of in the middle. It

19 is not the original e-mail, I would take it. 909,

20 139, 801, I think the original e-mail starts on the

21 9th of September.

22 Q. You are right, thank you. My

23 apologies. Can you read that, please?

24 A. "...Rob, please review my comments

25 in red. I think you need to expand in some

- 148 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 areas, even though he only worked six

2 shifts in your platoon and took vacation, I

3 think you can expand on some areas. Also,

4 when you account for his time on the six

5 shifts, is there a reason he wrote four

6 tickets? What was he doing with his time?

7 If he was completing follow-up or had a

8 number of calls for service, this should be

9 mentioned and given credit for it, any

10 proactive things he has done. Please

11 review prior to disclosure. Thanks,

12 Ron..."

13 Q. Thank you. So, you would agree that

14 Mr. Flindall was directly involved in the

15 preparation of month 6/7 PER, correct?

16 A. Well, every supervisor remains

17 involved with the preparation or review of an

18 evaluation.

19 Q. Okay.

20 A. Because later, it talks about:

21 "...Filman is making the necessary changes

22 to his current PCS-066..."

23 Q. Thank you. Read the e-mail directly

24 below that, please, Kohen to you.

25 A. Kohen to myself and Robert Flindall:

- 149 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 "...At this stage of this probation, there

2 should be no base for ratings. The rating,

3 if you don't have a specific example, goes

4 back to what the previous month. Also, can

5 you please ensure that there are specific

6 examples and not general comments?..."

7 MR. TAPP: Thank you. Next exhibit,

8 please.

9

10 --- EXHIBIT NO. 166: E-mail exchange between Mr. Campbell

11 and Ms. Kohen, et al., ending

12 September 11, 2009

13

14 BY MR. TAPP:

15 Q. I direct your attention to PER 6/7

16 that you have on your desk, please.

17 MR. JACK: What exhibit number was it,

18 Mr. Vice-Chair?

19 THE VICE-CHAIR: These are e-mails dated

20 September 9th, timed at 1:39 and 9:09,

21 those are the two you referred to. On the

22 exhibit is 166.

23 MR. TAPP: Thank you.

24 MS. SINGH: Mr. Vice-Chair, I am just

25 noticing the clock, and I am wondering...

- 150 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 THE VICE-CHAIR: Yes.

2 MS. SINGH: ...I knew that we have had

3 some undertakings by Mr. Tapp that he would

4 be finished by 3:00...

5 THE VICE-CHAIR: At 3:00.

6 MS. SINGH: ...at the latest.

7 MR. TAPP: With that...and I will

8 probably finish in the next 15 minutes,

9 because if we...thank you.

10 THE VICE-CHAIR: Fair enough. I have

11 got it here from...

12 THE WITNESS: I am sorry, I am being

13 directed to month 6/7, but all these

14 e-mails refer to month 8 Jack, eight

15 documents.

16 MR. TAPP: That is correct, Mr.

17 Flindall. We have questions for

18 you...pardon me, Mr. Campbell, we have some

19 more questions for that PER period, even

20 though those e-mails are for outside of

21 that period, okay?

22

23 BY MR. TAPP:

24 Q. I would like you to flip over to

25 page 8 of PER 6/7. Resolution, please.

- 151 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 A. Yes.

2 Q. Okay? What is the SP number,

3 please, documented there?

4 A. SP09133110.

5 Q. And it was for, just the first

6 sentence?

7 A. A stand-by to keep the peace.

8 Q. Thank you. And what is the rating?

9 A. "Does not meet".

10 Q. Okay. And that category, does not

11 meet requirements?

12 A. Yes.

13 Q. Okay, thank you. For what category?

14 Resolution?

15 A. Yes, we are in the resolution

16 category, and in the side, it says, "Does not meet".

17 Q. Okay. I ask you to flip back to

18 page 7, "Analytical Thinking", please. What

19 specific example is used for analytical thinking?

20 Occurrence number and type of occurrence, please.

21 A. SP09087157 - fraud.

22 Q. Thank you. What rating is given

23 here?

24 A. "Meets requirements".

25 THE VICE-CHAIR: I am sorry, what are we

- 152 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 looking at?

2 MR. TAPP: Performance evaluation report

3 6/7.

4 THE VICE-CHAIR: 6/7?

5 THE WITNESS: 9th of June to 9th of

6 August.

7 THE VICE-CHAIR: Thank you. And we are

8 looking at page 7, analytical thinking.

9

10 BY MR. TAPP:

11 Q. Specific examples SP09087157 -

12 fraud. Meets requirements. You can keep that

13 document open before you, Mr. Campbell, for

14 reference. I need you to...Mr. Campbell, look up

15 PER 8 that you have before you, analytical thinking,

16 page 7. On PER 8, page 7, analytical thinking, are

17 you there, Mr. Campbell?

18 A. Yes.

19 Q. Would you agree that the stand-by

20 keep the peace that had a meets requirement rating

21 in...now says, "Does not meet requirements" for

22 analytical thinking?

23 A. Could you repeat that again, please,

24 sir? I notice that month 8 and month 6/7, the

25 example for resolution in month 6/7, 9th of June to

- 153 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 9th of August, and the resolution is the trailer

2 park issue, and it is reported that he does not

3 meet, under "Resolution". It is the same incident,

4 again situated in month 8, the same incident number

5 and the same area for analytical thinking, and it

6 does not meet.

7 Q. Is the occurrence number the same,

8 SP...read the occurrence number, please.

9 A. It is the same. I just said that

10 they were the same incident.

11 Q. Okay. So, how is it possible that a

12 positive rating from 6/7 is now replaced with a

13 negative rating in number 8?

14 A. Actually, that is quite possible,

15 but the part that isn't correct is if this was an

16 incident that occurred in month 6/7, it shouldn't be

17 reported in month 8 as the other category. It

18 should have another example there.

19 Q. Yes. And that, of course, would be

20 congruent with the direction from Kohen that you

21 received and entered as the previous exhibit, the

22 rating, if you don't have a specific example, goes

23 back to what it was in the previous month, correct?

24 A. Yes, if there is no example...

25 Q. So, that means number 8, analytical

- 154 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 thinking, should have read what was in 6/7, correct?

2 A. Yes, unless he had something other

3 than this, and this would be wrong...

4 Q. But he didn't, did he?

5 A. No.

6 Q. Right, correct, thank you.

7 THE VICE-CHAIR: Mr. Tapp, you are going

8 to have to go through this again.

9 MR. TAPP: Okay, all right, I will. I

10 will break it down. For the benefit of the

11 Tribunal...

12 THE VICE-CHAIR: I have before me the

13 evaluation for June 9th to August 9th.

14 MR. TAPP: That is number 6/7.

15 THE VICE-CHAIR: And I have before me,

16 which you have provided me earlier, August

17 9th to September 9th.

18 MR. TAPP: That is number 8.

19 THE VICE-CHAIR: That is number 8, okay.

20 MR. TAPP: Those are the two.

21 THE VICE-CHAIR: Those are the two you

22 are comparing.

23 MR. TAPP: Those are the two we are

24 comparing.

25 THE VICE-CHAIR: Put me...

- 155 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 MR. TAPP: Okay.

2

3 BY MR. TAPP:

4 Q. Now, according to the direction

5 given by Kohen, okay? That if the current math has

6 no specific example and you are using a specific

7 example from the previous...

8 THE VICE-CHAIR: Okay, I understand

9 that.

10 MR. TAPP: Okay, good.

11 THE VICE-CHAIR: Give me the examples

12 that...

13 MS. SINGH: Yes...

14 MR. TAPP: Now, there are specific...

15 MS. SINGH: I think there has been some

16 confusion for the witness. In fact, just

17 looking at the two exhibits, you will see

18 that, on page 7, for "Analytical thinking"

19 for month 7, the example and the number

20 that is given is the same number that is

21 given in month 8, under "Analytical

22 thinking"...

23 MR. TAPP: What?

24 MS. SINGH: Sorry, it is a different

25 number under "Analytical thinking" for

- 156 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 month 8. They are different numbers.

2 MR. TAPP: Well, that is the point we

3 are trying to say.

4 MS. SINGH: And, in both cases, they

5 have to say...are different ratings,

6 different incidents. In the case of

7 resolution for month 6, you will see that

8 that number from month 6...

9 MR. TAPP: Who is...

10 MS. SINGH: ...the same as the number

11 that is given under "Resolution" for month

12 8, and the finding in the case of the same

13 incident is the same, which is, "Does not

14 meet".

15 THE VICE-CHAIR: Where is the

16 resolution?

17 MS. SINGH: Page 7 at the bottom, in

18 month 8, sir.

19 THE VICE-CHAIR: In month 8.

20 MS. SINGH: And the example is at the

21 top of page 8, with the number.

22 MR. TAPP: It is not yet a

23 cross-examination, Mr. Vice-Chair.

24 MS. SINGH: And that...

25 MR. TAPP: I should be explaining this

- 157 - M.R.J. Campbell

Ex-in-Ch (L. TAPP)

1 to you.

2 MS. SINGH: ...number...

3 MR. TAPP: I object to all of this.

4 THE VICE-CHAIR: Hold on, Mr. Tapp.

5 Please. I am trying to figure out what you

6 have just questioned the...

7 MR. TAPP: And I am going to make it

8 very clear if you just...

9 THE VICE-CHAIR: Well, you haven't yet,

10 and counsel is trying to...okay.

11 MS. SINGH: Does that help, sir?

12 THE VICE-CHAIR: So, the specific

13 example, Mr. Tapp...

14 MR. TAPP: Yes, please, thank you.

15 THE VICE-CHAIR: ...on page 8...

16 MR. TAPP: Of PER 8.

17 THE VICE-CHAIR: Of...no, 7.

18 MR. TAPP: 7, okay.

19 THE VICE-CHAIR: Under "Resolution"...

20 MR. TAPP: Yes?

21 THE VICE-CHAIR: ...refers to

22 "SP09133110".

23 MR. TAPP: Correct.

24 THE VICE-CHAIR: Okay. And then I go to

25 page 8 of the August 9th to September 9th

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Ex-in-Ch (L. TAPP)

1 of the evaluation under the heading

2 "Resolution", and we have the same example.

3 MR. TAPP: Yes.

4 THE VICE-CHAIR: Okay.

5 MR. TAPP: That means that, in

6 analytical thinking, there was no...in

7 number 8, there was no specific example.

8 There was a positive rating in 6/7, okay?

9 And in the absence of...in the absence of a

10 new specific example, it should have been

11 carried over to 8.

12 THE VICE-CHAIR: The resolution and the

13 example in the June to August evaluation,

14 the rating is "Does not meet requirements".

15 MR. TAPP: Yes.

16 THE VICE-CHAIR: In the other

17 evaluation, as I am reading it, using the

18 same example...

19 MR. TAPP: Yes?

20 THE VICE-CHAIR: ...it says, "Does not

21 meet requirements".

22 MR. TAPP: Yes, but we are not talking

23 about that category, please. We are

24 talking about analytical thinking.

25 THE VICE-CHAIR: Okay.

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Ex-in-Ch (L. TAPP)

1 MR. TAPP: Okay?

2 THE VICE-CHAIR: Well, I am confused

3 again.

4 MR. TAPP: Yes, I think counsel did

5 confuse you. That is why...

6 THE VICE-CHAIR: I don't know if counsel

7 confused me, or it is just my nature.

8 But...

9 MR. TAPP: So, I direct your attention

10 to "Analytical thinking" in both reports.

11 Page 7 of both reports.

12 THE VICE-CHAIR: Okay.

13 MR. TAPP: So, 6/7 has a specific

14 example, the fraud call.

15 THE VICE-CHAIR: I see.

16 MR. TAPP: It says, "Positive, meets

17 ratings".

18 THE VICE-CHAIR: "Meets requirements".

19 MR. TAPP: So, according to Kohen's

20 directions to Campbell, if number 8, the

21 next evaluation...

22 THE VICE-CHAIR: Right.

23 MR. TAPP: ...has no specific...

24 THE VICE-CHAIR: You have to use this

25 one.

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Ex-in-Ch (L. TAPP)

1 MR. TAPP: ...it has to carry...yes.

2 THE VICE-CHAIR: Right.

3 MR. TAPP: So, the point that we are

4 trying to say is, by using the specific

5 example...keep the peace...okay? That

6 occurred in...okay? That did not apply

7 over here, because he did not have a

8 specific example, he uses one instead of

9 carrying over the previous one, the standby

10 keep the peace from a resolution is placed

11 in here to justify a "does not meet"

12 rating.

13 MS. SINGH: Mr. Filman, who is the

14 author of this report, will be available

15 to...

16 MR. TAPP: Flindall wrote it.

17 THE VICE-CHAIR: Okay, I get the...

18 MR. TAPP: I referred to the previous

19 exhibit that was entered, September 9th,

20 2009. And it says:

21 "...Rob, please review my comments in

22 red..."

23

24 BY MR. TAPP:

25 Q. Mr. Campbell, you sent that to Rob

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Ex-in-Ch (L. TAPP)

1 Flindall, right?

2 A. Yes.

3 Q. With respect to a valuation date,

4 right? Look at the subject on top.

5 A. Yes.

6 Q. Jack 8. So, you were telling Rob

7 what to put and direct his attention to, "Analytical

8 thinking" in 8?

9 A. No...

10 Q. Those are the only...

11 THE VICE-CHAIR: Okay, just...

12 MR. TAPP: Pardon me.

13 THE VICE-CHAIR: How do you jump to

14 that?

15 MR. TAPP: Okay. This is something that

16 we are putting to this witness, Mr.

17 Vice-Chair.

18 THE VICE-CHAIR: Okay, put it to the

19 witness.

20 MR. TAPP: And that will be clarified

21 and become abundantly clear when the other

22 witnesses testify. Okay.

23 THE WITNESS: Could I ask...

24

25 BY MR. TAPP:

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Ex-in-Ch (L. TAPP)

1 Q. Yes, please.

2 A. ...because I don't recall which of

3 my comments were in red, and I don't know whether it

4 specifically refers to the analytical thinking. I

5 think it refers to the overall document. I think

6 you need to expand on some areas, even though he

7 only worked six shifts on your platoon and took

8 vacation. I think you can expand on some areas,

9 also when do you account for his time on the six

10 shifts. Is there a reason he only wrote four

11 tickets? So, I am referring up to an earlier

12 portion of the evaluation, what was he doing at the

13 time? If he was completing follow-up or had a

14 number of calls for service, this should be...

15 Q. Okay.

16 A. "...mentioned and given credit for

17 any proactive things he has done. Please

18 review prior to disclosure..."

19 So, I am asking him to provide more detail, to

20 expand on the areas, not particularly this section.

21 And I hadn't noticed it until today, until you

22 pointed it out.

23 Q. Okay. So, at that time, you didn't

24 notice that point, right?

25 A. No. No.

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Ex-in-Ch (L. TAPP)

1 Q. Okay. So, now, noticing it, would

2 you agree that this is...that these two analytical

3 thinking categories are not in compliance with

4 Kohen's direction?

5 A. What I would say is the example that

6 was used in Section 8 that actually occurred in

7 month 6/7 shouldn't have been used for that

8 purpose...

9 Q. Thank you. And if it shouldn't have

10 been used, then obviously 6/7 ought to have been

11 carried into 8, correct?

12 A. The author of it will have to

13 explain that to you. I don't know whether that was

14 just a...

15 Q. But you did overlook it, it is a

16 clear thing, Mr. Campbell. You did overlook it.

17 A. You will have to ask the author. I

18 didn't notice it before.

19 Q. Okay, thank you. But does it

20 now...does it make sense to you, looking at it now?

21 A. Does what make sense to me?

22 Q. Carrying a positive.

23 MS. SINGH: Asked and answered.

24 THE VICE-CHAIR: I am just making some

25 notes, so would you hold off on your next

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Ex-in-Ch (L. TAPP)

1 question?

2 MR. TAPP: Thank you. Okay, rushing

3 along, and we only have three or four

4 documents to put in.

5

6 BY MR. TAPP:

7 Q. Mr. Campbell, here is the next

8 e-mail coming to you. We are going to move along.

9 I have one specific question to you. Now, you

10 mentioned that on November 12th, 2009, you had that

11 telephone conference call wherein Mr. Jack's...

12 discussions were made about Mr. Jack's termination,

13 resign or be fired, correct?

14 A. Yes.

15 Q. Okay. How is it that on November

16 20th, you are telling the administrator who is

17 secretary of the detachment that Mr. Jack still has

18 two more months? Explain that, please. And the

19 date of that e-mail.

20 A. Okay. On the 20th of November, I

21 was sent an e-mail saying:

22 "...Can you please check into this for me?

23 Apparently Michael Jack is not recommended

24 for permanent status. It is my

25 understanding that they are still entitled

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Ex-in-Ch (L. TAPP)

1 to their pay increase after one year of

2 service..."

3 Q. Now...

4 A. And rather than have...because I

5 didn't know whether anything had been disclosed to

6 Mr. Jack yet at that point. I said he still has two

7 more months to be able to reach an acceptable level.

8 Q. Read your response to her, please.

9 A. "...He still has two more months to

10 be able to attempt to reach an acceptable

11 level..."

12 Q. Okay. Yet on November 12th,

13 discussions were specific about his options, resign

14 or be fired, correct?

15 A. Correct, but his pay increase would

16 not take place until January, and I was not sure

17 whether he had any disclosure.

18 Q. So, as of November 20th, two months

19 would be January 20th, 2010?

20 A. Well, January 9th. There would be,

21 you know, 11 days earlier, but that would be his

22 one-year period.

23 MR. TAPP: Thank you, Mr. Campbell.

24 Next exhibit, please.

25 THE VICE-CHAIR: Just a moment, please.

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Ex-in-Ch (L. TAPP)

1 That is 167.

2

3 --- EXHIBIT NO. 167: E-mail exchange between Mr. Campbell

4 and Ms. Gozzard-Gilbert, et al.,

5 dated November 20, 2009

6

7 BY MR. TAPP:

8 Q. The next e-mail I am showing you,

9 Mr. Campbell, is dated October 8th, 2009, from you

10 to...you can describe who the rest are. So, that is

11 from you to...

12 A. It is the 8th of October, 2009, to

13 Kohen, Butorac, who is back as the supervisor, Rich

14 Nie, the coach, Jason Postma, who was the 2IC, and

15 acting Sergeant Dave Lee from Human Resources, and

16 Peter Salter, who is filling in in Human Resources.

17 The original e-mail was from Rich Nie. It is my

18 responses at the top.

19 Q. And it was regarding Jack's month 9,

20 or ninth performance evaluation and work improvement

21 plan?

22 A. Yes.

23 Q. And all of you all, by meaning of

24 whoever it was disseminated to were reviewing the

25 month 9 evaluation report, correct?

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Ex-in-Ch (L. TAPP)

1 A. Yes

2 MR. TAPP: Thank you. Okay, next

3 exhibit, please.

4 THE VICE-CHAIR: 168.

5

6 --- EXHIBIT NO. 168: E-mail exchange between Messrs.

7 Campbell, Butorac, et al., dated

8 October 8, 2009

9

10 BY MR. TAPP:

11 Q. Now, I know we touched on this

12 question as to when you prepared your point-form

13 chronology, and you weren't exactly sure. But I

14 direct your attenion to the last e-mail at the

15 bottom of that page, please.

16 A. Yes.

17 Q. And, so, once again I ask would that

18 shed any light as to when you might have prepared

19 your point-form chronology?

20 A. Well, it was completed on the 25th

21 of November. It could have been prior to that,

22 which I said in testimony earlier.

23 Q. Now, read that comment, please, and

24 that e-mail?

25 A. Which part?

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Ex-in-Ch (L. TAPP)

1 Q. The very bottom e-mail.

2 A. "...Colleen, please read over. I

3 bolded my involvement with Constable Jack.

4 I still think both the earlier coach, Shaun

5 Filman, and Sergeant Flindall and Constable

6 Payne may need to add their information. I

7 have not forwarded to them until I have

8 your approval..."

9 Q. So, as of the 25th, would it be safe

10 to say that Flindall and Payne had not entered

11 their...and Filman had not entered their chronology

12 yet?

13 A. Not on the document I had, no.

14 MR. TAPP: Thank you. Next, go up...

15 MS. SINGH: Just for clarification, this

16 chronology was not put together...different

17 people have put it together at different

18 times. And, so, I wouldn't want the

19 Tribunal to think from his answer, because

20 Mr. Tapp didn't ask the question about the

21 compilation of the chronology. Mr.

22 Campbell is not aware of the compilation.

23 Mr. Campbell is not the author of the

24 chronology. Mr. Campbell is only able to

25 give evidence in relation to his entries.

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Ex-in-Ch (L. TAPP)

1 MR. TAPP: Well, okay, thank you. That

2 is very valid.

3

4 BY MR. TAPP:

5 Q. But, Mr. Campbell, you prepared a

6 chronology of Mr. Jack, right?

7 A. Of my involvement.

8 Q. Your involvement. And you

9 highlighted yours in bold print, your name and date,

10 right? That is what you meant?

11 A. Yes.

12 Q. Okay. And you were asking that

13 Filman, Flindall and Payne add their information,

14 not to contaminate yours, but add their chronology

15 to yours, or blend it in, right? Which would

16 account for that chronology on your desk that we

17 were given a copy of? It has four officers'

18 chronologies blended in?

19 A. It has the other officers...I

20 completed mine. I believe I was the first one to

21 complete mine, and I don't know what they had to say

22 about that.

23 MR. TAPP: Thank you, and I don't want

24 you to say what they had to...thank you.

25 So, this is the next exhibit, please.

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Ex-in-Ch (L. TAPP)

1 --- EXHIBIT NO. 169: E-mail exchange between Messrs. Nie,

2 Flindall, et al., ending November

3 29, 2009

4

5 THE WITNESS: I do...when I was asked

6 the other day to review my chronology, when

7 we were going to discuss it, I thought, I

8 did find one, what I thought was in error,

9 and it is attributed to me on the 15th of

10 August, 2009. And I believe if you read

11 that two paragraphs, it says:

12 "...In both cases, Sergeant R. Flindall..."

13

14 BY MR. TAPP:

15 Q. Can you direct our attention also to

16 it, please?

17 A. It is the 15th of August, 2009 entry

18 that has my name beside it. I believe that is an

19 error. It should probably be, from what I read of

20 it, Sergeant Flindall's entry.

21 Q. Are you talking about:

22 "...11:30 hours Staff Sergeant Campbell

23 contacted..."

24 A. No. So, 15th of August...

25 Q. On the 15th of August, 2009? It is

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Ex-in-Ch (L. TAPP)

1 that one?

2 A. Yes, PC R. Paradis. Yes, I don't

3 believe that is my entry.

4 Q. So, this is why it is important.

5 So, whoever prepared...compiled that document was in

6 error, right?

7 A. Well, I don't believe that is my

8 entry, and I believe it is probably an error in the

9 name there. I think it should be some other name

10 than me on the 15th of August.

11 Q. Okay. But obviously, having

12 reviewed the rest, you agree with the rest of your

13 entries there, right? In that document?

14 A. I do. Yes.

15 Q. Thank you. So, we need to deal with

16 the next exhibit number, that single-page e-mail

17 from Campbell to Richard Nie and...

18 MR. JACK: 169.

19 MR. TAPP: Thank you.

20

21 BY MR. TAPP:

22 Q. So, are you certain...can you tell

23 with any degree of certainty that the other

24 officers, Nie, Filman and Flindall, prepared those

25 after November 25th?

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Ex-in-Ch (L. TAPP)

1 A. Can I what?

2 MS. SINGH: Sir...

3

4 BY MR. TAPP:

5 Q. From the previous one...

6 MS. SINGH: This witness is in no

7 position to talk about the entries of other

8 officers. The officers will be here. He

9 can ask him at the questioning.

10 MR. TAPP: Okay, fair enough.

11

12 BY MR. TAPP:

13 Q. Look at the e-mail before you, Mr.

14 Campbell.

15 A. Yes?

16 Q. Okay. Can you read it, please?

17 A. "...Rich, I was hopeful I could have

18 a copy of the final chronology from Mike

19 Jack. We may be starting a similar one in

20 Parry Sound. Thanks and Merry Christmas,

21 Ron..."

22 Q. Okay.

23 A. Do you want to know why I wanted the

24 format for that? It was to start a chronology.

25 Q. No, no, no...okay, I do want to know

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Ex-in-Ch (L. TAPP)

1 why, please.

2 A. Just to start a chronology. Just to

3 see the formatting.

4 Q. Okay. But is it...I mean, the date

5 of your request, December 16, is it...that was after

6 Mr. Jack's termination?

7 A. I don't know the date of his

8 termination. I...

9 Q. That is right. You left Parry Sound

10 then.

11 A. I left on the 27th. I was not in

12 contact with anybody. I wanted the format so I

13 could start a chronology for another person.

14 Q. So, who did you need it for?

15 A. That would be improper for me to

16 give that officer's name.

17 Q. But you said a similar one. What do

18 you mean by "similar"?

19 A. An officer who is not telling the

20 truth, was deceitful, was not taking accountability,

21 was having difficulty in passing certain areas, who

22 had driving difficulties, who made up...well, who

23 made allegations about...

24 THE VICE-CHAIR: I don't think we need

25 all this.

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Ex-in-Ch (L. TAPP)

1 THE WITNESS: Yes, it was...

2 MR. TAPP: I mean it just...it shocks

3 me. It just sounds identical to Mr. Jack.

4 Okay. During Mr. Jack's...I want to show

5 you the next exhibit please, for the

6 December 16th e-mail.

7

8 --- EXHIBIT NO. 170: E-mail from Mr. Campbell to Mr. Nie,

9 dated December 16, 2009

10

11 BY MR. TAPP:

12 Q. Did you know Mr. Jack was denied his

13 vacation payout for the entire 2009?

14 A. No.

15 Q. Okay. I am going to show you a

16 document that will come to your...now, granted, your

17 testimony was that as of November 27th, you left

18 Peterborough detachment, correct?

19 MS. SINGH: Excuse me, sir. Again, this

20 document should be put to Mr. Flindall. It

21 has nothing to do with Mr. Campbell.

22 THE VICE-CHAIR: Yes.

23 MS. SINGH: Mr. Campbell has left the

24 detachment, and by November 27th, I think

25 he has said that several times in his

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Ex-in-Ch (L. TAPP)

1 evidence.

2 MR. TAPP: Okay.

3

4 BY MR. TAPP:

5 Q. The question being put to you, Mr.

6 Campbell, is as a person filling in your shoes as

7 operations manager, okay, that person, according to

8 that document, was Flindall?

9 A. Yes.

10 Q. Thank you. And that document, we

11 will address specific questions to Flindall. That

12 document, does it not speak about vacation time?

13 MS. SINGH: Again, you know...

14 MR. TAPP: Vacation balance.

15 MS. SINGH: I think there is no point to

16 finding out whether the witness can read

17 the document. Of course we can all read

18 the document. But if there are questions

19 about the document, the author of the

20 document will be here, and you can ask

21 those questions.

22 THE VICE-CHAIR: Fair enough.

23

24 BY MR. TAPP:

25 Q. When was Flindall promoted to be the

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Ex-in-Ch (L. TAPP)

1 operations manager, Mr. Campbell?

2 MS. SINGH: Again, Mr. Campbell...

3 MR. TAPP: I am asking him. He might

4 know.

5 MS. SINGH: He has been asked, and he

6 has answered that he did not know, and

7 he...

8

9 BY MR. TAPP:

10 Q. Did you promote him?

11 A. No.

12 Q. Okay, thank you. Do you know who

13 did?

14 A. No.

15 Q. Okay.

16 THE VICE-CHAIR: It is 3:30.

17 MR. TAPP: Okay. Okay. So, we can get

18 them back from you, Mr. Vice-Chair? We

19 will take that document back, and we will

20 hand it to the appropriate person. Okay,

21 we asked for that extra 15 minutes, Mr.

22 Vice-Chair. That is it. The applicant now

23 officially closes his case.

24 THE VICE-CHAIR: Counsel?

25 MS. SINGH: Thank you, sir.

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Ex-in-Ch (L. TAPP)

1 THE VICE-CHAIR: This may be an exhibit

2 already.

3 MS. SINGH: Yes, I think it is.

4

5 CROSS-EXAMINATION BY MS. SINGH:

6 Q. Mr. Campbell, I will try to be

7 brief. I am showing you a copy of the Ontario

8 Provincial Police Order 6.10, Professionalism in the

9 OPP.

10 A. Yes.

11 Q. You are familiar with that document?

12 A. Yes.

13 Q. As the staff sergeant, operations

14 manager, you would be familiar with all of the OPP

15 policies, correct?

16 A. Yes, but I would need to see them

17 and refer to them for certain decisions, because

18 there are hundreds of them.

19 Q. Of course. But you are familiar

20 with this one?

21 A. Yes.

22 Q. And the policy directs police to

23 safeguard rights that are guaranteed under the

24 Charter and the Human Rights Code, correct?

25 A. Correct.

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Cr-Ex (M. SINGH)

1 Q. And the policy also imposes specific

2 obligations, does it not, on managers and

3 supervisors, in particular to ensure that the

4 workplace is free from discrimination and

5 harassment, correct?

6 A. Correct.

7 Q. And as staff sergeant of operations

8 in the Peterborough detachment in 2009, you would be

9 a manager under this policy, correct?

10 A. Yes, I would.

11 Q. And as the manager under this

12 policy, you would have been responsible to report

13 any workplace discrimination, harassment complaints

14 up the chain of command, correct?

15 A. Yes.

16 Q. Thank you. And if you have received

17 a workplace discrimination or harassment complaint,

18 you would have reported this up the chain of

19 command, correct?

20 A. Yes.

21 Q. And I believe this has already been

22 marked as an exhibit, sir, so I won't be asking to

23 have it marked again. Mr. Campbell, as a police

24 officer, you are required to make notes of

25 significant events in relation to your duties,

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Cr-Ex (M. SINGH)

1 correct?

2 A. Yes.

3 Q. And generally speaking, you made

4 your notes at the time of the events, correct?

5 A. Yes.

6 Q. And you would have done your best to

7 make sure that your notes are accurate, correct?

8 A. Yes.

9 Q. And in making your notes, you would

10 have reported anything that seemed important to you

11 at the time, correct?

12 A. Yes.

13 Q. And if you received a complaint

14 about Mr. Jack's performance, you would make notes

15 of significant matters involving him and his

16 performance, correct?

17 A. Correct. E-mail or in my notebook,

18 yes.

19 Q. And the events we are talking about

20 took place in 2009, eight years ago, correct?

21 A. Yes.

22 Q. And you have reviewed your notes

23 before you came to testify here today?

24 A. Yes, I did.

25 Q. And, again, if you had received...

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Cr-Ex (M. SINGH)

1 and I have asked you this question, if you had

2 received a complaint, it would be in your notes,

3 correct?

4 A. Correct.

5 Q. And if you have a basis to believe

6 that Jack was the subject of a discrimination or

7 harassment in the workplace, you would have

8 investigated this, correct?

9 A. Yes.

10 Q. But you never did investigate a

11 workplace harassment or discrimination complaint in

12 relation to Mr. Jack, correct?

13 A. Correct.

14 Q. So, you obviously never had any real

15 basis to believe that there was workplace harassment

16 or discrimination taking place in relation to Mr.

17 Jack in 2009, correct?

18 A. Correct.

19 Q. Jack complained about his inadequate

20 coaching to the Ontario Police Association in August

21 2009, correct?

22 A. I don't know.

23 Q. Sometime in the summer of 2009?

24 A. To the OPPA?

25 Q. OPPA, exactly, yes.

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Cr-Ex (M. SINGH)

1 A. He brought that forward to Mitch

2 Anderson.

3 Q. And you attended a meeting on August

4 19th, 2009 with Jack, Mitch Anderson and Sergeant

5 Flindall, correct?

6 A. Yes, I did.

7 Q. And the meeting was intended to deal

8 with Jack's complaint about his coaching by Coach

9 Officer Filman and Coach Officer Jennifer Payne,

10 correct?

11 A. Correct.

12 Q. And at that meeting, you invited

13 Jack to raise any complaint, correct?

14 A. I did.

15 Q. And Jack raised two complaints,

16 correct?

17 A. Yes.

18 Q. He complained that he was not

19 getting adequate coaching, correct?

20 A. Yes.

21 Q. And he also made a vague reference

22 about inappropriate behaviour from other persons on

23 shift, yes?

24 A. Yes.

25 Q. And at the meeting, you asked Jack

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Cr-Ex (M. SINGH)

1 to provide you with particulars of what he was

2 referring to, correct?

3 A. Yes, I did.

4 Q. And you told Jack that you could not

5 deal with vague allegations, correct?

6 A. I told him there was nothing I could

7 do unless I had the information, unless I knew the

8 facts.

9 Q. And Jack refused or did not provide

10 you with any other details, correct?

11 A. Yes, he declined.

12 Q. And Mitch Anderson did not complain

13 to you that Jack was being subject to harassment or

14 discrimination, correct?

15 A. Correct.

16 Q. You gave evidence that you reported

17 Jack's problems to Superintendent Borton and

18 Commander Johnston, correct?

19 A. Yes, I did.

20 Q. And you were told to follow up,

21 correct?

22 A. Yes.

23 Q. And everyone...and by that I am

24 referring to Superintendent Borton and Commander

25 Johnston, agreed that it would make sense to move

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Cr-Ex (M. SINGH)

1 Jack from Platoon A to Platoon D for fresh eyes,

2 correct?

3 A. Yes.

4 Q. The move to Platoon D was intended

5 to determine whether Jack was capable of meeting the

6 requirements of a probationary constable, correct?

7 A. Yes, it was.

8 Q. You have testified, Mr. Campbell,

9 that you reached out to Colleen Kohen at the Career

10 Development Bureau, correct?

11 A. Yes, I did.

12 Q. And you asked Ms. Kohen at the

13 Career Development Bureau to assist you with Jack,

14 correct?

15 A. Yes, I did.

16 Q. And you were shown a document which

17 is now marked Exhibit 165, which is a document dated

18 August 27th, 2009.

19 A. This one right here?

20 Q. Do you have that?

21 A. Yes.

22 Q. And do you recall sending that

23 e-mail to Ms. Kohen, Mr. Campbell?

24 A. Yes.

25 Q. And in that e-mail, you told Ms.

- 184 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 Kohen that Jack needs, and I quote:

2 "...a good look and some direction..."

3 Correct?

4 A. Yes...

5 Q. That is...you see that? That is in

6 your e-mail, sir?

7 A. Can you point me...is it on page 1

8 or 2?

9 Q. The first page, fourth paragraph.

10 First page? In the first page?

11 A. My first page?

12 Q. It is a one-page document, August

13 27th, 2009, from you to Colleen Kohen. Do you have

14 that?

15 A. I am not sure I am looking at the

16 right one.

17 Q. It is an e-mail document. It is

18 titled "FW, PC Jack, Sergeant Kohen".

19 A. I don't think I am looking at the

20 right one.

21 Q. Exhibit 165?

22 A. I don't have Exhibit...

23 THE VICE-CHAIR: Yes, you are looking at

24 the...

25 MS. SINGH: Yes, that is correct.

- 185 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 THE WITNESS: Okay, yes.

2

3 BY MS. SINGH:

4 Q. Do you see that?

5 A. Yes, I do. I was looking in the

6 wrong spot.

7 THE VICE-CHAIR: It has been a long day.

8

9 BY MS. SINGH:

10 Q. So, again, you told Ms. Kohen that

11 Jack needs a good look and some direction?

12 A. Yes.

13 Q. Correct?

14 A. Yes.

15 Q. And a good look and some direction

16 was intended to help Jack meet the requirements of a

17 probationary constable, correct?

18 A. Yes, it was, to pass probation.

19 Q. Andf you would agree with me, Mr.

20 Campbell, that the OPP Career Development Bureau

21 also shares responsibility to ensure that a recruit

22 is not subject to a harassment or workplace

23 discrimination or a poisoned work environment,

24 correct?

25 A. Correct.

- 186 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 Q. Colleen Kohen did not raise

2 workplace harassment or discrimination issues

3 relating to Probationary Jack, correct?

4 A. Correct.

5 Q. Now, you testified, Mr. Campbell,

6 that you reviewed, I believe, all of Jack's

7 performance evaluations, correct?

8 A. Yes.

9 Q. And you would agree with me that

10 Jack had significant performance issues, correct?

11 A. Yes, he did.

12 Q. And you would have reviewed Jack's

13 comments in relation to his performance evaluations,

14 as well, correct?

15 A. I did.

16 Q. And the rebuttal to his six-month

17 performance evaluation, which I believe has now

18 been, again, entered as an exhibit, you testified

19 that you did receive a copy of his rebuttal?

20 A. Yes.

21 Q. There is nothing in the rebuttal

22 that raises workplace harassment, discrimination or

23 poisoned work environment, correct?

24 A. Correct.

25 Q. You testified that you received a

- 187 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 complaint from Constable Payne, that she was

2 subjected on three separate occasions to sexual

3 harassment by Jack, correct?

4 A. Yes.

5 MR. TAPP: Objection. There is lots

6 of...

7 THE VICE-CHAIR: Okay, calm down.

8 MR. TAPP: Counsel...yes. Well, I have

9 to. Counsel has done this all through my

10 testimony. She has put in evidence.

11 THE VICE-CHAIR: Just put your objection

12 out there. What is the objection?

13 MR. TAPP: Harassment. Hogwash.

14 THE VICE-CHAIR: Put your objection out

15 there.

16 MR. TAPP: My objection, she is putting,

17 introducing words to...

18 THE VICE-CHAIR: I agree.

19 MR. TAPP: ...the witness. There is

20 no...

21 THE VICE-CHAIR: Okay, I agree.

22 MR. TAPP: ...been no testimony.

23 THE VICE-CHAIR: I agree, I agree.

24 MR. TAPP: Sexual harassment...

25 THE WITNESS: I became aware that

- 188 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 Jennifer Payne had three occasions in which

2 she had an interchange with Michael Jack.

3 And from that, I spoke to her about that

4 and inquired as to her wishes under WDHP

5 policy, prevention policy.

6

7 BY MS. SINGH:

8 Q. Yes. And, again, it is Exhibit 161.

9 It is the e-mail from you to Jennifer Payne. Do you

10 have a copy of that?

11 A. I know there is one here somewhere.

12 Q. The title of it is, "Notes Tracking

13 Constable Jack's duties on Platoon A".

14 A. Yes, I have got it here.

15 Q. And WDHP issue with Jack, what does

16 WDHP refer to?

17 A. Workplace discrimination harassment

18 prevention policy.

19 Q. And that was in relation to Jack's

20 conduct vis-a-vis Constable Payne, correct?

21 A. Yes, it was.

22 Q. And you assured Constable Payne that

23 as a manager of the officer, you want her to feel

24 assured that everyone has a workplace free of this

25 type of behaviour, correct?

- 189 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 A. Yes.

2 Q. And that was Jack's behaviour

3 towards her, correct?

4 A. Yes, it was.

5 Q. And you also assured her that if

6 there was any continuation by Jack, that she should

7 let you know...

8 A. Yes.

9 Q. ...that it would be immediately

10 addressed, correct?

11 A. I did. I had sent her that e-mail.

12 Q. And, Mr. Campbell, I think the words

13 were used several times when Mr. Tapp was

14 questioning you recently, the word "targeted". And

15 would you agree with me, sir, when you used that

16 word, you meant "under increased scrutiny"?

17 MR. TAPP: Objection. That is

18 speculation...

19 THE VICE-CHAIR: Yes, I can't...

20 MR. TAPP: ...it is clearly...

21 THE VICE-CHAIR: That question is not

22 appropriate. The term was "targeted".

23 MS. SINGH: Well, what did you...

24 MR. TAPP: The term "targeted" was used,

25 and that is it.

- 190 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 BY MS. SINGH:

2 Q. Sir, Mr. Campbell?

3 A. That he was being...increased

4 scrutiny by all the members of his platoon in the

5 second members...or the other, Sergeant Banbury's

6 platoon. His evaluation should be by his coach and

7 his supervisor.

8 Q. He was under scrutiny?

9 A. He was.

10 MR. TAPP: So, that was already asked

11 and addressed.

12

13 BY MS. SINGH:

14 Q. And, Mr. Campbell, you gave evidence

15 that people make mistakes, correct?

16 A. Yes.

17 Q. And it is your feeling that it is

18 important to give a person an opportunity to

19 improve, correct?

20 A. Yes, it is.

21 Q. And when you thought that Flindall

22 had lost objectivity, that was because Sergeant

23 Flindall was frustrated, correct?

24 A. He was. He was frustrated and

25 upset.

- 191 - M.R.H. Campbell

Cr-Ex (M. SINGH)

1 Q. Sergeant Flindall told you that he

2 was frustrated?

3 A. Yes.

4 Q. And he was frustrated with Jack's

5 failures to take direction, correct?

6 A. Take direction and be accountable

7 for his own errors, to...you won't progress or learn

8 unless you accept that, "Here is something pointed

9 out to me", and, yes, you have to take ownership,

10 responsibility. And that wasn't happening.

11 MS. SINGH: Thank you very much, Mr.

12 Campbell. Those are my questions.

13 MR. TAPP: Thank you. In regards to the

14 question counsel raised, my re-examination

15 is going to be at the most about three

16 minutes.

17

18 RE-EXAMINATION BY MR. TAPP:

19 Q. Mr. Campbell, you have a document

20 that counsel provided you initially, the OPP's

21 promise. It is a rather thick...number of pages

22 stapled together?

23 A. Yes. It looks like it is 26 pages,

24 according to the bottom.

25 Q. Okay, thank you. I direct your

- 192 - M.R.J. Campbell

Re-Ex (L. TAPP)

1 attention to...well, first of all, counsel had you

2 read some...a specific portion of that document,

3 right? I have directed your attention to a specific

4 portion of that document, right?

5 A. I believe so, yes.

6 Q. Okay. I am going to direct your

7 attention to OPP Order...the second-last page of

8 that document.

9 A. So, page 24, sir?

10 Q. Yes. 24...so, 24, the back of 24,

11 please, where it says "Responsibilities" on top, and

12 "Manager/Supervisor" at the bottom.

13 A. Okay. Page 24 of the document I am

14 looking on deals with an honourary tribute...

15 Q. Okay, can you go to the back side...

16 A. Processing...am I too far along

17 here? Maybe I am in the wrong section here.

18 Maybe...okay, beyond there. Okay, the next

19 document.

20 Q. Okay. Can you read that section?

21 You were a manager/supervisor of the detachment

22 then, right?

23 A. Yes.

24 Q. So, that would pertain to you?

25 A. Sure, do you wish me to read this

- 193 - M.R.J. Campbell

Re-Ex (L. TAPP)

1 out?

2 Q. Yes.

3 A. "...Manager/supervisor.

4 Manager/supervisor shall ensure that a

5 workplace is free from discrimination,

6 harassment, including clarifying the types

7 of workplace behaviour expected under this

8 policy. Ensure that everyone under their

9 command knows and discharges their rights

10 and responsibilities under this policy,

11 legislation and OPS policies and

12 directives. Know about resources which

13 provide neutral and confidential

14 information about this policy and

15 resolution options. Upon becoming aware of

16 a potential inappropriate workplace

17 behaviour, engage in preliminary

18 fact-finding and assessment about the

19 nature in issue in order to determine the

20 next steps..."

21 Q. Okay, stop over there, please. And

22 you did engage in such a preliminary fact-finding

23 and assessment of inappropriate behaviour, and

24 documented those in your August 18th e-mail to

25 Inspector Johnston?

- 194 - M.R.J. Campbell

Re-Ex (L. TAPP)

1 A. Yes.

2 Q. Okay. And you repeated that in the

3 August...

4 MS. SINGH: Sorry, this is not a proper

5 re-examination.

6 THE VICE-CHAIR: Let's just...

7 MR. TAPP: Okay.

8 THE VICE-CHAIR: ...finish off your

9 questions.

10 MR. TAPP: Anyways, that has been

11 entered.

12

13 BY MR. TAPP:

14 Q. So, counsel brought this up, okay?

15 About...she questioned me about the September 10,

16 2009 e-mail, the meeting you had with Jennifer

17 Payne, or the e-mail?

18 A. Yes.

19 Q. Counsel tried to suggest something

20 that is not in here, correct?

21 A. I...

22 THE VICE-CHAIR: What are we talking

23 about?

24 MR. TAPP: Okay. That September...

25 Exhibit 161, okay? We are talking about

- 195 - M.R.J. Campbell

Re-Ex (L. TAPP)

1 WDHP...

2 THE VICE-CHAIR: Right, okay.

3 MR. TAPP: ...that Constable...

4

5 BY MR. TAPP:

6 Q. You agree that by then, Jack was

7 long gone onto Platoon D, correct?

8 A. Yes.

9 Q. So, there was no longer a problem,

10 obviously?

11 A. There was no longer a problem, and

12 there was also the desire of the complainant, who

13 said they had handled it, and didn't wish to

14 readdress it.

15 Q. Now, counsel also brought your

16 attention to...yes. The mini-investigation or the

17 determination and the use of the word "targeted" in

18 that e-mail. And she asked you, did Mr. Jack name

19 any officers, or did he wish to bring a complaint

20 before you then.

21 A. Yes, she asked that.

22 Q. Okay. Do you remember Mr. Jack's

23 response?

24 A. That he did not...I noted in my

25 notes something about he did not wish to proceed.

- 196 - M.R.J. Campbell

Re-Ex (L. TAPP)

1 He was saving it like an ace up his sleeve, sort of

2 deal.

3 Q. Pardon me?

4 A. Those weren't the terms, but he was

5 saving something. He was saving...

6 Q. He was saving something?

7 A. Yes, but as to what the specific

8 allegation was, I don't know.

9 Q. Let's...

10 A. He was encouraged to come forward

11 and provide me details, because I couldn't do

12 anything.

13 Q. Okay. Did Mr. Jack tell you it was

14 unethical at the time?

15 A. I don't recall. I don't remember.

16 MR. TAPP: Thank you, that is all. That

17 is all the questions. Thank you, Mr.

18 Vice-Chair.

19

20 GENERAL DISCUSSION:

21 MR. TAPP: Yes, Mr. Vice-Chair, I am

22 sorry, if you look, you will see that I am going to

23 want this whole document entered as an exhibit.

24 THE VICE-CHAIR: I think it is

25 entered...

- 197 - General Discussion

1 MR. TAPP: It is not the same.

2 THE VICE-CHAIR: I think it is entered

3 as an exhibit.

4 MR. TAPP: Twenty-six pages? Okay.

5 THE VICE-CHAIR: I think so.

6 MR. TAPP: That is what I am concerned

7 of.

8 THE VICE-CHAIR: We have gone through

9 that document. I know we have.

10 MR. TAPP: But I know...I am looking on

11 our version and the number of pages, because this

12 document that counsel referred to has a lot more

13 pages than we have. All I am concerned of, Mr.

14 Vice-Chair, counsel raised this in her cross, and we

15 re-examined the witness with respect to pages 24,

16 25, 26. And I am just concerned of the number of

17 pages that were entered. If counsel is in

18 agreement, we can enter just the last three pages.

19 THE VICE-CHAIR: Can't see it?

20 MS. SINGH: It is there, and it is just

21 in various pieces when different parts were brought

22 up.

23 MR. TAPP: That is all I have. Let's

24 just refer to the last three pages. We can tear

25 them off, and just enter the last three pages.

- 198 - General Discussion

1 THE VICE-CHAIR: I am not going to tear

2 the document apart.

3 MR. TAPP: Okay.

4 THE VICE-CHAIR: But I can refer to the

5 last three pages in the...on this here.

6 MS. SINGH: Yes, I think it is a

7 sub-policy, sub-police Order, and they do fit

8 together, and I am happy to have it as one exhibit.

9 THE VICE-CHAIR: You know what? I am

10 going to enter it as one exhibit.

11 MS. SINGH: Okay.

12 MR. TAPP: Thank you.

13

14 --- EXHIBIT NO. 171: OPP Orders, Chapter 6:

15 Professionalism in the OPP

16

17 THE VICE-CHAIR: So, tomorrow is not

18 Flindall?

19 MS. SINGH: It is Filman.

20 THE VICE-CHAIR: Filman?

21 MS. SINGH: Filman. If the applicant

22 has now formally closed their case, I am prepared to

23 start and do my opening now, sir. Or, I can do it

24 in the morning, first thing in the morning,

25 before...

- 199 - General Discussion

1 THE VICE-CHAIR: What opening do you

2 have? We already had an opening.

3 MS. SINGH: Yes, and I wanted to make

4 some submissions about that, sir. Because, of

5 course, an opening is of assistance to the Tribunal.

6 I am seeking leave to make a second opening. I am

7 aware that my predecessor made an opening addressing

8 this matter six years ago. And I recognize that a

9 litigant can only make one opening address as a

10 right, but there can be no doubt that a Court or a

11 Tribunal has the discretion to permit a second

12 opening in appropriate circumstances.

13 In my respectful submission to you, sir,

14 the circumstances here amount to appropriate

15 circumstances to permit the OPP to make a second

16 opening. The purpose of an opening is, of course,

17 to assist the Tribunal in following a party's

18 evidence, to place it in context, and to understand

19 its purpose by advising the Tribunal of the position

20 of the party making the opening, and by providing a

21 summary of the evidence that it anticipates calling

22 in, and in an orderly fashion. My predecessor

23 undoubtedly provided you with an overview of the

24 OPP's position, and that position has not changed.

25 But a great deal of time has passed since that

- 200 - General Discussion

1 opening, and a great deal of evidence has now been

2 heard. The OPP has a better understanding of the

3 position being advanced by Mr. Jack, and the

4 allegations it has to meet. As a result, the

5 evidence that I propose to call on behalf of the OPP

6 undoubtedly differs from what my predecessor

7 anticipated six years ago. And, of course, we have

8 no transcript of that opening.

9 I am confident that it will be of

10 assistance to the Tribunal to know what evidence I

11 am proposed to call, to be able to place that

12 evidence in context, and to understand the purposes

13 for which the evidence will be led. The opening

14 will, as well, be of benefit to the applicant for

15 much the same reasons. There is no prejudice. This

16 is not argument. As a result, I am seeking your

17 leave to make a second opening.

18 MR. TAPP: Mr. Vice-Chair, I have to

19 make comment on that.

20 THE VICE-CHAIR: Go ahead.

21 MR. TAPP: To use counsel's own words,

22 the applicant had a chance, and didn't pursue

23 something, and now he is trying to pursue it through

24 another witness. Okay? Counsel acknowledges

25 opening addresses being made by previous counsel.

- 201 - General Discussion

1 She has taken over this case. She cannot be allowed

2 to amend someone else's address, and based on

3 information that has come out at this hearing, make

4 amendments or put forth another address. She is

5 seeking a provision granted to this Tribunal.

6 Mind you, the applicant made such a pitch

7 when surprised during the third block of

8 continuation, Mr. Manuel provided a court reporter.

9 The applicant reminded this Tribunal that, when

10 during his opening address, he wanted to video and

11 audiotape it. Now, granted, he did not know the

12 procedure of having an actual licensed court

13 reporter, but he did make...it was denied, and the

14 applicant said that when Manuel brought a court

15 reporter here, that this is highly improper, but you

16 adjudicated over that, and allowed a court reporter

17 with explicit instruction that we be given a copy,

18 and the court reporter remained to the very end.

19 Okay, so that has been decided on, etched in stone,

20 the applicant decided.

21 What counsel is now requesting another

22 address is highliy prejudicial to the applicant,

23 because enough testimony has come forth. Counsel

24 has alluded to, by her cross of this last witness,

25 that, with all due respect, Mr. Jack had the

- 202 - General Discussion

1 opportunity at the time to make human right

2 complaints before the manager and the Association

3 representative, Mitch Anderson, on August 19th, and

4 had the opportunity to pursue...

5 THE VICE-CHAIR: Okay, okay.

6 MR. TAPP: ...but didn't.

7 THE VICE-CHAIR: Okay. Counsel, I do

8 have my notes from the original opening, that was,

9 what, seven years ago. My writing is fairly clear.

10 I can read it. I am going to deny the request for

11 several reasons. A few of them is, one, I am

12 betting you are going to get me through that

13 evidence, and that I will be able to follow it.

14 Two, I have indicated earlier that I was going to be

15 looking for written submissions at the end, and I

16 think you can supplement the opening statement

17 through your written submissions, based on the

18 evidence and your theory of the case. So, I am

19 quite confident that there is no prejudice in this

20 case, and that we should move forward tomorrow with

21 your witness.

22 MS. SINGH: Thank you, Mr. Vice-Chair.

23 MR. TAPP: Thank you, Mr. Vice-Chair.

24 When you cut me short over there, all I was going to

25 add was, yes, you specifically told us you were

- 203 - General Discussion

1 going to make sure we made written submissions.

2 THE VICE-CHAIR: That is right.

3 MR. TAPP: Thank you. Thank you, Mr.

4 Vice-Chair.

5 THE VICE-CHAIR: So, there is going to

6 be a lot of time to put it all together. So, that

7 is the day. We are off the record.

8

9 --- upon adjourning at 4:06 p.m.

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3

4 REPORTER'S NOTE:

5

6 Please be advised that any undertakings, objections, under

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15 I hereby certify the foregoing to be a true and accurate

16 transcription of the above-noted proceedings held before me on the

17 8th DAY OF SEPTEMBER, 2016, and taken to the best of my skill,

18 ability and understanding.

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21 } Certified Correct:

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28 } Matthew Dixon

29 } Certified Verbatim Reporter

30