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IN THE MATTER OF THE *POLICE SERVICES ACT*  
  
AND IN THE MATTER OF SUPERINTENDENT K. MACDONALD  
  
AND IN THE MATTER OF INSPECTOR A. JEVONS

DISCIPLINE HEARING

BEFORE THE PRESIDING OFFICER RETIRED HONOURABLE JUSTICE  
L.T. MONTGOMERY on **Thursday, July 17, 2008**, at the Orillia  
GHQ, Orillia, Ontario.

APPEARANCES:

Mr. B. Gover) For the OPP  
Mr. O. Rees )  
  
Mr. J. Falconer) For Superintendent MacDonald  
Mr. S. Mathai ) and Inspector Jevons

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1 Thursday, July 17, 2008 (10:12 a.m.)

2 THE ADJUDICATOR: You may be seated, Gentlemen.

3 Good morning.

4 MR. GOVER: Good morning.

5 THE ADJUDICATOR: Are we talking about dates  
6 first thing?

7 MR. FALCONER: Yes.

8 MR. GOVER: We are talking about dates.

9 THE ADJUDICATOR: All right.

10 MR. GOVER: Now, Mr. Adjudicator, you will recall  
11 that I've raised this issue from time to time  
12 about continuation dates and I had indicated  
13 that, in fact, the Prosecution is available  
14 sooner. That is, we're available sooner in  
15 September than had been indicated by Mr.  
16 Falconer. I could be available as early as  
17 September 2nd, for example, and have been  
18 protecting dates in September for the purposes of  
19 this hearing.

20 Mr. Falconer has raised some dates with me,  
21 and it appears that setting this date is  
22 complicated by a number of factors, including Mr.  
23 Falconer has raised the Jewish high holidays  
24 which include Rosh Hashanah, and of course,  
25 Thanksgiving falls in October, and it appears

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1           that the date that Mr. Falconer -- and I might  
2           say, as well, that we would be content to do this  
3           hearing in two day blocks if need be. Mr.  
4           Falconer has expressed some reluctance about  
5           doing that. What we have focused on, though, and  
6           what we've agreed on is four days, and I  
7           understand that Monday, October 13th is  
8           Thanksgiving.

9                        We've discussed starting on Tuesday, October  
10           14th and carrying through to Friday, October 17th  
11           to conclude the hearing, and the indication from  
12           the Professional Standards Bureau hearing office  
13           is that the facility is available to us on those  
14           days. Now, in my submission, we ought also at  
15           this point to be protecting further dates in  
16           order that we can be assured that the hearing can  
17           be completed, and in addition, that we set at  
18           least target dates for the hearing itself apart  
19           from the motion.

20                      And I would submit that we ought to be  
21           considering dates in that regard in November and  
22           December, and I should indicate to you to be  
23           forthright, sir, a complication that I have is I  
24           start a trial on October 20th that is scheduled  
25           to go four weeks, and that would then take me out

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1           until somewhere around November 20th. But I  
2           would be certainly urging you to set additional  
3           dates beyond that block of October 14th through  
4           17th.

5           THE ADJUDICATOR: So there is nothing -- we can't  
6           do anything in September, I understand?

7           MR. GOVER: Well, I understand that from Mr.  
8           Falconer. We do have time on this side of the  
9           room.

10          THE ADJUDICATOR: So Mr. Falconer, is that your  
11          position, there is nothing in August or  
12          September?

13          MR. FALCONER: There is nothing in August.

14          THE ADJUDICATOR: Okay.

15          MR. FALCONER: As for September, I had indicated  
16          to Mr. Gover I have some various dates. The  
17          trouble is identifying blocks of time that both  
18          Mr. Gover and I are available at the same time,  
19          blocks of time. I have September 22nd, September  
20          25th, October 2nd, and October 3rd. I have those  
21          four days available. September 22nd, September  
22          25th, October 2nd, and October 3rd. So those are  
23          all days before October 14th through 17th.

24          MR. GOVER: And I can indicate, sir, that I am  
25          available on September 25th and October 2nd, so  
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1 two of the four dates that Mr. Falconer has just  
2 indicated, and of course, it would be my  
3 suggestion that we -- I'll just say them again  
4 for the benefit of Mr. Rees, September 25th and  
5 October 2nd.

6 THE ADJUDICATOR: So why don't we seize on those  
7 two days, then, September 25th --

8 MR. FALCONER: We can't. I'm sorry, October 2nd  
9 and 3rd is a block we can't do.

10 THE ADJUDICATOR: Like the dates suggested was  
11 September 25 and October 2nd.

12 MR. FALCONER: Yes, I'm just wondering because  
13 there's a two day block of October 2 and 3. I'm  
14 wondering --

15 MR. GOVER: And I'm unavailable on October 3rd.

16 MR. FALCONER: I'm sorry, the dates identified  
17 then that we have in common are September 25th  
18 and October 2nd, Mr. Adjudicator.

19 THE ADJUDICATOR: Yes.

20 MR. FALCONER: By the way, Mr. Adjudicator, I  
21 should introduce Mr. Perry.

22 THE ADJUDICATOR: Yes. Good morning, Mr. Perry.

23 MR. PERRY: Good morning, sir. How are you?

24 THE ADJUDICATOR: Very good. So September 25,  
25 October 2nd, can we use those to continue the

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1 hearing on the motion?

2 MR. FALCONER: Yes.

3 THE ADJUDICATOR: Mr. Gover, you're agreed?

4 MR. GOVER: I am to those additional dates,  
5 September 25th and October 2nd.

6 MR. FALCONER: And then October 14th through  
7 17th.

8 THE ADJUDICATOR: And you're agreeable with  
9 those, Mr. Falconer?

10 MR. FALCONER: Yes. So that's one, two -- so  
11 that's six days.

12 THE ADJUDICATOR: Right.

13 MR. FALCONER: For what it's worth, Mr.  
14 Adjudicator, it's my view that those days almost  
15 in their entirety will be taken by the abuse  
16 motion.

17 THE ADJUDICATOR: All right.

18 MR. FALCONER: It may be that a day isn't needed  
19 or something, but I'm trying to be fair in terms  
20 of the estimate of time, looking at the pace that  
21 witnesses have been done. I, frankly, expect to  
22 be cutting my witness list to some extent, but my  
23 guess is Mr. Gover may want to call some of these  
24 witnesses.

25 THE ADJUDICATOR: So we would have a day probably  
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1 for argument then?

2 MR. FALCONER: That's right. When I add it all  
3 up, it's my view that if we target October 17th  
4 for finishing the abuse motion, that's probably  
5 the most realistic approach we can take. I do  
6 want to put one matter on the record, if I may,  
7 Mr. Adjudicator.

8 THE ADJUDICATOR: Certainly.

9 MR. FALCONER: Obviously, Mr. Gover has indicated  
10 there are times that he is free and I'm not, and  
11 we know that there is four weeks between October  
12 20th and November 20th that he is booked, and  
13 that's just life. But I do want to emphasize  
14 that the defence was not prepared to go any  
15 further in setting any dates until it had fair  
16 disclosure, and that has been reflected in your  
17 ruling of June 24th, and I need say no more. But  
18 the one aspect of this that I am troubled by is  
19 we have significant pages of redacted officers'  
20 notes that has not been finally resolved, and so  
21 I'm simply trying to give fair notice to my  
22 friend that the process that has been adopted  
23 between Mr. Mathai and Mr. Rees does have to have  
24 an end time. Mr. Mathai was the one who couldn't  
25 make it this morning to meet with Mr. Rees

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1           because he was working with a witness, but I say  
2           that whatever we're doing, we're going to have to  
3           do in the next few days, and I'm going to seek  
4           some direction from the Court. It just seems to  
5           me that defence shouldn't be in the position of  
6           setting dates and agreeing to hearings when  
7           disclosure still remains incomplete, or there is  
8           a better way to put it, disclosure issues remain  
9           unresolved, because of course it's conceivable  
10          you could rule that Mr. Gover has properly  
11          blacked out all of this material. So that's the  
12          one issue that I feel that ought to be raised  
13          with you.

14          MR. GOVER: And in response, I would just say,  
15          Mr. Adjudicator, that these are notes that were  
16          disclosed on June 2nd. This concern about  
17          redaction was addressed on the motion. The notes  
18          were produced to you, sir, for your review at  
19          that time. We have set additional dates just  
20          now, and this is something not to be addressed in  
21          the hearing room or while we're here on the  
22          hearing before or after hearing days, but this is  
23          something that Mr. Mathai and Mr. Rees can  
24          discuss next week, in my submission, without any  
25          difficulty at all. There are valid claims here

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1 to privilege and there is nothing being hidden.  
2 The fact is the officers are entitled to act on  
3 the advice of counsel, and that is the nature of  
4 the redactions by and large. So it should be no  
5 great mystery, and of course, the Stinchcombe  
6 case itself recognizes that disclosure is  
7 circumscribed by the law of privilege and the  
8 Supreme Court of Canada some six or seven years  
9 later and the case of Campbell and Shirose  
10 recognize that privilege applies between  
11 investigators and prosecutors in relation to  
12 legal advice. So there is no mystery on the  
13 other side of the room, that is the basis for the  
14 redaction.

15 MR. FALCONER: But I wanted to emphasize  
16 something, Mr. Adjudicator, the usage of the  
17 words "for the most part" by Mr. Gover. You see,  
18 it's not entirely the basis for his claim of  
19 privilege. He also claims a work product  
20 privilege, and we know that Mr. Gover and I have  
21 had extensive educational discussions with one  
22 another about our views of work product privilege  
23 and we don't agree, and likely, we're not going  
24 to agree again. So in addition to us leaving it  
25 to Mr. Mathai and Mr. Rees to work out the

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1 mechanics of it, I expect if we can't agree that  
2 we will have to leave room to have you give some  
3 guidance on it, and my only issue is to try to  
4 flag that as quickly as I can so that we can  
5 address it.

6 THE ADJUDICATOR: Very good, gentlemen. So we've  
7 got September 25, October 2nd, October 14, 15,  
8 16, 17, then, everybody is agreed?

9 MR. FALCONER: Yes.

10 THE ADJUDICATOR: Dates primarily for the hearing  
11 on the motion and argument and the facilities are  
12 available you think for those six days?

13 MR. GOVER: According to the list I have in front  
14 of me, yes, sir. Thank you.

15 THE ADJUDICATOR: I've been alerted in respect to  
16 the redaction problem. I'm aware of that. Mr.  
17 Rees and Mr. Mathai are going to work on that,  
18 and I'm aware of Mr. Falconer's comments in  
19 respect thereto. So can we then continue with  
20 the motion, then?

21 MR. FALCONER: The witness is outside.

22 THE ADJUDICATOR: All right.

23 MR. FALCONER: I apologize for this. May I have  
24 two minutes to use the facilities, Mr.  
25 Adjudicator? I'm sorry.

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1 THE ADJUDICATOR: Yes, certainly. Sure, we'll  
2 have a short break.

3 --- Upon recessing at 10:25 a.m.

4 --- Upon resuming at 10:30 a.m.

5 THE ADJUDICATOR: Okay. Gentlemen, so the Chief  
6 Superintendent is here. So I'll swear you on the  
7 Bible again, Superintendent, if you don't mind,  
8 stand up for a moment.

9

10 BILL GRODZINSKI: SWORN

11

12 THE ADJUDICATOR: Thank you, sir. You may be  
13 seated, and there is an order excluding witnesses  
14 save and except Superintendent Van Zant and  
15 Detective Sergeant Jevons and Investigator Perry.  
16 So you may continue, Mr. Falconer.

17 MR. FALCONER: Thank you, Mr. Adjudicator. If  
18 you will see me stumbling more than usual, Mr.  
19 Mathai has been replaced on my bench by Mr.  
20 Perry.

21 THE ADJUDICATOR: You will be lost without him.

22 MR. FALCONER: Equally able, but unfortunately,  
23 he hasn't been stuck having to help me before  
24 like this. The first area that I want to ask the  
25 witness about, and I'm flagging this for Mr.

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1           Gover, I'm going to be asking the witness some  
2           questions about an interview that took place  
3           between Mr. Perry and the witness, and I would  
4           encourage Mr. Gover if he feels that it's  
5           appropriate at the right time to request the  
6           exclusion of the investigator Perry. You know,  
7           I'm not trying to frustrate that effort or sort  
8           of steam-roll it. So he will flag if he thinks  
9           that that is something he needs to have happen,  
10          and we'll deal with it then. A brief indulgence.  
11          THE ADJUDICATOR: Certainly.

12

13 CONTINUED EXAMINATION IN-CHIEF BY MR. FALCONER:

14           Q. So I'm going to start asking my question and  
15 Mr. Gover and Mr. Rees are going to help me with an extra  
16 copy of something. Good morning, Chief Superintendent  
17 Grodzinski.

18           A. Good morning, Mr. Falconer.

19           Q. Chief Superintendent Grodzinski, there is a  
20 reference that I want to draw to your attention, a  
21 reference that is made on June 3rd, 2008, by Commissioner  
22 Fantino during a meeting he had with Mr. Rees and Mr. Gover  
23 among others. I'm placing in front of you a clean copy of  
24 a memorandum in respect of that meeting of June 3rd, 2008  
25 between Commissioner Fantino, Officers Chalk and Van Zant,

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1 as well as Mr. Gover and Mr. Rees. Now, what I'm placing  
2 in front of you relates to a comment that the Commissioner  
3 made in respect of you, Chief Superintendent Grodzinski,  
4 and that's why I'm showing it to you. It's just above the  
5 word "Commissioner's background" on page one, and the  
6 comment is, "Commissioner finds G's statement remarkable  
7 for its length without any Q's. Must have been  
8 orchestrated." And the quotes open when it said  
9 "Commissioner finds". Do you see that?

10 A. I do, sir.

11 Q. All right. I'm just going to take it away  
12 from you so Mr. Adjudicator can see the only clean copy.  
13 It's two lines, "Commissioner finds G's statement  
14 remarkable for its length without any Q's. Must have been  
15 orchestrated." Now, working on the assumption, as I am,  
16 and I believe it will be confirmed in evidence, working on  
17 the assumption that "G" is you, Chief Superintendent  
18 Grodzinski, and the letter "Q" is without any question, so  
19 it really means the Commissioner find Grodzinski's  
20 statement remarkable for its length without any questions,  
21 must have been orchestrated. I expect the evidence will  
22 show that the reference is to you, Chief Superintendent  
23 Grodzinski, and that the statement being referred to is a  
24 statement that you provided Investigator Perry in February,  
25 2008. All right?

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1 A. Okay.

2 Q. You did, in fact, provide Investigator Perry  
3 a statement; is that right?

4 A. That's correct, on the 5th of February.

5 Q. When you provided that statement on February  
6 5th, 2008, who was present in the room when you provided  
7 the statement?

8 A. Mr. David Perry.

9 Q. Who else?

10 A. And myself, that's it.

11 Q. All right. Had you met me as of that time?

12 A. No, sir.

13 Q. When was the first time that you met me,  
14 Julian Falconer?

15 A. This week, sir.

16 Q. All right. When was the first time you spoke  
17 to me, Julian Falconer?

18 A. This week, sir.

19 Q. All right. And it suggests that your  
20 statement with Investigator Perry was orchestrated, and the  
21 suggestion comes from the Commissioner of the OPP. What do  
22 you say to that?

23 A. That statement on the 5th of February was a  
24 very difficult statement for me to make. It was the truth.  
25 It was the utter truth. It was made at a time when the  
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1 events of early January were still fresh. There were some  
2 emotions attached to that statement, but irrespective of  
3 any emotion or the timing of it, it was the utter, complete  
4 truth, and I provided a statement to the best of my ability  
5 at that time.

6 Q. Have you since had a chance to review that  
7 statement?

8 A. Yes, sir, I have.

9 Q. All right. Now, I'm going to lead you a bit  
10 on this because it's not contentious. The statement in  
11 question is the actual transcription of an audio interview;  
12 is that right?

13 A. That's correct, sir.

14 Q. It's a transcription of a taped statement by  
15 you; yes?

16 A. Yes, sir.

17 Q. And have you, subsequent to giving the  
18 statement, had an opportunity to review the transcribed  
19 version?

20 A. I've had an opportunity to review the  
21 transcribed version, but I have never compared it against  
22 the audiotaped version. I've never listened to that  
23 audiotape. Just the transcript, but certainly, it appears  
24 to reflect very accurately the statement I provided that  
25 day.

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1 Q. All right. How did you come into possession  
2 of the transcribed statement?

3 A. My counsel provided it to me, sir.

4 Q. So you have your own counsel?

5 A. Yes, sir, I do.

6 Q. All right. And could you assist me a little  
7 bit on the circumstances in providing Investigator Perry a  
8 statement? For example, is there anything improper about  
9 you providing the subject officers' investigator a  
10 statement in the course of a PSA matter? Is there anything  
11 improper about that?

12 A. Absolutely not, sir.

13 Q. Could you elaborate, please?

14 A. In my four years of experience at  
15 Professional Standards Bureau, both in the Public  
16 Complaints Bureau and as a Sergeant Major, where an officer  
17 is facing discipline or a hearing, it was not unusual for  
18 the defence, typically, counsel for the Ontario Provincial  
19 Police Association, to ask to speak to the witness  
20 officers, the subject officers. The request would come in,  
21 and they would be provided that opportunity to avail  
22 themselves of an interview with counsel. So I was aware  
23 that this has been the practice of the Ontario Provincial  
24 Police certainly in the time that I was at Professional  
25 Standards.

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1 Q. All right. And now can you assist me a  
2 little bit in terms of the circumstances surrounding  
3 providing the statement? Can you just run us through  
4 meeting Mr. Perry and then what you had benefit of in  
5 giving the statement?

6 A. I attended his office in Pickering. I went  
7 into the office. It was a professional office. There was  
8 some preliminary introductions. I met one of his  
9 colleagues. I was taken downstairs to what would be  
10 described as a boardroom, and at that point we had a  
11 preliminary conversation, essentially, a self-introduction  
12 of one another.

13 Obviously, I was somewhat reluctant or somewhat  
14 apprehensive about conveying the information I had and  
15 conveying it to essentially a perfect stranger one of the  
16 most painful episodes of my career. So my sense was at  
17 that point I was quite prepared to participate in an  
18 interview or not, depending on how satisfied I was with who  
19 I was going to meet.

20 Mr. Perry provided some background information  
21 about himself that certainly was helpful in terms of his  
22 experience as a police officer. He mentioned a couple of  
23 cases in particular, Cecilia Zhang and Holly Cole. I think  
24 I've got the name wrong, but anyways -- Holly Jones, pardon  
25 me. And I was familiar with those cases from following

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1 them in the media, and actually, at one point I realized I  
2 recognized Mr. Perry from some of the media coverage.

3 So I was satisfied, and obviously, we more or less  
4 took each other's measure, and I was satisfied this was an  
5 honourable, decent man who I was prepared to provide a  
6 statement to.

7 Q. All right. And you mentioned Mr. Perry had  
8 communicated his involvement in certain cases?

9 A. Yes, sir, he did.

10 Q. What was the status when he was involved in  
11 those cases?

12 A. He was an investigator with the Toronto  
13 Police homicide squad is what he indicated to me at that  
14 time.

15 Q. All right. So he was a police officer?

16 A. Yes, sir.

17 Q. Please continue.

18 A. I had attended that location with a statement  
19 I had prepared. I had already previously provided a  
20 statement to the Ontario Provincial Police. I recognize  
21 that statement was taken in the course of my duties, and  
22 that it was not something I was in a position to disclose  
23 in any way, shape, or form. So I did not even have that in  
24 my possession.

25 I prepared my own statement of the events

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1 surrounding the 1st of March, the events over January, and  
2 essentially, that was going to be my statement. I was  
3 essentially prepared to hand that over and provide it to  
4 Mr. Perry. Mr. Perry was aware I had that statement, but  
5 he asked me to consent -- or he asked for my consent to  
6 conduct an audiotaped interview.

7 Q. All right. And?

8 A. In my experience as a Professional Standards  
9 Bureau investigator, I had conducted audiotaped interviews.  
10 I had conducted oral interviews. I had conducted KGB  
11 interviews, videotaped interviews. I was familiar with a  
12 variety of interview techniques. Conducting a consent  
13 audiotaped interview was something I was familiar with, and  
14 I agreed to participate in that interview.

15 Clearly, I indicated to Mr. Perry I had a  
16 prepared statement that I would use as my speaking points.  
17 There was some preliminary introductory comments that you  
18 would normally place on the beginning of a tape, obviously,  
19 the consent, the introduction, but at that point, I had a  
20 story to tell and part of the reason I was there was  
21 because of the extraordinary nature of what had taken place  
22 to me in January. And part of it, quite frankly, is I  
23 wanted to put it on record. I wanted to convey my story in  
24 a formal sense and I felt that by participating in this  
25 interview that was the right thing to do.

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1           And I told a story. The story came out freely,  
2 accurately, to the best of my ability. I do admit that at  
3 that time there was some emotion attached, but I tried to  
4 stay to the facts and I had the facts in front of me, and I  
5 don't know how long the interview continued. I just talked  
6 and conveyed my story. At a point where I more or less  
7 stopped, there was a question with respect to any reprisal  
8 and I provided some additional comments around that, but at  
9 the end of the day, I did most of the speaking.

10           It wasn't the type of interview -- and I have  
11 participated in the question and answer interview where you  
12 have to elicit responses from a witness. You do have  
13 witnesses, like myself I think that day, that don't need  
14 much prompting, and I didn't need much prompting. As I  
15 indicated, I wanted to tell my story.

16           Q. Thank you. Did you want -- I wanted to give  
17 you a fair opportunity to address the suggestion by the  
18 Commissioner that you had orchestrated, somehow  
19 orchestrated the statement. So have you given a full  
20 response? Is there anything else you want to say about  
21 that?

22           A. Well, the only other thing I would like to  
23 say is, clearly, I took Mr. Perry at face value when I  
24 first met him, and certainly, my sense was he was, you  
25 know, who he was, a decent, honourable, former police  
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1 officer engaged in a business. By the same token, perhaps  
2 being a little cynical or a little suspicious, I went home  
3 that day and I Googled him and I checked him on the  
4 Internet every which way to Sunday, and what I found was  
5 someone with a very prestigious, honourable career.

6 I watched some of the news conferences that he  
7 was briefing the community on those two cases. I recognize  
8 that he was the lead investigator. Those two cases not  
9 only resulted in arrest, but successful convictions, and I  
10 came away thinking, well, I felt satisfied in my own  
11 judgment of him in the initial stages, but I came away  
12 feeling very satisfied that I had been dealing with someone  
13 that deserves my respect and my trust.

14 Q. Has anything changed in that regard?

15 A. No, sir.

16 Q. Thank you. I want to go to another topic.

17 It was addressed yesterday and I tried as best as I could  
18 to manage the fact that your notes were in the car at the  
19 time and addressed it with you, but something has come up  
20 and so I want to clarify something. You testified  
21 yesterday that Deputy Commissioner Lewis had made a  
22 statement in January, 2007. You described it as a comment  
23 that Deputy Commissioner Lewis had said, "This fucking Ken  
24 MacDonald talking about Karski and his issues when this  
25 fucking guy is going to get charged under the *Police Act*

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1 himself." Do you remember testifying about that comment  
2 yesterday?

3 A. I do, sir.

4 Q. It's the timing of the comment that I want to  
5 clarify and confirm with you -- to be honest, Mr.

6 Adjudicator, because I went back through the materials and  
7 saw something that caught my attention. Could you please  
8 find the notes that you have with respect to that comment?

9 A. Yes, sir. I have them here.

10 Q. Could you open them up? As Mr. Gover  
11 communicates with me, I realize that because of where the  
12 notes were yesterday we never made a copy of them for Mr.  
13 Gover. So what I'm going to suggest is, if the Chief  
14 Superintendent doesn't mind, first we would provide the  
15 original extract to Mr. Gover so we can look at it, and  
16 then we'll let you testify about it. Is that all right,  
17 Mr. Gover, and then we'll give you a copy?

18 MR. GOVER: That's acceptable.

19 THE ADJUDICATOR: Very good.

20 MR. GOVER: If I could take a look at them now.

21 BY MR. FALCONER:

22 Q. Do you mind if we --

23 A. Absolutely. The only thing I'll say is the  
24 notes begin there and I made a supplemental entry stapled  
25 in. They were made at the same time. The comment that  
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1 we're discussing is at the bottom of this supplemental  
2 page.

3 Q. All right.

4 MR. GOVER: Where it says C-O-N-T, this is where  
5 we turn to here; is that right?

6 THE WITNESS: Yes, sir, that's correct. C.W. is  
7 Cam Woolley, if you're wondering who that's  
8 referencing.

9 MR. GOVER: Thank you.

10 MR. FALCONER: I have to put this on the record  
11 because the name, Officer Cam Woolley, has come  
12 up a couple of times. I just want to be clear on  
13 the public record that I thoroughly enjoy his  
14 traffic work on the radio. Sorry, I just had to  
15 make sure I put that on the record.

16 MR. GOVER: Thank you.

17 MR. FALCONER: Thank you, Mr. Gover. We'll  
18 provide my friend a copy at a break and I'll get  
19 a copy, as well, and we won't have to worry about  
20 the Chief Superintendent's car any more.

21 THE ADJUDICATOR: Thank you.

22 BY MR. FALCONER:

23 Q. Now, having the notes in front of you, Chief  
24 Superintendent, it's the date, first of all, the date that  
25 the statement was made by Deputy Commissioner Lewis, what  
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1 was the date of that statement?

2 A. Wednesday, the 24th day of January, 2007.

3 Q. And when did you take these notes of the  
4 conversation and comment?

5 A. At 11:05 a.m., I had conversation with Deputy  
6 Lewis.

7 Q. Yes?

8 A. I was on my way downtown to a meeting. I  
9 just made note of the fact of the conversation and the time  
10 I spoke to him on a cellular telephone. Later that  
11 morning, I was actually driving downtown when I got to my  
12 destination, I sat and I wrote the notes out.

13 Q. There is an additional page stapled to your  
14 notebook in respect of the conversation?

15 A. Yes, sir.

16 Q. When did you fill that page out?

17 A. That was made the same day. What I had done  
18 is I had left a space in the notebook. If you turn the  
19 page over, it's the meeting I was attending downtown, I  
20 started that meeting and didn't recognize I had enough room  
21 to write the notes. Initially, my purpose of making notes  
22 there was to convey the information with respect to the  
23 Caledon situation, so on and so forth. But as the  
24 conversation replayed in my head, I realized again there  
25 was a lot more to this conversation that I wanted to

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1 capture.

2 Q. All right. And so that page was made at the  
3 same time?

4 A. Yes, sir.

5 Q. And are those notes accurate?

6 A. Yes, sir, they are.

7 Q. All right. Now, the reason I'm asking you so  
8 carefully about the notes and the timing is I'm showing you  
9 a document called "Duty Report Order". Have you ever seen  
10 a document like this -- and you worked four years in  
11 Professional Standards, could you tell Mr. Adjudicator the  
12 significance of the document?

13 A. The format is slightly different and some of  
14 the language, but essentially, it's consistent with what I  
15 have actually served on many subject officers. This is  
16 essentially a direction. It's an order to provide a Duty  
17 Report on an allegation of misconduct on a complaint. It's  
18 a pretty standard format document that we would use in the  
19 OPP.

20 Q. And in this case it's directed to whom?

21 A. It's directed to Inspector Alison Jevons,  
22 badge 8486.

23 Q. All right. And it's probably self-evident,  
24 but just help me out, what is the big picture point of this  
25 order?

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1           A. The date of this particular order is  
2 February. It was typed "8" but it's struck out and  
3 initialled, and it's 9th, 2007. So February the 9th, 2007.

4           Q. What I'm asking you is, though, why do  
5 officers get such an order?

6           A. Why do they get them?

7           Q. Yes.

8           A. To provide information with respect to an  
9 investigation, sir.

10          Q. All right. So I hope I'm not overly leading,  
11 but the point of this is to give an officer an opportunity  
12 to provide their say in respect of an incident?

13          A. To provide an opportunity to respond or not,  
14 it's their choice.

15          Q. The date of the Duty Report order is February  
16 9th, 2007; is that right?

17          A. Yes, sir.

18          Q. The date of the comment by Deputy  
19 Commissioner Lewis that MacDonald was going to get charged  
20 was January 24th, 2007; is that right?

21          A. Yes, but in fairness just to clarify the  
22 comment, it says likely to be charged is the term that  
23 Deputy Lewis used.

24          MR. FALCONER: Thank you. Can we tender this  
25 subject to identification as the next exhibit,  
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1 the Duty Report -- the Duty Report order because  
2 of course, in respect of Chief Superintendent  
3 Grodzinski, he can't identify this particular  
4 document, but might we tender it subject to  
5 identification.

6 THE ADJUDICATOR: So do you want to make it  
7 Exhibit E, I think it is?

8 MR. GOVER: It would be, yes, and I'm content  
9 that you receive it on the basis described to Mr.  
10 Falconer.

11 THE ADJUDICATOR: All right. Thank you. So it  
12 will be Exhibit E subject to further  
13 identification.

14 EXHIBIT NO. E: Duty Report Order for Inspector  
15 Alison Jevons dated February 9, 2007 (marked  
16 subject to identification).

17 MR. FALCONER: Thank you. May I quickly peruse,  
18 Mr. Adjudicator, the exhibits that were filed  
19 yesterday? May I?

20 THE ADJUDICATOR: Yes, they are at the top there.

21 MR. FALCONER: Thank you.

22 BY MR. FALCONER:

23 Q. Chief Superintendent Grodzinski, I want to  
24 refer you back to Exhibit 16, which is a letter dated June  
25 24th, 2008 from Commissioner Fantino.

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1 A. Yes, sir.

2 Q. Do you see that?

3 A. Yes, sir, I do.

4 Q. And this is, frankly, to the relief of all,  
5 I'm sure -- I'm in the last part of my questions. If this  
6 isn't the last question, it's the second to last question.  
7 I'm wrapping up, but I want to ask you something. You can  
8 see the friendly and congratulatory nature of the letter to  
9 you?

10 A. Yes, sir.

11 Q. So you've got Exhibit 16 in front of you?

12 A. Yes, sir.

13 Q. And I now want to place in front of you a  
14 letter of June 11, 2008, from Owen Rees that contains  
15 anticipated evidence of Deputy Commissioner Beechey. All  
16 right. And the specific passage that I want to read to you  
17 as part of this question -- I'm giving you information  
18 because I want to make sure that you have the context for  
19 my question. It is counsel, Owen Rees, writing,  
20 "...We expect that Acting Deputy Commissioner  
21 Beechey's evidence will be that the contemplated  
22 appointment of Chief Superintendent Grodzinski as  
23 Northeast Region Commander was part of a larger  
24 reorganization of senior officers..."

25 Do you see that?

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1 A. Yes, sir, I do.

2 Q. All right. Could you please address, if you  
3 will, your view on whether this could simply be a  
4 misunderstanding on your part that this was a reprisal in  
5 view of the warm nature of the letter to you from the  
6 Commissioner and the statement by Acting Deputy  
7 Commissioner Beechey that your transfer was simply part of  
8 a larger reorganization of senior officers? Could you  
9 address the possibility that this may be just one big  
10 misunderstanding?

11 A. I have replayed the events I described  
12 yesterday, the 1st of March, January, over in my head. I'm  
13 human, and one of the thoughts I had is did I overreact,  
14 did I, by taking the offence to the execution comment and  
15 making notes on it, the whole transfer thing, I asked  
16 myself is this just me. I've asked myself that and I've  
17 reflected on it quite a bit because I understand the  
18 significance of all of this. But as time has gone on, I  
19 have come to no other conclusion personally that what took  
20 place in terms of my statement being provided on the 3rd of  
21 January to Mr. Rees, the immediate phone call from  
22 Detective Superintendent Van Zant, the interview the  
23 following morning on the 4th, what I'm now aware of of a  
24 meeting at Kelsey's and a brown paper bag on the 5th, the  
25 notes from Deputy Lewis, "Grodzinski NOW" underlined, my  
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1 own experience of attending General Headquarters on the  
2 10th, I see all of that, the timing of all of this,  
3 extraordinary beyond coincidence. And while I accept I'm a  
4 human being and I may be fallible, but I don't think I'm  
5 wrong on this, and I fully expect and fully understand that  
6 it's the purview of this Tribunal and Mr. Adjudicator, His  
7 Honour, to determine ultimately what the decision is on all  
8 of this, but from my personal perspective, I'm absolutely  
9 utterly convinced irrespective of the letter, which I very  
10 much appreciated receiving from the Commissioner, and with  
11 the greatest of respect to Deputy Beechey who has been  
12 extraordinarily respectful of me and has been a very  
13 gracious boss, so to speak, in difficult circumstances,  
14 irrespective of all of that, I'm convinced it was a  
15 reprisal.

16 Q. That point that Deputy Beechey makes about a  
17 larger reorganization of senior officers, was there a  
18 larger reorganization of senior officers at the OPP?

19 A. Yes, sir, there was.

20 Q. Could you assist Mr. Adjudicator as to the  
21 timing of that reorganization?

22 A. The reorganization was announced in mid to  
23 late March. I have the exact date documents on the desk  
24 here in front of me, but ultimately, we have what we call a  
25 Transfer and Promotion Summary which outlines the various

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1 moves in the organization which I also have, and what it  
2 points out is that there is a series of senior officers who  
3 were moved on the 1st of April, 2008, and quite frankly,  
4 that's where I expected to see myself at some point. I  
5 wasn't expecting to see it in January, but that would have  
6 been, from my perspective -- the OPP I know is you move  
7 everybody at once.

8           Quite often, there is one or two shuffles a year.  
9 Everyone knows that. That's part of the culture of the  
10 OPP, and quite often, as I mentioned yesterday, it's  
11 changing offices in the same building and that's the norm.  
12 What took place in January to transfer me wasn't the OPP I  
13 know, and if I had appeared on the list of moves that I  
14 have here on my desk dated the 1st of April, I don't think  
15 I would have any grievance. I would view that as business  
16 as normal, and if it had been just moving Bill Grodzinski,  
17 Chief Superintendent Grodzinski, from one office to the  
18 other in the same building without having to sell my house,  
19 move my family, all of that, I would have accepted that as  
20 the part of normal business of the OPP I know, but what  
21 took place in January was not.

22           Q. Did you know of any other transfer of a  
23 senior officer in January, 2008?

24           A. I believe from reviewing this there is a  
25 promotion of Inspector van Straalen who was promoted to

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1 Superintendent, went to the Northwest Region, Thunder Bay,  
2 as a promotion. Obviously, he chose to compete. So there  
3 are some moves in there but -- and I went through each of  
4 them and what you see is the moves that are there are  
5 generally moves that people either sought or did not  
6 involve a physical relocation.

7 Q. The large reorganization and shift, that took  
8 place when?

9 A. The official date was the 1st of April it was  
10 announced. Prior to that, there is normally a  
11 communication that comes out which there was posted on the  
12 web, and it outlines all the various senior officers moves.

13 Q. And that reorganization was what month, what  
14 year?

15 A. Announced in March, 2008, effective the 1st  
16 of April, 2008.

17 MR. FALCONER: Thank you. Chief Superintendent  
18 Grodzinski, thank you for your assistance, and  
19 those are my questions. I would like to file as  
20 exhibits the June 11th, 2008 correspondence from  
21 Mr. Rees citing Deputy Commissioner Beechey's  
22 anticipated evidence.

23 MR. GOVER: And that again has not been  
24 identified by the witness. In my submission, at  
25 its highest it ought to be marked as a lettered  
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1 exhibit. It can, of course, be put to Acting  
2 Deputy Commissioner Beechey in the ordinary way.

3 THE ADJUDICATOR: Mr. Falconer, what about  
4 Exhibit F then?

5 MR. FALCONER: That's fine. I would have thought  
6 since Mr. Rees wrote the letter we wouldn't worry  
7 about who is identifying it, but the reason I am  
8 a little bit more stubborn on this one is because  
9 the wording of the letter that Chief  
10 Superintendent Grodzinski just addressed is  
11 particularly significant. Having said that, it's  
12 on the record and it's not worth the candle.

13 Lettered exhibit it is.

14 EXHIBIT NO. F: Letter from Owen Rees dated June  
15 11, 2008 containing anticipated evidence of  
16 Deputy Chief Beechey.

17 THE ADJUDICATOR: So cross-examine, Mr. Gover.

18 MR. GOVER: Thank you, Mr. Adjudicator.

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20 CROSS-EXAMINATION BY MR. GOVER:

21 Q. Now, Chief Superintendent Grodzinski, you had  
22 a conversation with the Commissioner on December 13th,  
23 2007; is that correct?

24 A. That's correct, sir.

25 Q. And he indicated to you that he was very

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1 pleased with the job that you were doing at Highway Safety  
2 Division; is that correct?

3 A. Yes, sir.

4 Q. He indicated he was pleased with you in  
5 particular; is that right?

6 A. Yes, sir.

7 Q. And he conveyed to you that he valued your  
8 contribution to the Ontario Provincial Police?

9 A. Yes.

10 Q. And you recorded those -- and you used the  
11 term yesterday -- accolades in your diary; is that right?

12 A. Yes, sir.

13 Q. And Chief Superintendent, you've obtained  
14 senior rank in the OPP?

15 A. That's correct, sir.

16 Q. And you would describe yourself as an  
17 ambitious person?

18 A. Yes, sir.

19 Q. And you would agree with me that, as an  
20 ambitious person, you are career oriented?

21 A. Yes, sir, I am.

22 Q. You testified yesterday that part of your  
23 career pathing involved keeping track of your competition's  
24 retirement dates; is that right?

25 A. Yes, sir.

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1 Q. And the competition, of course, means your  
2 colleagues within the senior ranks of the OPP?

3 A. Yes, sir.

4 Q. And in fact, is it fair to say you kept a  
5 close eye on your competition?

6 A. Yes, sir, I did.

7 Q. You testified yesterday that you had applied  
8 to be the Acting Deputy Commissioner for -- and I might  
9 refer to your understanding of what the position was --  
10 traffic safety and operational support; is that right, sir?

11 A. No, actually, the position I competed for was  
12 the Deputy Commissioner of Field, and part of the issue is  
13 the change in the structure of the OPP. But what  
14 essentially happened was the field and traffic command had  
15 been split, so essentially, there was just the one position  
16 initially and then it split into two the 1st of January --  
17 hang on. 2006 when Commissioner Fantino came in, there was  
18 some structural changes. So the 1st of January, 2007, a  
19 traffic command was created, so Field and Traffic were two  
20 separate commands under the purview of a Deputy, and the  
21 position I competed for was the Deputy of Field, the  
22 position currently occupied by Deputy Chris Lewis, and I  
23 went for an interview for that position.

24 Q. And is that the position that became vacant  
25 when Deputy Commissioner Carson retired?

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1           A. No, it's a separate position, the Traffic  
2 command.

3           Q. Right. So am I correct that you interviewed  
4 for this job as Deputy Commissioner for the field?

5           A. That's correct, sir.

6           Q. And you were informed that you did not get  
7 that job; is that right?

8           A. Yes, sir. The Commissioner called me  
9 himself.

10          Q. And that's the position that went to, and  
11 you've just told us, Deputy Commissioner Lewis; is that  
12 right?

13          A. Yes, sir.

14          Q. Now, is it fair to say that you considered  
15 being passed over for the Deputy's job as hurtful?

16          A. Yes, sir, I was.

17          Q. And in fact, you included that in the  
18 notation in your diary; is that right, sir?

19          A. Yes, sir.

20          Q. And am I correct that you had applied for  
21 another position, Commander for Corporate Support?

22          A. That's correct, sir.

23          Q. And the title is Commander for Corporate  
24 Support, but that's another Deputy Commissioner position;  
25 is that right?

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1 A. That's correct, yes, sir.

2 Q. And you interviewed for that position?

3 A. No, I did not make the short list, so to  
4 speak.

5 Q. So again, you were passed over for that  
6 position; is that fair, sir?

7 A. It was a position I applied for because I had  
8 felt it was appropriate. The message -- the interest, it  
9 wasn't a job I was particularly interested in. When I was  
10 advised by the Commissioner that I wasn't being  
11 interviewed, it wasn't a tremendous disappointment, not  
12 that particular position, no, sir.

13 Q. So unlike the other position, that wasn't  
14 hurtful being passed over on that occasion?

15 A. No, sir, not at all.

16 Q. And who is the incumbent holding that  
17 position now?

18 A. It was Commander Angela Lockridge. She just  
19 has left the OPP and there is a new incumbent in that  
20 position now.

21 Q. Now, the Caledon detachment, as I understand  
22 it, was and is a very busy general duties detachment; is  
23 that right?

24 A. Yes, sir.

25 Q. And it was anomalous that the Caledon  
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1 detachment was part of the Highway Safety Division; is that  
2 fair?

3 A. That's fair to say, sir.

4 Q. And transferring the Caledon detachment from  
5 Highway Safety Division to Central Region was an objective  
6 of the Ontario Provincial Police?

7 A. It was actually a recommendation. The  
8 report, a very extensive report, that had been written in  
9 2004 before all of these events, and the report recommended  
10 the move of Barrie detachment to the traffic -- it was  
11 primarily a traffic detachment, from Central Region to the  
12 GTR, and conversely, Caledon to Central Region. So this  
13 was not new, and certainly, it made sense from a business  
14 perspective.

15 Q. And that may have been what the report said  
16 in 2004. Do you agree with me that by 2006 and 2007 that  
17 had become an objective for the Ontario Provincial Police,  
18 that rationalization that you described a moment ago?

19 A. Yes, sir, that's correct.

20 Q. And rationalizing the organization is an  
21 important objective overall, isn't it?

22 A. I beg your pardon?

23 Q. Rationalizing the organization of the OPP is  
24 an important objective overall?

25 A. Yes, absolutely, sir.  
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1 Q. And do you agree with me, Chief

2 Superintendent, that it's important for the OPP to speak  
3 with one voice; is that fair?

4 A. Absolutely, sir.

5 Q. Especially when it comes to an important -- I  
6 don't know if you used the term "corporate", but corporate  
7 objective?

8 A. Yes, sir.

9 Q. And it was clear, wasn't it, that someone was  
10 spreading misinformation to the Caledon municipal council?

11 A. It wasn't just someone. I know who it was.

12 Q. Right. And we won't name that person now,  
13 but we might later, but there was someone who was doing it?

14 A. Yes, he told me he was. Yes, there was  
15 somebody doing it.

16 Q. And if someone within the OPP were working  
17 against one of the OPP's corporate objectives, that would  
18 be a serious matter?

19 A. If the individual had been in the OPP, which  
20 he wasn't, but if he had been or she had been, it  
21 definitely would have been a cause for concern.

22 Q. If he or she had been as a serving member at  
23 the time?

24 A. That's correct.

25 Q. Right. And that was not to be tolerated from  
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1 a serving member; is that right?

2 A. If in fact it were true, that's correct.

3 Q. And you would not want someone under your  
4 command to be working against one of the OPP's objectives,  
5 would you?

6 A. No, sir.

7 Q. And that would be true if you were a  
8 Superintendent, sir?

9 A. Whether I was a Superintendent, a Chief, or I  
10 was a Sergeant.

11 Q. And you've anticipated my next question. If  
12 you were a Deputy Commissioner or a Commissioner, that  
13 would be true, as well, wouldn't it?

14 A. Absolutely.

15 Q. And just so there is no question in your  
16 mind, Chief Superintendent, Commissioner Fantino was  
17 rightly concerned about the prospect of someone within the  
18 OPP spreading misinformation about the transfer of this  
19 detachment; is that fair?

20 A. That would be a fair statement, sir, yes.

21 Q. Now, you mentioned that Commissioner Fantino  
22 assumed the role of Commissioner in the fall of 2006; is  
23 that right?

24 A. That's correct, sir.

25 Q. Let me assist you with what I understand to  
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1 be the actual date of appointment of October 30th, 2006.

2 Does that accord with your recollection?

3 A. Yes, sir, as the appointment into the Office  
4 of the Commissioner, and then there was a formal ceremonial  
5 installation ceremony we call it which I think was another  
6 date.

7 Q. Fair enough. And so at the time -- we can  
8 now with knowledge of that date be more precise perhaps  
9 than you were able to be yesterday. At the time of this  
10 conversation in the parking lot, Commissioner Fantino had  
11 been in the role of OPP Commissioner for about four months;  
12 is that right?

13 A. Yes, sir, based on that date.

14 Q. And is it fair to say that this was one of  
15 the first occasions when you had dealt with him on a one-  
16 to-one basis, although not the first, but one of the first  
17 occasions?

18 A. It was essentially one of the first times I  
19 dealt with the Commissioner face-to-face on a particular  
20 issue, but I had dealt with him on a fairly contentious  
21 issue and it was with respect to the conduct or perceived  
22 misconduct of Sergeant Cam Woolley and there was quite an  
23 extensive to and fro on that. That's why he appears in my  
24 notes. So I had been back and forth with the Commissioner  
25 on that. I had spoken to him personally on the telephone

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1 on the issue, and I was at that point familiar with the  
2 Commissioner but we hadn't met face-to-face and had an  
3 ongoing dialogue at that point.

4 Q. All right. So this was -- and you told me a  
5 moment ago -- one of the first face-to-face meetings you  
6 had with him?

7 A. I put my hand up, sorry, to clarify, in terms  
8 of an operational situation. The Commissioner attended the  
9 Aurora headquarters. I don't have the day specifically,  
10 but it was October, November, and it was for the purposes  
11 of qualifying on the OPP issued handgun. He came into my  
12 office and we spent about ten minutes or so together  
13 talking about the black and white patrol cars and the new  
14 hats. So we had already met and introduced one another.

15 Q. Right. So, and I appreciate your precision,  
16 this was one of the first times you had dealt with him one-  
17 to-one on an operational issue?

18 A. Yes, sir.

19 Q. And is it fair to say that, at that point,  
20 March 1st, 2007, you did not know him then as well as you  
21 do now?

22 A. That's correct, sir.

23 Q. And you now know that the Commissioner uses  
24 colourful terms to communicate messages; is that fair?

25 A. I know the Commissioner to speak very

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1 colourfully. He uses the term "execute". He uses it quite  
2 a bit. He uses the term "on the train". He caught our  
3 attention the very first meeting of all our senior officers  
4 by saying you're either on the train, you're back at the  
5 station, if you are, you're expendable. That caught the  
6 attention of all the senior officers.

7           We attend Results Driven Policing every third  
8 Thursday of the month and we spend about three hours with  
9 the Commissioner, so you hear a lot from him. You respond  
10 to his questions. In the context of those RDP meetings,  
11 quite often he will say to one of the regional commanders,  
12 one of the representatives, "Who is next to be executed?"  
13 And it's kind of a playful way of expressing it.

14           I have certainly heard some of his language and  
15 I've seen some of his language in E-mail, yes, colourful,  
16 but I have to say, and this is part of the self-analysis on  
17 the whole issue of me being here, I have replayed the  
18 conversation that I had in the parking lot the 1st of  
19 March, 2007 at Caledon versus what I see fairly regularly  
20 as recent as last month with the Commissioner's demeanour  
21 in the RDP sessions, and actually was in a position of  
22 formally apologizing to the Commissioner for the actions of  
23 one of my staff about three weeks ago. So we had a one-on-  
24 one on a situation he was very unhappy about.

25           So I've seen him in a variety of situations, and  
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1 I would say as honestly as I can the situation in the  
2 parking lot in Caledon the 1st of March, 2007, is different  
3 than where I've seen some of the more light-hearted, bring  
4 in the next one for the execution at RDP. So there is a  
5 difference, but I absolutely agree with your question, sir,  
6 he is very colourful.

7 Q. He is colourful, and you agreed that since  
8 March 1st you've heard colourful terms used by him in other  
9 occasions; is that fair?

10 A. I have, sir.

11 Q. Including the term "execute"?

12 A. The term "execute", yes, sir.

13 Q. And another example, I understand that when  
14 the OPP went back to having black and white patrol  
15 vehicles, he said that there would be a public hanging in  
16 front of General Headquarters of the first officer who  
17 piled up one of the new black and white cruisers?

18 A. He said that, sir, and I can tell you at the  
19 last RDP session I had to explain why two of my patrol cars  
20 crashed into one another going to a scene. He wasn't  
21 laughing then and he was not happy. So there is a  
22 difference between that playful, you know -- and we all  
23 heard it and there was quite a bit of -- and everyone was  
24 playing the game "who is first", but I'll tell you, sir,  
25 when one of our patrol cars rolled over and I had to  
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1 personally review the crashes of three high speed crashes  
2 last October -- one of our officers had a broken neck,  
3 another one was clocked at 129 miles an hour in a 60  
4 kilometre zone -- the Commissioner was very unhappy and  
5 there was no joking about that, and you knew it in any  
6 conversation with him. So he has the persona of going from  
7 here to there on these issues, and quite a range of  
8 emotion, but you know when he's kidding and you know when  
9 he's having a little fun.

10 Q. Right. And again, that's another example of  
11 using colourful terms to convey a message; is that right?

12 A. Yes, sir.

13 MR. FALCONER: Is Mr. Gover going to say  
14 colourful hyperbole? I'm waiting.

15 THE ADJUDICATOR: Yes, all right. Continue.

16 MR. GOVER: Thank you.

17 BY MR. GOVER:

18 Q. And on March 1st, 2007, you told the  
19 Commissioner that -- is it Gary Wiles?

20 A. That's correct, sir.

21 Q. Had been the source of the disinformation  
22 given to Caledon municipal council; is that right?

23 A. That was the best of my understanding at that  
24 point, yes.

25 Q. And who was Gary Wiles?

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1           A. He is a retired Inspector of the Ontario  
2 Provincial Police. He is the former detachment commander.  
3 He is a resident of that area. It was my understanding --  
4 well, I know this for a fact because I followed it in the  
5 media, he ran against Mayor Morrison for the Mayor of  
6 Caledon. He is a political rival -- I think I mentioned  
7 that yesterday -- and he is an individual that I happened  
8 to run into at a retirement function about three weeks ago  
9 and had occasion to speak to him.

10           MR. FALCONER: I'm sorry, the date Mr. Gover  
11 gave, I missed it.

12           MR. GOVER: It was March 1st, 2007.

13 BY MR. GOVER:

14           Q. And the Commissioner, when you said it was  
15 Gary Wiles who had been the source of the disinformation,  
16 appeared to listen to what you had to say; isn't that  
17 right?

18           A. Absolutely. I had the floor. It was clear  
19 that he was letting me say my piece. There was no doubt he  
20 was listening to what I had to say.

21           Q. And after he gave you the opportunity to say  
22 your piece, he spoke, didn't he?

23           A. Yes, sir.

24           Q. And what he said was it's over, it's done,  
25 let's move on?

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1 A. Yes, sir.

2 Q. And it's fair to say, then, that the  
3 Commissioner appeared to accept your indication that  
4 someone named Gary Wiles, and not Superintendent MacDonald,  
5 had been the source of the disinformation given to Caledon  
6 municipal council; is that right?

7 A. Obviously, without being able to put myself  
8 in his head, but certainly, just on the piece I saw that  
9 was the end of it. There was no further discussion. There  
10 was no indication that he wanted to have a further  
11 discussion or any more dialogue on it, so it appeared to be  
12 over for me at that point.

13 Q. Fair enough. And part of the explanation  
14 that it had been Gary Wiles included the context which was  
15 someone who knew something about the OPP and its operations  
16 in Caledon and this area which is contract policing  
17 situation, and both Superintendent MacDonald and Mr. Wiles  
18 are former detachment commanders there; right?

19 A. That's correct, sir.

20 Q. And since March 1st of last year, you and the  
21 Commissioner spoke about Superintendent MacDonald at the  
22 Commissioned Officers Conference; is that right, sir?  
23 Since March 1st of last year, you and the Commissioner  
24 spoke about Superintendent MacDonald at the Commissioned  
25 Officers Conference?

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1 A. I'm trying to think if it was at the  
2 Commissioned Officers Conference or we have these senior  
3 management meetings. I know there was an inquiry from the  
4 Commissioner to me why Ken MacDonald was not there. I  
5 received a Blackberry from him. I'm searching my memory on  
6 this.

7 Q. If I ask you more, you might recall where it  
8 occurred and you might be able to tell me whether it was at  
9 the Commissioned Officers Conference. You told me  
10 Superintendent MacDonald wasn't there?

11 A. I can't remember -- we don't call it  
12 Commissioned Officers Conference any more. The Senior  
13 Manager's Conference is three days. It's at Georgian  
14 College. We also have the Senior Managers Days and they  
15 are normally at Gravenhurst, so there is kind of a  
16 difference. So if the venue that you're referring to was  
17 at Georgian College, it's likely the Senior Officers Fall  
18 Conference which takes place over three days every year.  
19 It's an institution in the OPP. It was at Gravenhurst and  
20 it would be one of those Senior Managers Days.

21 Q. Fair enough. Do you recall that at one of  
22 those occasions the Commissioner asked you how  
23 Superintendent MacDonald was holding up?

24 A. He may have, sir, but at this moment in time  
25 I don't have a recollection of it, but he may have.

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1 Q. Do you recall on an occasion he appeared to  
2 be genuinely concerned about Superintendent MacDonald's  
3 well-being?

4 A. I know I had seen Commissioner Fantino at  
5 functions where the Superintendent is present. They  
6 exchanged greetings, it's congenial, they speak. In terms  
7 of your question, and I'm not trying to be evasive here at  
8 all, but I don't have a specific recollection of it, it  
9 would not surprise me if he did, and I would have responded  
10 to it but I don't specifically recall.

11 Q. And if he did that, if he asked how  
12 Superintendent MacDonald was holding up and appeared to be  
13 genuinely concerned about Superintendent MacDonald's well-  
14 being, you agree with me that would be inconsistent with  
15 the Commissioner bearing any ill will towards  
16 Superintendent MacDonald?

17 MR. FALCONER: I object to that. The witness has  
18 said that he doesn't remember such an exchange or  
19 expression. He is now being asked to give a view  
20 on something that he doesn't remember on a  
21 hypothetical basis. I don't think it's --

22 THE ADJUDICATOR: Like I have in my notes that  
23 the Chief Superintendent in the witness box  
24 doesn't remember but he wouldn't be surprised if  
25 it had taken place.

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1 MR. GOVER: Right, and on that basis, in my  
2 submission, I'm entitled to say if it did take  
3 place then that's inconsistent with the  
4 Commissioner bearing any ill will towards  
5 Superintendent MacDonald. It may be a matter of  
6 weight for you ultimately, Mr. Adjudicator, but  
7 in my submission, it's an appropriate question.

8 MR. FALCONER: My only concern, and it's not  
9 worth the time, but my only concern is because  
10 the issue of whether it would be inconsistent or  
11 consistent with bearing ill will is how the  
12 expression of concern happens, like in other  
13 word, how the person expresses it -- somebody can  
14 express concern and not really care. On the  
15 other hand, someone can express concern and  
16 really care. So whether it's inconsistent or not  
17 with ill will would be how it happened. Since he  
18 doesn't remember it happening, it becomes quite  
19 -- with great respect, it has no probative value.

20 THE ADJUDICATOR: I think, gentlemen, I've heard  
21 from both counsel on the matter. I have already  
22 indicated what has already taken place. This  
23 Chief Superintendent says he doesn't remember  
24 this, but it would not surprise him if it did.  
25 So I think we're going to leave it there, leave

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1           it up to me to draw an interference if I can.

2           MR. GOVER: Fair enough, Mr. Adjudicator. Thank  
3           you very much.

4 BY MR. GOVER:

5           Q. Now, the Commissioner has the power to  
6 transfer OPP members anywhere in the province; isn't that  
7 right, sir?

8           A. He has that power, sir.

9           Q. And after his departure from General  
10 Headquarters here in Orillia, Superintendent MacDonald was  
11 transferred to Aurora under your command?

12          A. There was a competition, an advertisement. I  
13 had seven candidates applying for that Superintendent's  
14 position. Superintendent MacDonald had not applied for  
15 that position. Deputy Commissioner Carson asked me if I  
16 would be willing to accept MacDonald in my command. I had  
17 not sought him. He had not approached me for the position,  
18 and obviously, when the Deputy asks a question like that,  
19 it's clear he had something in mind, and I said if that's  
20 the decision, I will accept it. And at that point,  
21 Superintendent MacDonald was directly appointed to my  
22 command.

23          Q. Do you recall that was in the fall of 2006?

24          A. It would have been very late fall. I think  
25 he actually reported either the end of the November,

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1 beginning of December.

2 Q. Of 2006?

3 A. Of 2006, yes, sir.

4 Q. And I understand that Superintendent  
5 MacDonald lives in Mississauga; is that correct, sir?

6 A. That's correct, sir.

7 Q. And do you agree with me that that is, in  
8 fact, closer to his home than working here at General  
9 Headquarters in Orillia?

10 A. Yes, it is.

11 Q. And do you agree with me that that transfer  
12 is also inconsistent with the Commissioner bearing any ill  
13 will towards Superintendent MacDonald?

14 A. Without answering that because I don't know,  
15 but I can say this, that in the OPP when you see a move  
16 when you've been in this organization long enough, you can  
17 translate what the move really means in terms of moving to  
18 certain posts is a good thing, and certain posts are not.  
19 The position that he occupied as the Bureau Commander of  
20 Professional Standards was an executive position. You sit  
21 at the management table. The position that he was  
22 transferred to was a director's position.

23 So essentially, say reduced responsibility in one  
24 aspect, but a change. So when you look at some of the  
25 other positions, senior managers positions, I mentioned at  
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1 the first of April there is some folks there that you can  
2 see very clearly were winners and very clearly were losers.  
3 That's the understanding of this organization. So when  
4 Superintendent MacDonald went from an executive table  
5 position to a director in a traffic environment, he was  
6 clearly seen as being one of the losers, and that was well-  
7 recognized.

8 Q. Let me ask this, though. There has been a  
9 new emphasis over the last 18 months or two years on  
10 traffic safety; isn't that right?

11 A. Yes.

12 Q. And the Highway Safety Division has a very  
13 high profile; isn't that right?

14 A. It sure does.

15 Q. Right. And it has become -- and I have used  
16 the word "corporate objective" before, but raising the  
17 profile of the Highway Safety Division has become an  
18 important corporate objective of the OPP; isn't that right?

19 A. Yes, sir, it is.

20 Q. Now, in the case of Inspector Jevons, she was  
21 seconded to be Executive Assistant to the Commissioner of  
22 Public Safety; isn't that right?

23 A. That's my understanding.

24 Q. And she is now an executive assistant to the  
25 Deputy Minister of Community Safety and Correctional

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1 Services who is responsible for the Correctional Services  
2 portfolio; isn't that right?

3 A. If you tell me that. I haven't followed her  
4 career since she left the OPP.

5 Q. Fair enough. Do you agree with me that both  
6 of those positions that I have described are high profile  
7 positions with responsibility?

8 A. Absolutely.

9 Q. And you agree with me that both based on your  
10 understanding of not only the OPP but the public service  
11 through your secondment experience, that presents a real  
12 opportunity for experience and advancement; isn't that  
13 right?

14 A. Absolutely, sir.

15 Q. And do you agree with me, then, sir, that  
16 that is inconsistent with the Commissioner bearing any ill  
17 will towards Inspector Jevons?

18 MR. FALCONER: Mr. Adjudicator, my objection is  
19 that the witness is basically being asked to do  
20 your job, which is to make findings. And what is  
21 particularly unusual, he is being asked to do it  
22 based on circumstances that he's not involved  
23 with, a move to a Ministry that he is not in in  
24 terms of the office of the Minister of Community  
25 Safety, et cetera. He's a police officer in the  
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1 OPP, and this is a move outside of the OPP. It  
2 just seems to me it goes a little too far, with  
3 respect.

4 MR. GOVER: In response, Mr. Adjudicator, I would  
5 say that you actually have the Chief  
6 Superintendent who is very well positioned to  
7 answer this type of question. He has referred to  
8 his own experience when he was seconded to  
9 Management Board Secretariat. He has the  
10 foundation to say what, frankly, is apparent, and  
11 that is that this step of providing Inspector  
12 Jevons with a secondment opportunity to a high  
13 profile position with responsibility is  
14 inconsistent with any ill will harboured against  
15 her by the Commissioner. So it may be that Mr.  
16 Falconer may not like the answer, but it's an  
17 appropriate question, with respect.

18 THE ADJUDICATOR: Can you lay a foundation for  
19 me? I'm not quite sure I have the information as  
20 to what part the Commissioner plays in a  
21 secondment. I don't understand that.

22 MR. GOVER: I'll ask that question. Thank you,  
23 sir.

24 BY MR. GOVER:

25 Q. Secondment opportunities are available to  
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1 members of the Ontario Provincial Police with the  
2 concurrence of the Commissioner or the Commissioner's  
3 delegate; isn't that right, sir?

4           A. With the express -- Commissioner's delegate,  
5 normally, the Commissioner wouldn't approve a particular  
6 secondment, per se, but you've asked the question so I will  
7 say this Mr. Gover, is at the time Superintendent MacDonald  
8 transferred to Highway Safety Division and Inspector Jevons  
9 was moved to another role, it was well known and it was  
10 well known in the organization and it was well known to me  
11 there was an administrative review going on of Professional  
12 Standards. There was all kind of rumours and innuendos  
13 swirling, and when essentially the top level of  
14 Professional Standards are all moved at once, it was seen  
15 by this organization as cleaning house. And certainly,  
16 when Superintendent MacDonald came down to Highway Safety  
17 Division, a great place, a great opportunity, but at the  
18 same time, everyone saw him being punished. And with  
19 respect to Inspector Jevons, her immediately departing at  
20 the same time, it created all kinds of unfortunate  
21 speculation in this organization.

22           Q. And it may have, but the answer to my  
23 question, though, is that the Commissioner could have stood  
24 in the way of that secondment opportunity for Inspector  
25 Jevons; isn't that right?

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1           A. That's correct, sir.

2           MR. GOVER: And then my submission to you, Mr.  
3           Adjudicator, is that that completes any of the  
4           necessary foundation for the question that I was  
5           seeking to ask.

6           MR. FALCONER: You've got my objection, Mr.  
7           Adjudicator. The bottom line is I think my  
8           friend has gone as far as he can, especially in  
9           his last few questions to the issue of appearance  
10          and who can make this finding.

11          THE ADJUDICATOR: I have heard from both counsel  
12          on the matter and I have heard the answers to the  
13          questions put to the Chief Superintendent in the  
14          witness box. I have heard Mr. Gover say it's  
15          frankly apparent. Those are good words. So I'm  
16          going to disallow any further questions in  
17          respect to inconsistent and leave it up to me to  
18          decide.

19          MR. GOVER: Fair enough. Thank you, sir.

20 BY MR. GOVER:

21          Q. Now, you testified yesterday, Chief  
22          Superintendent, that you drove to the Caledon detachment  
23          with Deputy Commissioner Lewis and Chief Superintendent  
24          Smith; is that correct?

25          A. That's correct, sir.

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1 Q. Who did the driving?

2 A. It was Deputy Lewis.

3 Q. And if we return to the subject of your notes  
4 of March 1st, 2007 -- and Mr. Adjudicator, you have them as  
5 Exhibit 18, and you will recall, Mr. Adjudicator, that they  
6 have been exhibited on a limited basis. They are  
7 admissible not for the evidence of the truth of their  
8 contents, but independently on the basis that Mr. Falconer  
9 identified yesterday. Now, you did not make these notes in  
10 the car that morning immediately after the conversation,  
11 did you?

12 A. No, sir.

13 Q. You did not make them at the Caledon  
14 detachment later that morning, did you?

15 A. No, sir, I did not.

16 Q. You didn't make them at your office?

17 A. I didn't attend my office that day, sir.

18 Q. And you didn't make these notes in front of  
19 your fellow officers, did you?

20 A. No, sir.

21 Q. You made them at home later that evening?

22 A. Yes, sir.

23 Q. And you've testified that you felt it was the  
24 right thing to make notes; is that right?

25 A. Yes, sir.

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1 Q. But you chose not to do it in front of any  
2 other member of the OPP; is that right, sir?

3 A. Yes, sir.

4 Q. And you testified yesterday that you wrestled  
5 with making any notes at all about your conversation with  
6 the Commissioner; is that right, sir?

7 A. I did, sir.

8 Q. Now, did you wrestle with telling  
9 Superintendent MacDonald about the conversation that  
10 evening?

11 A. Yes, sir, I did.

12 Q. And do I understand that while you were  
13 wrestling with whether or not to make notes at your kitchen  
14 table, you said you heard someone named Don Thom's voice in  
15 your head; is that right?

16 A. That's correct, sir.

17 Q. And am I right that Superintendent Thom was  
18 your commanding officer when you were a Sergeant Major in  
19 the Professional Standards Bureau?

20 A. He was the Bureau Commander of Professional  
21 Standards, that's correct, sir.

22 Q. And you were then a Regional Sergeant Major  
23 in Professional Standards Bureau and there was an  
24 allegation that a senior officer had committed sexual  
25 impropriety toward a junior officer in your region; is that  
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1 right, sir?

2           A. There was a number of allegations. That was  
3 one and probably the most serious.

4           Q. Right. And what was impressed upon you by  
5 Superintendent Thom was that, as a Regional Sergeant Major,  
6 you were under a duty to make notes; isn't that right?

7           A. Yes.

8           Q. To make notes in those circumstances; isn't  
9 that right? To make notes in the circumstances you've just  
10 described to me; isn't that right?

11          A. Yes.

12          Q. And do you agree with me that your duty to  
13 take notes on a statement by a fellow officer is quite a  
14 different matter when you were a Regional Sergeant Major in  
15 those circumstances, as opposed to when you were among a  
16 group of commanding officers having a huddle with the  
17 Commissioner about some legitimate concerns he had about  
18 misinformation from within the OPP? Do you agree with me  
19 that there is a difference in your duty in that respect?

20          A. I do not, sir.

21          Q. You don't see it any differently; is that  
22 right, Chief Superintendent?

23          A. Certain pieces of policy, the WDHP policy in  
24 particular, it doesn't differentiate between rank. In  
25 fact, in terms of supervisory or managerial people, it puts  
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1 an additional onus on you to take action. So in terms of  
2 whether you make notes as a Sergeant Major or as a Chief,  
3 as a Commissioner, there is a duty and it's a wide-ranging  
4 duty.

5           What you choose to document, other than what is  
6 absolutely proscribed by Police Orders, on duty, off duty  
7 enforcement activity, there is a whole list in Police  
8 Orders. But the decision to make notes as a member of the  
9 OPP or as a senior officer, obviously, there is some  
10 subjectivity to that, and in terms of my decisions to make  
11 notes or not, sometimes I make a lot of notes. You have  
12 copies of my notes. The more recent notes, I have written  
13 voluminous accounts, details, quotes. I have spent pages.

14           The meeting on the 10th I think I probably have  
15 15 pages in there. This note with respect to the  
16 Commissioner's comments on the 1st of March of 2007 was  
17 essentially a page and a bit. It was my intention to make  
18 it a place marker, fade into history of my notebooks. I  
19 never anticipated in my wildest dreams I would be sitting  
20 here in any forum describing them, but I felt the events  
21 were significant enough to at least make some notes to deal  
22 with the allegation or the concern about Superintendent  
23 MacDonald, the fact I defended him, and the fact that the  
24 Commissioner listened, and that was it. I wasn't trying to  
25 make it bigger than it was. It was just a place marker.  
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1 Q. Now, during your January 3rd, 2008  
2 conversation with Mr. Rees, he requested that you fax him  
3 your notes relating to your conversation with the  
4 Commissioner at Caledon on March 1st; isn't that right?

5 A. Yes, sir.

6 Q. And I'm showing the witness something, Mr.  
7 Adjudicator. This has been disclosed and I've provided a  
8 copy just now to Mr. Falconer. I'll ask you, Chief  
9 Superintendent Grodzinski, to look at the series of pages  
10 that I have handed to you, and can we review them in this  
11 way so that they are identified for the record? First of  
12 all, there are two pages of handwritten notes; is that  
13 right?

14 A. That's correct, sir.

15 Q. And then there appears to be a further four  
16 pages that reflect an E-mail chain; is that right, sir?

17 A. That's correct, sir.

18 Q. And the E-mail chain starts and finishes on  
19 February 21st, 2007; is that correct?

20 A. Yes, sir.

21 Q. And it starts with the E-mail from Inspector  
22 Karski that we see at the bottom of the third page of the  
23 E-mails, and it appears to conclude, as these things do, in  
24 reverse chronology with an E-mail from the Commissioner  
25 which we have on the first of those four pages, reflecting  
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1 the hard copy of the E-mails; is that right, sir?

2 A. Yes, sir.

3 Q. So this is what you faxed to Mr. Rees at his  
4 request following the conversation of June 3rd, 2008; is  
5 that right, sir?

6 A. It certainly appears to be. I don't even  
7 remember doing it, but clearly I did.

8 Q. And it appears I see from the fax ribbon at  
9 the top it's from the OPP Highway Safety and it gives a fax  
10 number; is that right, sir?

11 A. And the fact it's a 705 number confirms from  
12 my recollection it was probably the Barrie detachment where  
13 we have a sub office of the Highway Safety Division there.  
14 That's probably where I faxed this from.

15 MR. GOVER: Right. And I would ask then that you  
16 receive this, Mr. Adjudicator. Now, I note that  
17 this relates to Exhibit 18. I'm going to suggest  
18 that we call this -- well, let's just go with the  
19 next lettered exhibit rather than get too fancy  
20 with the numbering here -- the next numbered  
21 exhibit, that is.

22 THE ADJUDICATOR: 21.

23 MR. GOVER: Thank you.

24 THE ADJUDICATOR: Mr. Falconer?

25 MR. FALCONER: Yes.

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1 THE ADJUDICATOR: So this will be Exhibit 21.

2 EXHIBIT NO. 21: Group of E-mails/notes sent to

3 Owen Rees from Chief Superintendent Grodzinski.

4 BY MR. GOVER:

5 Q. Now, do you have Exhibit 18 before you which  
6 is the copy of your notes which was exhibited yesterday  
7 also relating to March 1st, 2007? If I can borrow that  
8 just for a moment? So Chief Superintendent, what I've  
9 placed before you has been marked as Exhibit 18.

10 A. Okay.

11 Q. And it has three pages; is that correct?

12 A. Yes, sir.

13 Q. And what you faxed to Mr. Rees which we have  
14 now in Exhibit 21 has two pages of your notes for March  
15 1st, 2007; is that correct?

16 A. That's correct, sir.

17 Q. Right. And to be clear about this, what you  
18 sent to Mr. Rees did not include the third page which has  
19 the reference to your conversation with Superintendent  
20 MacDonald which you had, as you say, at 19:00'ish about  
21 your conversation with the Commissioner at Caledon; is that  
22 right?

23 A. Yes, sir.

24 Q. And Chief Superintendent, did you wrestle  
25 with not sending the third page to Mr. Rees?

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1           A. It was never a consideration. I have no idea  
2 why it wouldn't have gone or whether I just looked at it  
3 and saw that it didn't reference the Commissioner and made  
4 a decision not to. This wasn't a decision. I just didn't  
5 do it.

6           Q. You just can't account for that decision?

7           A. No, absolutely not.

8           MR. GOVER: Perhaps this might be a convenient  
9 time for the morning recess, Mr. Adjudicator, and  
10 I note that over the last couple of days we've  
11 generally taken our lunch break at 12:30. So  
12 what I suggest is that we take a 15 minute break  
13 now, I resume for half an hour, and I'll try to  
14 get through the rest --

15          THE ADJUDICATOR: You'll be finished, you mean?

16          MR. GOVER: I don't think I will be by 12:30.

17          THE ADJUDICATOR: All right. So --

18          MR. FALCONER: May I address you about that? I  
19 have a public complainant -- the public  
20 complainant, Susan Cole, is the next witness.  
21 Obviously, it's sort of a different category of  
22 witness because Kate Karn, Ministry employee, a  
23 lot of people whose full-time jobs it is to  
24 cooperate in the process, so Susan Cole is in a  
25 bit of a different category in the sense that I

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1           would like to be as gentle with her as possible  
2           in messing up the schedule. So is there any  
3           possibility Mr. Gover could let me know? Maybe  
4           we should have -- what I'm asking for should be  
5           done in the absence of the witness. So if he  
6           could be excused then we could talk about it. I  
7           just think it's important that we get some  
8           scheduling done. Is that all right?

9           THE ADJUDICATOR: Yes. So we're going to have a  
10          break, Chief Superintendent, anyway. So don't  
11          discuss the matter with anyone during the break.

12          So you may step out, then.

13          THE WITNESS: Thank you, sir.

14 --- Witness leaves the hearing room.

15          THE ADJUDICATOR: Thank you.

16          MR. FALCONER: Sorry, I didn't mean to raise this  
17          -- I'm not trying to tie my friend down in any  
18          way. I am the worst candidate for trying to  
19          estimate how long my cross is going to take. So  
20          I'm completely sympathetic. I'm just saying  
21          this. If I can tell Susan Cole she is not going  
22          to be testifying until 2:00 or 3:00 this  
23          afternoon -- 2:00 o'clock? Fair enough. And may  
24          I ask this? If we're doing that, if we do that,  
25          the other question is would it be okay if we

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1           didn't have her wait in this building?

2           THE ADJUDICATOR:  Didn't have what?

3           MR. FALCONER:  Have Ms. Cole wait in this

4           building until it's her turn.  Her experiences

5           with the OPP hearing process haven't been

6           perfect.  You've gotten a sense, a flavour of

7           that, and whether she's right or wrong is

8           irrelevant.  I would rather have her wait, her

9           hotel is 15 minutes from here.  I would like to

10          be able when Mr. Gover says, you know what, Mr.

11          Falconer, make the call, I would like to bring

12          her down that way.  Is that all right?  That

13          means we may have to be down for ten minutes.  I

14          just don't want to --

15          THE ADJUDICATOR:  I have no problem as long as

16          she is here 2:00 p.m.

17          MR. FALCONER:  All right.

18          THE ADJUDICATOR:  She can go wherever she wants.

19          MR. FALCONER:  No, what I meant was, with all due

20          respect to Mr. Gover, if there is an equal

21          likelihood he will still be going with Chief

22          Superintendent Grodzinski at 1:45, rather than

23          tell her be here for 2:00 and then have her wait

24          around, I would like to just be able to say we

25          are aiming for 2:00 so be ready to come down

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1 here, we'll phone you. Is that all right?

2 THE ADJUDICATOR: Yes, that's no problem.

3 MR. FALCONER: All right. So it may mean we wait  
4 ten minutes while she drives down.

5 THE ADJUDICATOR: I don't think Mr. Gover has any  
6 difficulty with that.

7 MR. GOVER: None.

8 MR. FALCONER: Sorry for the...

9 THE ADJUDICATOR: No, that's all right. So we'll  
10 have a 15 minute break, then. Is that what we're  
11 doing?

12 MR. GOVER: Yes, thank you.

13 --- Upon recessing at 11:48 a.m.

14 --- Upon resuming at 12:10 p.m.

15 THE ADJUDICATOR: So there is an order excluding  
16 witnesses save and except Superintendent Van  
17 Zant, Detective Sergeant Chalk, and Investigator  
18 Perry, and the Chief Superintendent is still in  
19 the witness box.

20 MR. FALCONER: There is a matter, I suppose,  
21 before he comes in that I would like to address.

22 The next witness is Susan Cole. The witness  
23 after that is Superintendent MacLachlan, and she  
24 is the current head of Professional Standards,  
25 and you will recall evidence around her

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1 involvement in the extension and everything else,  
2 the E-mails.

3 As a result of some information coming to  
4 the attention of myself, I have made a request  
5 for certain documentation that Superintendent  
6 MacLachlan bring with her for her testimony. I  
7 am told that that request has some contention  
8 attached to it. Superintendent MacLachlan has  
9 counsel in the form of one of the Crown Law  
10 Office Civil lawyers, Crystal O'Donnell, who E-  
11 mailed me about an hour ago.

12 In any event, I expect that we will require  
13 some direction from you on the question of the  
14 issuance of the summons to require the production  
15 of documentation. I think that's the best way I  
16 can put it. I don't know -- I know Mr. Gover has  
17 spoken to Ms. O'Donnell. I have not. Perhaps he  
18 can shed some light on her availability. I have  
19 E-mailed her and said that, from my perspective,  
20 she should try to attend today or tomorrow so  
21 that we can address this before we proceed with  
22 Superintendent MacLachlan because she is up to go  
23 tomorrow.

24 THE ADJUDICATOR: We're not going to get to the  
25 Superintendent today, anyway, are we?  
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1 MR. FALCONER: That's right. That's why I'm  
2 trying to flag it.

3 THE ADJUDICATOR: Yes.

4 MR. FALCONER: And we're definitely not going to  
5 get to her today. In fact, we have another  
6 witness between us and her.

7 THE ADJUDICATOR: Yes.

8 MR. FALCONER: That is Susan Cole. So I'm trying  
9 to flag that there is this issue and we're not  
10 simply going to be able to make a smooth  
11 transition from Susan Cole to Superintendent  
12 MacLachlan.

13 THE ADJUDICATOR: Yes, very good. Thank you, Mr.  
14 Falconer. So the witness, Chief Superintendent,  
15 will return.

16 --- Witness returns to hearing room at 12:14 p.m.

17 THE ADJUDICATOR: Now, Chief Superintendent, you  
18 realize you're still under oath to tell the  
19 truth?

20 THE WITNESS: Yes, sir, I do.

21 THE ADJUDICATOR: Very good, thank you. So  
22 continue cross-examination, Mr. Gover.

23 MR. GOVER: Thank you very much.

24 BY MR. GOVER:

25 Q. Now, Chief Superintendent Grodzinski, you  
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1 told us yesterday that you and Superintendent MacDonald are  
2 friends; is that correct, sir?

3 A. Yes, sir, we are.

4 Q. And you've known him for much of your career;  
5 is that fair?

6 A. Actually, since 1998. He was a member of  
7 Caledon detachment. I was a sergeant -- or back then, I  
8 might even have been a corporal at Port Credit detachment.  
9 We were on the District Crowd Management Team at that  
10 point, and from 1998 till about 1994 we would have worked  
11 together --

12 Q. Sorry, I think you might have said 1998 as  
13 your beginning date. Did you mean 1988?

14 A. '88, my apologies. '88 through '94 we were  
15 joint members of an Emergency Response Team. I was the  
16 team leader. He was the 2IC, so we worked together in  
17 those situations. We worked in another detachment, but we  
18 did train together, we socialized, and when I left Port  
19 Credit detachment in 1994, our careers essentially parted.  
20 We remained sort of in touch but not close, and we didn't  
21 work together again until he joined Highway Safety  
22 Division.

23 Q. So it's fair to say you've been acquainted  
24 with him for 20 years?

25 A. Yes, sir.

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1 Q. That you worked together in the past?

2 A. Yes, sir.

3 Q. You're working together now?

4 A. Yes, sir.

5 Q. You were on friendly terms previously?

6 A. Oh, yes, sir.

7 Q. And you consider him a friend now?

8 A. Absolutely, sir.

9 Q. And we know then from Exhibit 18, the version  
10 of your notes that has all three pages from the March 1st,  
11 2007 event, that you had a conversation with Superintendent  
12 MacDonald that night?

13 A. Yes, sir.

14 Q. And your note reads, "Follow up Caledon  
15 meeting"; is that right?

16 A. Yes, sir.

17 Q. And you told him then essentially what you  
18 said to the Commissioner; is that right?

19 A. That's correct, sir.

20 Q. And the purpose of your call was what, sir?

21 A. It was two-fold, I suppose. One, to flag him  
22 at the level of concern with his perceived behaviour, to  
23 once again affirm he was not involved in any misconduct or  
24 mischief-making, and I think to fairly put to try and make  
25 sure that we didn't make a bad situation worse.

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1 Q. You wanted to let him know that you had  
2 addressed the situation; is that fair?

3 A. Yes, sir.

4 Q. Now, you testified that in January, 2007 you  
5 received an E-mail from Deputy Commissioner Lewis  
6 expressing his concern about whether Superintendent  
7 MacDonald was impartial regarding the redeployment of  
8 Caledon detachment; is that right, sir?

9 A. And for purposes of precision, the E-mail is  
10 actually sent to Deputy Carson by Deputy Lewis, and in  
11 turn, it was flipped to me from Deputy Carson who was my  
12 boss at the time. So that's how I became aware of it.

13 Q. Right. And I'm waiting for a copy of your  
14 notes. I'm going to get them over the lunch hour, but I'm  
15 going to proceed now.

16 A. Yes.

17 Q. And I appreciate you being precise like this.  
18 So the date of the E-mail, then, sir, was what?

19 A. The E-mail actually starts on Tuesday,  
20 January 23 at 14:45 hours. It's what I would characterize  
21 as a routine communication from a Nancy Mansell (ph). She  
22 is management --

23 MR. FALCONER: A brief break in the answer  
24 because I found the copy that Mr. Mathai had done  
25 yesterday.

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1 BY MR. GOVER:

2 Q. Mr. Adjudicator and Chief Superintendent  
3 Grodzinski, I now have the note so I'm in a position to  
4 follow along somewhat better, sir. So you were telling us  
5 that the E-mail was dated January 23rd, 2007?

6 A. That's correct. It starts as a routine  
7 communication from Nancy Mansell to a series of individuals  
8 that are named there, Chris Lewis, Bill Grodzinski, Brad  
9 Blair. From there, Deputy Lewis sends an E-mail to Deputy  
10 Carson, myself, Chief Superintendent Smith, Inspector  
11 Karski. It's dated the 23rd of January, 2007, at 2:54  
12 p.m., and in turn, Deputy Carson responds to Deputy Lewis,  
13 and that would be at 15:09 hours the same day, and yet  
14 another exchange at 19:33 hours, and that's ultimately  
15 forwarded to me at 7:37 p.m. So shortly after the exchange  
16 between Deputy Lewis and Deputy Carson, and of note was the  
17 comment from Deputy Lewis to Deputy Carson that was what  
18 interested me.

19 Q. And I don't have a hard copy of your E-mail  
20 so I'll ask you to point that out to me, please.

21 A. It was this comment here, sir.

22 Q. So what you've pointed to in this E-mail of  
23 January 23rd from interim Deputy Commissioner Lewis who was  
24 then responsible for field operations where he said,  
25 "Thanks, John" in the E-mail to Deputy Commissioner John

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1 Carson, "I would just like to ensure that the consultation  
2 isn't one-sided from Bill's perspective." Now, Bill is  
3 whom, sir?

4 A. That would be me, sir.

5 Q. And it continues, "Andy's slant on this" --  
6 let me pause there. Andy is whom?

7 A. Inspector Karski.

8 Q. Who was the detachment commander at Caledon?

9 A. That's correct, sir.

10 Q. And it continues,  
11 "...Andy's slant on this seems markedly different than  
12 Bill's and I don't want Ken's history and potential  
13 biases around that contract to influence the right  
14 thing from occurring here, whatever that may be..."  
15 Have I read that correctly, sir?

16 A. Yes, sir, you have.

17 Q. And Ken in this regard is Superintendent  
18 MacDonald; is that right?

19 A. That's correct, sir.

20 Q. So fair to say here that -- and we've  
21 discussed this corporate objective of transferring Caledon  
22 detachment from the Highway Safety Division to Central  
23 Region -- the concern was that Superintendent MacDonald,  
24 who was then under your command, might in some way be  
25 biased because he was a former Detachment Commander himself  
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1 at Caledon?

2 A. That's correct, sir.

3 Q. And then you made notebook entries in  
4 relation to events around that date, as well; is that  
5 right, sir?

6 A. It was actually the next day, the Wednesday  
7 the 24th.

8 Q. And you called Deputy Commissioner Lewis; is  
9 that right, to follow up with him on that day?

10 A. That's correct, sir.

11 Q. And you reinforced with Deputy Commissioner  
12 Lewis that Superintendent MacDonald was a loyal member of  
13 the OPP; is that right?

14 A. Yes, sir, affirming that right from the  
15 beginning on this we had agreed there was no question,  
16 there was no discussion, there was no other decision than  
17 to support it. Superintendent MacDonald was on board, my  
18 boss, Deputy Carson, was on board. There was -- there was  
19 no issue. At this point, we were just trying to facilitate  
20 the move from Caledon to Central Region. That's all. We  
21 wanted to see it done.

22 Q. Right. And it appears that in the course of  
23 the conversation, someone raised Superintendent MacDonald's  
24 concerns over Inspector Karski's workplace harassment  
25 issues; is that correct?

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1           A. There was a whole series of events taking  
2 place in that detachment at the time. Essentially, the  
3 heart of it was a WDHP complaint one member from another.

4           Q. That's Workplace Discrimination and  
5 Harassment Policy complaint; is that right?

6           A. Yes, sir. And as these things often do, it  
7 expanded. It grew in scope. It involved the detachment  
8 commander, which was Inspector Karski, which from an  
9 organizational perspective was a concern and fairly high  
10 risk.

11           So Superintendent MacDonald as the supervisor  
12 would have been responsible for ensuring the right things  
13 were happening in terms of the investigation dealing with  
14 the respondent officer, the complainant officers. I became  
15 involved personally myself because first the President of  
16 the Ontario Provincial Police Association engaged me, and  
17 then one of his Board of Directors engaged me, as well, on  
18 the issue. So there was a lot going on, and so it was a  
19 very passing reference to what was a fairly significant  
20 piece that was sort of in the background. It's kind of the  
21 sub-text to the whole moving of Caledon to Central Region.  
22 There was a lot going on.

23           Q. So a lot going on, and you have told us about  
24 a comment made by Deputy Commissioner Lewis in the course  
25 of that phone call; is that right?

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1 A. Yes, sir.

2 Q. Now, do you agree with me, Chief  
3 Superintendent, that it's not unusual in the OPP for senior  
4 managers to be transferred to different positions to better  
5 round them out for career development?

6 A. That's correct, sir.

7 Q. And it's not unusual for the OPP to transfer  
8 commissioned officers to fill operational needs; is that  
9 right, sir?

10 A. That's correct, sir.

11 Q. And when Commissioner Fantino began as  
12 Commissioner, you agree with me that that appointment was  
13 dated October 30th, 2006, there were a number of unfunded  
14 or under-funded senior positions within the OPP; isn't that  
15 right?

16 A. That's correct, sir.

17 Q. And that created structural problems for the  
18 organization as well as financial problems; isn't that  
19 right?

20 A. That was my understanding, yes.

21 Q. And the Commissioner's position was that this  
22 practice of having unfunded or under-funded senior  
23 positions had to end?

24 A. Yes, sir. He stated that.

25 Q. And the goal of the provincial commanders was

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1 to eliminate all unfunded positions through attrition,  
2 promotions, and some lateral moves by the end of 2007; is  
3 that right, sir?

4 A. I believe that's correct, sir, yes.

5 Q. Now, as a result of this reorganization,  
6 there was soon to be a surplus Chief Superintendent  
7 position, I understand? Did you understand that to be the  
8 case, sir?

9 A. I was told that, and that was something that  
10 I was told. I don't know which position that was going to  
11 be for certain. I speculated, I believe it was the Bureau  
12 Commander of Contract Policing was a chief's position and  
13 that was going to be downgraded to a section, thus, there  
14 would be a surplus chief. I don't know that for a fact but  
15 that's...

16 Q. In fact, I'm going to suggest to you -- that  
17 was my next question -- that Contract Policing had as its  
18 top person a Chief Superintendent, and that was going to be  
19 downgraded to an Inspector's position?

20 A. That's correct, sir.

21 Q. And it was the case, as well that -- first of  
22 all, are you acquainted with a now retired Chief  
23 Superintendent named Glen Miller?

24 A. Glen or Ken?

25 Q. Thank you. Ken Miller.

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1 A. I'm very familiar with Ken Miller, sir.

2 Q. And Ken Miller was the Chief Superintendent  
3 who was in charge of Northeast Region; is that right, sir?

4 A. That's correct, sir.

5 Q. And he was in charge of that region but was  
6 retiring on December 31st, 2007; is that right, sir?

7 A. That's correct.

8 Q. And are you aware that in late December, 2007  
9 or early January, 2008 the Commissioner's Committee had  
10 discussions about his replacement?

11 A. I would not have been aware of that at the  
12 time. I have since become aware.

13 Q. And in light of what you've just said, if on  
14 this motion Deputy Commissioner Lewis testified that on a  
15 Commissioner's Committee tele-conference meeting on January  
16 8th, 2008, Commissioner Fantino suggested that the Chief  
17 Superintendent from Contract Policing should transfer to  
18 North Bay, which is the headquarters for Northeast Region,  
19 to fill the vacancy, you would not be in a position to  
20 disagree?

21 A. In fact, I know that particular officer  
22 applied to go to North Bay and competed against Chief  
23 Superintendent Miller for that position. So she had a  
24 desire to go to North Bay at one point. She worked for me,  
25 and I had some detailed knowledge of her career.

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1 Q. So you're agreeing with me, then, I take it,  
2 or you're at least saying that the proposition I've put to  
3 you stands to reason at least?

4 A. That the Commissioner suggested the surplus  
5 Chief from Contract Policing would be suitable for North  
6 Bay?

7 Q. Yes, sir.

8 A. Yes, absolutely.

9 MR. FALCONER: Mr. Adjudicator, I understand  
10 there will be times when using a name may not be  
11 appropriate.

12 THE ADJUDICATOR: I can't hear.

13 MR. FALCONER: I apologize. I understand there  
14 will be times when using a name may not be  
15 appropriate for different reasons, but in  
16 circumstances such as this so that -- Mr. Gover  
17 and the witness know who they are talking about.

18 I don't, and I think that it's best if the  
19 person is identified. I can do it in re-exam,  
20 but I would just ask for the record that we  
21 identify who we're talking about.

22 THE ADJUDICATOR: Yes. Yes, I agree.

23 BY MR. GOVER:

24 Q. I'm happy to round out the record and I now  
25 know the name myself because a note has been passed to me

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1 just in time, I might add. The Chief Superintendent's name  
2 was Nora Skelding; is that right?

3 A. That's correct, sir.

4 Q. And she had been the Chief Superintendent in  
5 charge of Contract Policing?

6 A. She was -- that was her current position.  
7 Previously, she had been the Bureau Commander of  
8 Information Technology, Chief's job, and she had been a  
9 Superintendent working for me. She actually occupied the  
10 position that Superintendent MacDonald now occupies.

11 Q. And if Deputy Commissioner Lewis were to  
12 testify that he had concerns regarding the fit of Chief  
13 Superintendent Skelding for Northeast Region, you would not  
14 be in a position to disagree with Deputy Commissioner  
15 Lewis' testimony in that respect?

16 A. Absolutely not, sir.

17 Q. Now, are you aware that the Commissioner's  
18 Committee discussed a number of moves to best fill that  
19 vacancy and the Commissioner ultimately left it up to the  
20 Committee to sort the situation out? Are you aware of  
21 that, sir?

22 A. No, sir.

23 Q. Are you aware that one of the options raised  
24 by Deputy Commissioner Lewis was transferring you to  
25 Northeast Region?

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1 A. I'm now aware of that, yes.

2 Q. And I'm going to suggest to you that when he  
3 in turn suggested transferring you to Northeast Region,  
4 Deputy Commissioner Lewis understood a number of things,  
5 and I'm going to put them to you and I'm going to ask you  
6 whether, based on your discussions with Deputy Commissioner  
7 Lewis you in turn understood that that was his own  
8 understanding.

9 MR. FALCONER: Mr. Adjudicator, this is somewhat  
10 of a cautionary flagging of an issue. I don't  
11 have by way of disclosure some of the things that  
12 Mr. Gover has just raised, some of them. I'm not  
13 saying that that's going to -- I'm not saying  
14 that puts an end to it. In other words, that  
15 some of the detail from the Lewis statement  
16 doesn't cover all of what was just said. Having  
17 said that, that's not the concern, though. What  
18 I want to make sure is that my friend, as he puts  
19 the potential evidence of Lewis to the witness,  
20 appreciates that if I am of the view at the end  
21 of calling my evidence on the motion that it's  
22 not necessary to have Deputy Commissioner Lewis  
23 testify, he will be in a position where he will  
24 have to call him. And my submission is that we  
25 ought to be alive to the fact that I'm not

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1           undertaking to call Deputy Commissioner Lewis and  
2           if he's going to put the potential evidence of  
3           Lewis to this witness, it's on the premise that  
4           if I'm not calling him, he is. I'm just  
5           concerned about that, that's all, because I don't  
6           want to hear at the end of the day, well, Lewis  
7           didn't testify, I thought Falconer was calling  
8           him, because I can go a step further with this to  
9           help my friend.

10          THE ADJUDICATOR: Do you want to speak up a  
11          little bit?

12          MR. FALCONER: Yes, I apologize. No one ever  
13          accuses me of talking too softly, and it's my  
14          fault. It's the room, so I apologize. Based on  
15          the evidence I've heard to date, without  
16          identifying witnesses, it is highly likely that I  
17          will take the position that we have made our case  
18          out in terms of some of these issues, and that if  
19          my friend feels people have to be called to  
20          explain their decisions, he may well be put in  
21          the position of having to call them, and I simply  
22          point this out because as he goes about saying I  
23          expect Lewis will say "x" and he will say "y", it  
24          will be a product of him calling Lewis to say  
25          those things. I'm concerned that he not

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1 anticipate that I'm necessarily going to call  
2 this gentleman. I don't know if that helps, but  
3 I'm concerned about that.

4 THE ADJUDICATOR: No, I appreciate you putting  
5 that on the record. Mr. Gover knows where he  
6 stands now, too. So you may proceed, Mr. Gover.

7 MR. GOVER: Thank you, Mr. Adjudicator.

8 BY MR. GOVER:

9 Q. So given what has just transpired, you might  
10 not recall what the question was, but I'm going to put a  
11 number of factors to you and I'm going to suggest to you  
12 that you in turn understood that, in making his decision  
13 and in his interactions with you, Deputy Commissioner Lewis  
14 appeared from that interaction you had to have a certain  
15 understanding. I'm going to refer to some circumstances.

16 A. Okay.

17 Q. Okay. So I've refocused here to back where  
18 we were, and it became apparent to you that Deputy  
19 Commissioner Lewis understood that you had served in  
20 Northeast Region yourself; is that right?

21 A. That's correct, sir.

22 Q. And over how many years of your career, Chief  
23 Superintendent?

24 A. I was there from August of 1996 till June of  
25 2002, and then I returned in June of 2004 and I transferred  
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1 from that region in January of 2005.

2 Q. Deputy Commissioner Lewis appeared to  
3 understand, as well, that your wife was from North Bay; is  
4 that correct, sir?

5 A. That's correct.

6 Q. And not only did he understand that, but he  
7 was right in understanding that? That is correct in fact,  
8 isn't it, sir?

9 A. Yes, sir.

10 Q. Deputy Commissioner Lewis appeared to  
11 understand that your wife had an elderly parent still  
12 living in North Bay; is that correct, sir?

13 A. Deputy Lewis sent my wife a card when her  
14 mother passed away. He would have been right that she had  
15 an elderly parent there, but she had passed away at the  
16 same time when I was transferred in January, 2005. Her  
17 mother took sick, was dying of cancer, and we went through  
18 an episode from January, 2005, until she relocated looking  
19 after the dying parent and selling our house, which we had  
20 difficulty selling, and taking care of her dying mother,  
21 and selling her mother's house. And at the end of it  
22 Deputy Lewis and I had some conversations and he was quite  
23 concerned about Susan and he sent her a card.

24 Q. Now, he appeared to understand that your wife  
25 still had some connection to North Bay; is that fair?

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1 A. He may have understood it. We had no  
2 connection with North Bay.

3 Q. Right. So in fact, although he may have  
4 understood that, he was mistaken in that respect; is that  
5 fair?

6 A. Yes, sir.

7 Q. And he understood, as well, that you were  
8 still a few years away from retirement; is that right, sir?

9 A. He may have. I don't know how he would have  
10 that understanding. There was three classes in 1978. He  
11 and I had conversations about where we stood because, as I  
12 mentioned yesterday, Chief Smith, Deputy Lewis, Bill  
13 Grodzinski, Cam Woolley, there was a number of us because  
14 there was classes in June, September, and December of 1978.  
15 So there was a whole pack of us kind of eligible to retire.

16 So it's not just about the career jockeying of,  
17 you know, who is where, but just general knowledge of who  
18 was where, and Deputy Lewis and myself, I'm convinced had  
19 that conversation. I worked for Deputy Lewis for six  
20 months on the Government Mobile Communications Office. We  
21 had quite a good relationship. We had lunch together. We  
22 talked together. If he said he didn't know or he supposed  
23 I had several years, then I don't dispute that, but  
24 certainly, from the best of my knowledge he would have had  
25 a very clear understanding that I was going to be eligible

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1 for retirement in December.

2 Q. And that really leads to my next series of  
3 questions. You testified yesterday that you become  
4 eligible for retirement on December 4th, 2008; is that  
5 right, sir?

6 A. That's correct, sir.

7 Q. And you agree with me, though, that being  
8 eligible for retirement does not mean that retirement is  
9 compulsory, does it?

10 A. Absolutely not, sir.

11 Q. And in fact, some senior officers choose to  
12 stay on the Force and to aspire to higher ranks; isn't that  
13 right, sir?

14 A. Yes, sir.

15 Q. And are you aware of any information that  
16 Deputy Commissioner Lewis had that as of January 8th, 2008  
17 that you intended to retire at the end of 2008?

18 A. No, sir. He wouldn't have had any of that  
19 information because I have never announced that intention,  
20 made that known.

21 Q. Because that's your personal decision; isn't  
22 it?

23 A. Absolutely, sir.

24 Q. The OPP can't make you retire?

25 A. Not directly, sir. No, they can't.

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1 Q. And in fact, you've told us Deputy  
2 Commissioner Lewis had been your supervisor in the past?

3 A. For about six months.

4 Q. And he had full confidence in you; isn't that  
5 right?

6 A. Yes, sir.

7 Q. He expressed that to you repeatedly, didn't  
8 he?

9 A. We had a good relationship. He expressed it  
10 verbally and he actually documented it, yes. He was very  
11 positive on my performance.

12 Q. And from your standpoint, he had every reason  
13 to believe that you would effectively manage Northeast  
14 Region and be well accepted there?

15 A. He would have had that expectation, sir.

16 Q. Now, you've testified that you met with  
17 Deputy Commissioner Lewis and Acting Deputy Commissioner  
18 Beechey on January 10th, 2008?

19 A. Yes, sir.

20 Q. And if Deputy Commissioner Lewis were to  
21 testify that he was genuinely surprised by your negative  
22 reaction to the transfer, you would not be in a position to  
23 disagree with him, would you?

24 A. I would agree with that save and except for  
25 the fact that, as that meeting unfolded and my information

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1 was conveyed to him about my family situation and about my  
2 lack of willingness, if at that point it had just stopped  
3 and he said, "Bill, sorry, it's a mistake, disregard," but  
4 he didn't. It ended with him saying to me Susan's illness  
5 changes things, but at the end of the day, he said, if it's  
6 in the organization's best interest, you're still going.  
7 And that was what particularly concerned me because that  
8 made things different.

9 I had never heard it ever expressed that I was  
10 going to be in a position to be forced to relocate in my 30  
11 years of OPP experience and my experience as a senior  
12 officer. As I mentioned earlier, moves, changing offices  
13 in the hall, but it is not our practice as an organization  
14 to force people to relocate, and I can say that with some  
15 certainty because we transferred three people from Ottawa  
16 detachment against their will last year and the  
17 Commissioner overturned it. We don't generally force  
18 people to transfer.

19 Q. Now, you explained that at the meeting --  
20 pardon me. At the meeting you explained your wife's health  
21 issues and how hard the last two moves had been on you; is  
22 that right?

23 A. All three moves were hard on her.

24 Q. And so far as you were aware, Deputy  
25 Commissioner Lewis had not been aware of those health

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1 issues; is that fair?

2 A. No, he had not. No, that's fair, sir.

3 Q. And at the meeting you explained that both of  
4 your wife's parents had passed away; isn't that right?

5 A. Her father passed away many years ago. It  
6 was just her mother.

7 Q. And Deputy Commissioner Lewis told you that  
8 your personal circumstances came as a surprise to him,  
9 didn't he?

10 A. Yes, sir.

11 Q. And he said that he had thought this transfer  
12 would be a good thing for you and your wife, didn't he?

13 A. He did.

14 Q. You advised him that you would not locate  
15 your home to North Bay but you would only take an apartment  
16 and commute; isn't that right?

17 A. That's correct, sir.

18 Q. And you and Deputy Commissioner Lewis both  
19 agreed that this would not be the best thing for the future  
20 of Northeast Region; isn't that right, sir?

21 A. Could you rephrase that or repeat that,  
22 sorry?

23 Q. Yes. You and Deputy Commissioner Lewis  
24 agreed that, having a Chief Superintendent who didn't  
25 relocate to North Bay, but would only take an apartment and  
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1 commute, would not be the best thing for the future of that  
2 region?

3           A. I would agree, yes. I don't think it was  
4 expressed exactly that way, but that was the thrust of the  
5 conversation.

6           Q. And in fact, Deputy Commissioner Lewis told  
7 you that this information changed things greatly, didn't  
8 he?

9           A. He said it changed things.

10          Q. And he said that he would have to go back to  
11 the Commissioner's Committee for further discussion, didn't  
12 he?

13          A. He did say that, sir, yes.

14          Q. And in fact, you recorded that in your notes?

15          A. That's correct, sir.

16          Q. Now, Deputy Commissioner Lewis also told you  
17 that you may have to go to Northeast Region for a year but  
18 that he would get back to you, didn't he?

19          A. I don't recall that, sir.

20          Q. You don't recall that?

21          A. Absolutely not, sir.

22          Q. So if he were to say -- if he were to testify  
23 to that on the motion, you would disagree with him?

24          A. It was not said, sir.

25          Q. Now, if Deputy Commissioner Lewis were to  
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1 testify that he thought that by the end of the meeting you  
2 seemed reasonably certain that the transfer would not  
3 occur, you would not be in a position to disagree with him,  
4 would you, sir?

5           A. I'd restate what I just said previously, the  
6 comment about if at the end -- sorry, if at the end of the  
7 day it's in the organization's best interest I would still  
8 be going, that to me suggested it was still open for me to  
9 proceed to North Bay, and in fact, that's why I raised it  
10 with Deputy Beechey the next day and said I still have this  
11 hanging over my head. It was not clear to me that it was  
12 off the table. In fact, I left that day thinking it was on  
13 the table.

14           Q. Well, yesterday you told us that following  
15 your meeting with Deputy Commissioner Lewis and Acting  
16 Deputy Commissioner Beechey you had a meeting with Deputy  
17 Commissioner Hawkes; isn't that right?

18           A. It wasn't a meeting. It was a chance  
19 encounter as we were both leaving the building.

20           Q. Fair enough. So in this chance encounter,  
21 though, Deputy Commissioner Hawkes spoke to you about this  
22 issue of the proposed transfer to North Bay?

23           A. Yes, sir.

24           Q. And he said this to you, well, Bill, it  
25 wasn't a done deal, people made assumptions that Susan was  
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1 from North Bay and wanted to go home? He said that, didn't  
2 he, sir?

3 A. That's correct, sir.

4 MR. GOVER: Now, I note the time, Mr.

5 Adjudicator. I wonder if this might be a  
6 convenient time for the lunch recess.

7 THE ADJUDICATOR: Can you not go another 15  
8 minutes?

9 MR. GOVER: I'm happy to do that.

10 THE ADJUDICATOR: All right. Let's go till 1:00,  
11 1:00 o'clock.

12 MR. GOVER: Fair enough.

13 BY MR. GOVER:

14 Q. Now, you agreed with me earlier that it's not  
15 unusual in the OPP for transfers to be made on the basis of  
16 operational needs; is that right, sir?

17 A. That's correct, sir.

18 Q. And the Commissioner had made it clear  
19 publicly on a number of occasions that Commissioned  
20 Officers can and will be transferred to meet the needs of  
21 the Force; isn't that right, sir?

22 A. Yes, sir, he did.

23 Q. And the Commissioner's Committee had  
24 transferred more Commissioned Officers around in the last  
25 18 months than in the previous 30 years; isn't that right,  
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1 Chief Superintendent?

2 A. I wouldn't know that for a fact, sir.

3 Q. And so if members of that committee were to  
4 testify on the motion that that's the case, you wouldn't be  
5 in a position to disagree with them, then?

6 A. No, sir.

7 Q. You agree with me that there has been a  
8 significant reorganization under Commissioner Fantino?

9 A. Yes, sir.

10 Q. And do you agree with me that, in fact, you  
11 have moved a few times in a short period of time to meet  
12 the needs of the OPP; is that right, sir?

13 A. It was to meet the needs of the OPP, and as  
14 somebody indicated, it was also to benefit my career. Two  
15 of those moves were promotions. One was a lateral, but  
16 certainly to meet the needs of the organization, yes.

17 Q. Right. And when we speak of those  
18 promotions, in two of those three moves you were promoted  
19 first to Superintendent and then to Chief Superintendent;  
20 is that right, sir?

21 A. Yes, sir.

22 Q. And both times occurred, both of those  
23 promotions, without any career advertisement process?

24 A. That's correct, sir.

25 Q. They were not hardship moves from a career  
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1 development perspective, were they?

2           A. That's an interesting question. In terms of  
3 the increased rank, responsibility, and pay, they were  
4 certainly not hardship moves --

5           Q. And that's the career development --

6           MR. FALCONER: Well, with respect, my friend  
7 ought to let the witness finish his answer.

8           THE ADJUDICATOR: Anything further you want to  
9 say on that?

10          THE WITNESS: I was just going to say, Mr.  
11 Adjudicator, but that's half the equation. The  
12 other half of the equation is what it does in  
13 terms of impacting your family, and that's a real  
14 issue, and I'm not going to go there with respect  
15 to mine, you've heard enough. The impact on you  
16 personally and your personal finances, and in  
17 terms of the fact that there is many sacrifices,  
18 and for me and others that have done it, living  
19 in the Stonegate for six months at a time or  
20 other locations, just because you're offered an  
21 opportunity for a promotion with or without an  
22 advertisement isn't necessarily without  
23 sacrifices. So the bottom line is, yes, I was  
24 very, very fortunate. I appreciated each of  
25 those opportunities, but at the end of the day,  
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1 each time I was offered those opportunities I had  
2 a chance to say no.

3 BY MR. GOVER:

4 Q. And I'm coming to that, but my question,  
5 Chief Superintendent, was that these were not hardship  
6 moves from a career development perspective, and the answer  
7 to that question is yes; isn't that right?

8 A. Yes, sir.

9 Q. You could have easily turned down those  
10 promotional transfers if you hadn't wanted them; right?

11 A. Absolutely, sir.

12 Q. And if Deputy Commissioner Lewis were to  
13 testify that immediately after your meeting with him he and  
14 Deputy Commissioner Beechey agreed that they would have to  
15 go back to the drawing board, you would not be in a  
16 position to disagree with him, would you?

17 A. Absolutely not.

18 Q. If Deputy Commissioner Lewis were to testify  
19 that he advised the Commissioner of the conversation that  
20 he had with you, including the new information about your  
21 personal circumstances, and they agreed to leave you in  
22 place, you wouldn't be in a position to disagree with that  
23 either, would you?

24 A. Absolutely not, sir.

25 Q. Now, I suggest to you, Chief Superintendent,  
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1 that Deputy Commissioner Lewis was completely professional  
2 with you during the meeting; isn't that right, sir?

3 A. Not to suggest -- he was. He was a perfect  
4 gentlemen. We shook hands, as I mentioned, at the end of  
5 it. It was certainly a totally appropriate business  
6 meeting. There was never any suggestion by me otherwise.

7 Q. Your interactions with him before and since  
8 have been positive; isn't that right, sir?

9 A. Yes, sir, they have.

10 Q. And being the Commander of Northeast Region  
11 for the Ontario Provincial Police is a position of  
12 significant responsibility; isn't that right?

13 A. It is, sir.

14 Q. And in fact, Northeast Region comes under  
15 Deputy Commissioner Lewis' command; isn't that right?

16 A. Yes, sir, that's correct.

17 Q. And in fact, you agree with me that it plays  
18 a very important role under his command?

19 A. Yes, sir, it does.

20 Q. And it stands to reason, doesn't it, that  
21 Deputy Commissioner Lewis would not have offered you the  
22 job had he not had full confidence in your ability to take  
23 over the region; isn't that right?

24 MR. FALCONER: Mr. Adjudicator, it is now calling  
25 on the witness to speculate on motives of Deputy  
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1 Lewis in terms of he says it stands to reason  
2 that he wouldn't have done this unless he had  
3 full confidence in you to do the job. There are  
4 many different inferences one could draw, and  
5 without climbing into the mind of Deputy Lewis,  
6 my submission is it's just not an appropriate  
7 question.

8 MR. GOVER: And my submission in response, Mr.  
9 Adjudicator, is that the form of question is  
10 permissible. The question was whether it stands  
11 to reason.

12 MR. FALCONER: I've reconsidered it. I withdraw  
13 the objection.

14 THE ADJUDICATOR: Thank you, Mr. Falconer. You  
15 may proceed.

16 MR. GOVER: Thank you. So again, I'll re-ask the  
17 question --

18 MR. FALCONER: My apologies.

19 BY MR. GOVER:

20 Q. -- Chief Superintendent, which way it stands  
21 to reason, doesn't it, that Deputy Commissioner Lewis would  
22 not have offered you the job if he did not have full  
23 confidence in your ability to take over the region?

24 A. If he had offered me the job, but he didn't.  
25 He told me I was going. There is a distinction to me.

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1 Q. Well, let me rephrase the question. It  
2 stands to reason that he would not have told you that you  
3 were going to assume that command if he did not have full  
4 confidence in your ability to take over the region?

5 A. That's correct, sir.

6 Q. Now, Superintendent MacLachlan E-mailed you  
7 on March 14th, 2007; is that correct?

8 A. I don't have the E-mails. There was a whole  
9 -- there was E-mails between Mike Shard, Superintendent  
10 MacLachlan, but I believe that's correct.

11 Q. We've heard of Mike Shard, now that's  
12 Superintendent Shard; is that correct?

13 A. Of the Professional Standards Bureau, yes,  
14 sir.

15 Q. And Superintendent Mary MacLachlan is the  
16 Bureau Commander of the Professional Standards Bureau; is  
17 that right, sir?

18 A. That's correct, sir.

19 Q. And the contact from Superintendent  
20 MacLachlan, I suggest, was March 14th. Does that accord  
21 with your own understanding, sir? And I could show you  
22 something to refresh your memory.

23 A. That would be good, thank you.

24 MR. FALCONER: May I see it first?

25 BY MR. GOVER:

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1           Q. I'm just going to show you what appears to be  
2 a hard copy, Chief Superintendent, of an E-mail. This is  
3 an E-mail message from Superintendent MacLachlan to you  
4 dated Wednesday, March 14th, 2007, subject Superintendent  
5 MacDonald. It reads as follows:

6           "...Chief, I understand that Superintendent MacDonald  
7 is on annual leave. Can you please advise when he  
8 will be back to work and if he will be attending the  
9 Commissioner's Conference, thanks, Mary..."

10 Have I read that correctly, sir?

11           A. Yes, sir, you have.

12           Q. Do you recall getting that E-mail?

13           A. Yes, sir.

14           Q. And I'm now referring you to the E-mail  
15 above. It appears to dated Thursday, March 15, 2007; is  
16 that correct, sir?

17           A. That's correct, sir.

18           Q. And it's from you to Superintendent  
19 MacDonald?

20           A. No, to MacLachlan.

21           Q. Pardon me. It's from you to Superintendent  
22 MacLachlan; is that right?

23           A. That's right, sir.

24           Q. You will appreciate I'm reading this  
25 sideways, and it's re: Superintendent MacDonald; is that

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1 right, sir?

2 A. That's right, sir.

3 Q. And your response was,

4 "Hi, Mary. Superintendent MacDonald is away for two  
5 weeks, this week and next. He was going to be out of  
6 the country for part of it. He will not be at the  
7 conference. Thanks..."

8 Have I read that correctly, sir?

9 A. You have, sir.

10 Q. And is that your response, then, to  
11 Superintendent MacLachlan to her E-mail of the previous  
12 day?

13 A. Yes.

14 Q. Now, in responding that Superintendent  
15 MacDonald was on leave that week and the next and would be  
16 out of the country for part of the time, you were trying to  
17 convey the best available and accurate information at your  
18 disposal; is that right, sir?

19 A. Yes, sir.

20 Q. And to your knowledge, Superintendent  
21 MacLachlan did not have any information to the contrary; is  
22 that fair?

23 A. No, sir, I wouldn't know that.

24 Q. Now, you met with Deputy Commissioner Beechey  
25 on February 6th, 2008; is that correct?  
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1 A. Yes, sir.

2 Q. And you made notes of that meeting; is that  
3 correct, sir?

4 A. Yes, sir, I did.

5 Q. And you have those notes before you?

6 A. Yes, sir, I do.

7 THE ADJUDICATOR: What is that date again?

8 MR. GOVER: That's February 6th, 2008, I  
9 understand, Mr. Adjudicator.

10 BY MR. GOVER:

11 Q. But those are the notes you have in front of  
12 you, Chief Superintendent?

13 A. Yes, sir, Wednesday, the 6th of February,  
14 2008, sir.

15 Q. And in the course of the conversation you  
16 said to Deputy Commissioner Beechey, "I know I pissed off  
17 the Commissioner by what I did," and then I can't make out  
18 the next word, sir. What is that?

19 A. Recording.

20 Q. "Recording the Caledon conversation in my  
21 notebook." Now, to the best of your recollection, are  
22 those the words you used in the meeting?

23 A. Yes, sir.

24 Q. So you were the one who introduced the term  
25 "pissed off"; is that right, sir?

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1 A. Yes, sir, I was.

2 Q. And he agreed that you had; is that right?

3 A. Yes, sir.

4 Q. And you have interacted with the Commissioner  
5 since that time; is that right, sir?

6 A. Yes, sir, I have.

7 Q. And he has been perfectly professional  
8 towards you; isn't that right?

9 A. Absolutely, sir.

10 Q. And in fact, we have before us as Exhibit 16  
11 the letter dated June 24, 2008 addressed to you by the  
12 Commissioner; is that right, sir?

13 A. Yes, sir.

14 Q. And in it the Commissioner congratulated you  
15 on being invested in the Order of Merit of the Police  
16 Forces; is that right, sir?

17 A. Yes, sir.

18 Q. And you used the term "accolades" earlier  
19 when you said you had recorded accolades in your diary.  
20 What we see here are accolades being given to you by the  
21 Commissioner; isn't that right, sir?

22 A. Yes, sir.

23 MR. GOVER: Thank you. I'm going to ask that we  
24 take the luncheon recess now. I would like to  
25 review my notes. I may be completed, but I would  
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1           like that opportunity, sir.

2           THE ADJUDICATOR: Do you think you're almost  
3           finished? Is that what you're saying?

4           MR. GOVER: That's what I'm saying in the way  
5           lawyers speak.

6           THE ADJUDICATOR: Yes, I have no problem with  
7           breaking now. Mr. Falconer, you have something?

8           MR. FALCONER: Your Honour, yes.

9           THE ADJUDICATOR: You usually do.

10          MR. GOVER: If we could allow the witness to --

11          THE ADJUDICATOR: Yes, Chief Superintendent, you  
12          are free to go. Don't discuss the matter with  
13          anyone.

14          THE WITNESS: Absolutely. I understand, Mr.  
15          Adjudicator.

16          THE ADJUDICATOR: Thank you.

17 --- Witness leaves hearing room at 1:00 p.m.

18          THE ADJUDICATOR: Yes, Mr. Falconer.

19          MR. FALCONER: Mr. Adjudicator, the issue that I  
20          raised before with respect to Superintendent  
21          MacLachlan, as I said, it's going to result in  
22          obviously some submissions before you, and I  
23          haven't heard back from counsel yet about when  
24          she can attend to speak to it. But I am going to  
25          file with you what I provided to Superintendent

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1 MacLachlan's representative and I'm sure has been  
2 now passed on to her counsel and Mr. Gover has,  
3 and it is an article that came out in, as I  
4 understand, the last week by Karl Walsh, the  
5 President of the OPPA. And I have side-barred  
6 two paragraphs and I'm going to tell Mr. Gover or  
7 show Mr. Gover the two paragraphs I've side-  
8 barred. It's one paragraph, it's the second  
9 paragraph, and the second page is the second full  
10 paragraph on page two of the article.

11 The first paragraph starts with "To be  
12 specific" and the other highlighted paragraph  
13 starts with "As you can see", and I'm placing  
14 that before you, and the reason I'm doing that is  
15 in order to give you some background, Mr.  
16 Adjudicator, on what this is about. It's a two  
17 page article, and basically, when this article  
18 came to my attention yesterday -- this article,  
19 as I understand it, it has only been published by  
20 Mr. Walsh in the last week as I understand it,  
21 but I could be off in the date but it's that  
22 current -- it reflects a rift between the Ontario  
23 Provincial Police Association and Professional  
24 Standards and makes certain comments by Mr. Walsh  
25 about this rift, this impasse with Professional

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1 Standards.

2 I am asking you, with respect, if you could  
3 review the article because I expect this will be  
4 the subject of some submissions. The bottom line  
5 is we are seeking documentation from  
6 Superintendent MacLachlan about the approach Mr.  
7 Walsh has taken towards Professional Standards  
8 and the relationship with Professional Standards,  
9 and all of this we say is relevant to the issue  
10 of the motives the OPPA would have in initiating  
11 a complaint against the former Bureau Commander  
12 of Professional Standards, to the extent we now  
13 see this ongoing acrimony and attacks on  
14 Professional Standards today.

15 Well long after the departure of  
16 Superintendent MacDonald, we say the nature of  
17 the attacks and the form in which the acrimonious  
18 relationship continues is relevant to make a  
19 point, a specific point to the defence, that this  
20 is more about reprisals against Professional  
21 Standards senior officers doing their jobs than  
22 anything else. So I thought I should give you  
23 that context. It's two pages. It has been  
24 passed on already, and then as we get organized  
25 to deal with the matter, we'll bring it back  
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1 before you.

2 THE ADJUDICATOR: Any comments you want to make  
3 about this?

4 MR. GOVER: I'm content that you receive it. It  
5 should not be marked as an exhibit, though, in my  
6 submission, but I'm happy that you have the  
7 background, and this was first raised with us at  
8 the close of business yesterday. Of course,  
9 Superintendent MacLachlan is represented by  
10 counsel from the Crown Law Office Civil. I will  
11 speak to her counsel by telephone over the lunch  
12 hour and this may be the subject of submissions.  
13 I expect it likely will be.

14 My hope is that we can get on with hearing  
15 evidence today and address this. I do have a  
16 concern, though, that the scope of what is being  
17 sought by Mr. Falconer may be the nub of the  
18 problem. He's seeking a summons, as I understand  
19 it, relating to all information relating to the  
20 relationship between the Ontario Provincial  
21 Police Association and the Professional Standards  
22 Bureau, and that may -- I'm told that that  
23 entails a great deal of information about a great  
24 number of cases that come before adjudicators not  
25 only in this adjudication suite, but in hearings

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1 across the province. So that's the concern that  
2 I have as the prosecutor appearing before you is  
3 the breadth of the request, just to alert you to  
4 that issue, sir.

5 THE ADJUDICATOR: Yes, I appreciate that. I'm  
6 sure commonsense will prevail in respect to this  
7 matter.

8 MR. FALCONER: Absolutely.

9 THE ADJUDICATOR: I don't want a truck load of  
10 stuff arriving.

11 MR. FALCONER: And I don't want to go through a  
12 truckload of stuff. No, Mr. Gover because of the  
13 speed which this has transpired may -- I don't  
14 blame him for misunderstanding the nature of the  
15 request, so I'm happy to clarify it. But at the  
16 end of the day, it's my expectation that -- I  
17 hate to say this -- we're not going to agree on  
18 this. I want the relevant documentation on the  
19 relationship between the head of PSB and the head  
20 of the OPPA.

21 I expect that we will have to sort it out,  
22 but I'm happy to narrow and focus it, but there  
23 is this big distinction, big distinction, between  
24 what is produced to counsel for the defence for  
25 some form of vetting and what is appropriate for

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1           the purposes of either filing or examining on,  
2           because of course, that's the difficulty. You  
3           ask for something and you narrow it down, but  
4           then you expect to be able to go through it and  
5           say that's relevant and that's not.

6           THE ADJUDICATOR: Very good, gentlemen. So let's  
7           break until quarter after 2:00. Is that  
8           agreeable?

9           MR. GOVER: It is, thank you.

10 --- Upon recessing at 1:05 p.m.

11 --- Upon resuming at 2:30 p.m.

12           THE ADJUDICATOR: You may be seated, gentlemen.

13           MR. GOVER: Mr. Adjudicator, thank you for the  
14           opportunity to review my notes which I've done  
15           over the lunch recess. With that, I have no  
16           further questions of Chief Superintendent  
17           Grodzinski. Thank you.

18           THE ADJUDICATOR: Now, Chief Superintendent, you  
19           realize you're still under oath to tell the  
20           truth?

21           THE WITNESS: Yes, sir, I do.

22           THE ADJUDICATOR: So re-examine, Mr. Falconer.

23           MR. FALCONER: Yes.

24           THE ADJUDICATOR: And there is an order excluding  
25           witnesses save and except the three I've

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1 previously named.

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3 RE-EXAMINATION BY MR. FALCONER:

4 Q. Chief Superintendent Grodzinski, you  
5 testified to -- I'll rephrase it. You'll recall Mr. Gover  
6 asked you a number of questions aimed at the thinking  
7 process of Deputy Commissioner Lewis and the Commissioner's  
8 Committee around your transfer. Do you remember he asked  
9 you a series of questions about that?

10 A. Yes, sir, I do.

11 Q. And I don't want to be responsible for  
12 summarizing Mr. Gover's cross-examination in this area, but  
13 the gist of it was he was summarizing an idea to you that  
14 this was a transfer considered to be in the normal course.  
15 Do you recall that gist?

16 A. That was the theme from my understanding of  
17 the questions, yes, sir.

18 Q. Do you recall testifying about Deputy  
19 Commissioner Beechey's statement to you, "Bill, I had  
20 nothing to do with this"?

21 A. Yes, I do, sir.

22 Q. When did Deputy Commissioner Beechey tell you  
23 "I had nothing to do with this"? When did he tell you  
24 that?

25 MR. GOVER: I just reiterate the examination in-  
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1 chief, with respect. This isn't anchored in the  
2 cross-examination.

3 MR. FALCONER: Yes, it is. It's directly related  
4 to his cross-examination.

5 THE ADJUDICATOR: Well, I'm going to allow it.

6 MR. FALCONER: Thank you.

7 BY MR. FALCONER:

8 Q. When did Deputy Commissioner Beechey tell  
9 you, "Bill, I had nothing to do with this"?

10 A. It was at approximately 8:15 the 10th of  
11 January, 2007 or '8, pardon me, immediately following my  
12 meeting with Deputy Lewis.

13 Q. Do you recall Mr. Gover asked you a series of  
14 questions about the transfers of Ken MacDonald and Alison  
15 Jevons? Do you recall him asking about that?

16 A. Yes, sir, I do.

17 Q. Again, at the risk of not doing justice to  
18 Mr. Gover's cross-examination, the theme he was conveying  
19 was that these were transfers meant to help these officers.  
20 Do you remember that?

21 A. Yes, sir.

22 Q. Did you learn that Ken MacDonald, when  
23 presented with the prospect of the transfer and losing his  
24 command at Professional Standards, said "no" to the  
25 transfer?

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1 MR. GOVER: In my submission, that's a leading  
2 question.

3 MR. FALCONER: I'll rephrase it.

4 THE ADJUDICATOR: I agree, Mr. Falconer.

5 BY MR. FALCONER:

6 Q. Do you know whether Ken MacDonald either  
7 requested or supported the transfer?

8 A. I don't know if he said yes or no to the  
9 request. I do know from speaking to him personally it was  
10 not something he wanted to do to transfer to Highway Safety  
11 Division. It was not something he was seeking. It was  
12 essentially where he was being sent.

13 Q. All right. In the case of Alison Jevons,  
14 were you apprised of the circumstances -- let me back up.  
15 I'm going to ask that the witness be excused because I want  
16 to be fair to Mr. Gover.

17 THE ADJUDICATOR: Yes, Chief Superintendent,  
18 would you leave for just a moment?

19 THE WITNESS: Yes, sir.

20 MR. FALCONER: I'm sorry, Chief Superintendent.

21 --- Witness leaves hearing room at 2:35 p.m.

22 MR. FALCONER: Mr. Adjudicator, this could be  
23 easily termed a leading question and it's the  
24 kind of question that once it comes out of my  
25 mouth the concern Mr. Gover might have would have

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1           been defeated, and so I want to be fair to him  
2           about it. I've been the victim of those kinds of  
3           questions before. The question I want to ask the  
4           witness -- I want to present -- and I'm seeking  
5           your guidance and Mr. Gover's views, but I want  
6           to put to the witness the circumstances of the  
7           Jevons' transfer, which was she was specifically  
8           not only not consulted, somebody walked into her  
9           office and told her she was out of Professional  
10          Standards, number one. Number two, she was told  
11          there was no place for her. That is, she had  
12          nowhere to go, so she went home for a month.  
13          That's number two. And number three, ultimately,  
14          it was through the intervention of former Deputy  
15          Commissioner Jay Hope, who is now a Deputy  
16          Minister, it was through his intervention that  
17          she was finally placed in the Deputy Minister's  
18          Ministry.

19                 Now, that stands in stark contrast to what  
20          Mr. Gover put to the witness. So I would like to  
21          ask this witness -- I would like to fill the  
22          picture that Mr. Gover presented or complete the  
23          picture with what actually happened to Alison  
24          Jevons, and it does involve a form of what one  
25          might call more than simply an open-ended

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1 question. It involves placing a circumstance to  
2 the witness, but it's not leading it, imparting  
3 the circumstance and ask him if he knew that, and  
4 then get his response to Mr. Gover's cross-  
5 examination that these were things to help these  
6 people that didn't show or betray any form of ill  
7 will towards these people.

8 THE ADJUDICATOR: So any comments on this, Mr.  
9 Gover?

10 MR. GOVER: Well, yes, Mr. Adjudicator. In my  
11 submission, the appropriate way to canvass this  
12 with this particular witness would be to ask  
13 whether the witness knows of the circumstances  
14 surrounding Inspector Jevons' secondment, and in  
15 my submission, if he doesn't know the  
16 circumstances, then that would be the end of the  
17 matter. If he does know the circumstances, then  
18 he might be asked what those circumstances were,  
19 then we could go from there. But that would be a  
20 preferable way, in my respectful submission, to  
21 dealing with this through a series of leading  
22 questions that could only inform the witness in  
23 an unfortunate way.

24 MR. FALCONER: Can I reply briefly?

25 THE ADJUDICATOR: Certainly.

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1 MR. FALCONER: If this were chief and I was  
2 asking for some direction on this and the issue  
3 was being opened by me, then that would make some  
4 sense. In other words, if I was the one  
5 introducing the topic. But what Mr. Gover did  
6 was in cross-examination he put a conclusion to  
7 the witness that the transfer of Jevons, far from  
8 showing ill will, showed a lack of ill will  
9 towards her, if that makes sense. He put that  
10 proposition to the witness. He opened it up, and  
11 having done that, he can hardly now say, well, he  
12 doesn't know enough to draw a conclusion about  
13 that.

14 That's the unfairness of it. That's the  
15 half a picture. It seems to me that since the  
16 witness has had the question put to him, does  
17 that show an ill will, he is entitled to have the  
18 picture completed, and I remind us all this is an  
19 administrative proceeding intended to get to the  
20 heart of the matter, and it seems to me that if  
21 Mr. Gover decided to open an area that the  
22 picture should be complete.

23 MR. GOVER: Mr. Adjudicator, I realize that sur  
24 reply is exceptional, but I do seek it because in  
25 my submission we have to bear in mind what the  
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1 questions were and what question ultimately  
2 wasn't permitted because of Mr. Falconer's own  
3 objection, and this premise for this line of  
4 inquiry, the lack of ill will toward Inspector  
5 Jevons, that question was put to the witness.  
6 There was an objection. The question was  
7 disallowed. So you have my submission, then,  
8 that the premise for the re-examination simply  
9 isn't made out.

10 THE ADJUDICATOR: The Court has heard from both  
11 counsel on this issue. I'm aware of the evidence  
12 that has been presented both in-chief and cross-  
13 examination of the Chief Superintendent, and I'm  
14 aware of the evidence on this point and the  
15 objection made and the ruling made by the  
16 Tribunal. The Court is of the opinion that if  
17 Mr. Falconer wants to pursue this matter that it  
18 should be done in the manner suggested by Mr.  
19 Gover, that questions be put to the Chief  
20 Superintendent as to whether he is aware of the  
21 circumstances surrounding this secondment of  
22 Inspector Jevons, and I'll allow it to that point  
23 and let it go from there.

24 MR. FALCONER: May I seek one more form of  
25 guidance without trying to make this take up more  
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1 time than it's worth? Would I be acting  
2 inconsistently with your ruling, Mr. Adjudicator,  
3 if I had a slightly different approach to this  
4 first and said -- if I put certain circumstances  
5 hypothetically to the witness and asked him if  
6 those circumstances --

7 THE ADJUDICATOR: I would rather not. I think  
8 that the question should be put as to whether he  
9 is aware of the circumstances surrounding the  
10 secondment --

11 MR. FALCONER: Fair enough.

12 THE ADJUDICATOR: -- and then take it from there.

13 MR. FALCONER: Fair enough. Thank you, Mr.  
14 Adjudicator.

15 THE ADJUDICATOR: So the Chief Superintendent  
16 will return.

17 --- Witness returns to hearing room at 2:40 p.m.

18 THE ADJUDICATOR: Now, Chief Superintendent, you  
19 realize you're still under oath?

20 THE WITNESS: Yes, Your Honour. I do.

21 THE ADJUDICATOR: Very good. Thank you. So Mr.  
22 Falconer.

23 BY MR. FALCONER:

24 Q. Chief Superintendent Grodzinski, you were  
25 asked a number of questions by Mr. Gover with respect to  
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1 the circumstances surrounding the transfer of Inspector  
2 Jevons. Do you recall being asked about that?

3 A. Yes, sir, I do.

4 Q. Do you actually know the circumstances  
5 surrounding the transfer of Alison Jevons?

6 A. No, sir, I don't.

7 Q. You've had the benefit of Mr. Gover's sharing  
8 of information with you about the thought processes that  
9 Mr. Gover says were at play for Deputy Commissioner Lewis.  
10 Do you remember?

11 A. Yes, sir, I do.

12 Q. After hearing all those questions from Mr.  
13 Gover, does it change your evidence in any way about your  
14 views of what was done to you, sir?

15 A. Absolutely not.

16 MR. FALCONER: Thank you. Those are my  
17 questions.

18 THE ADJUDICATOR: Very good. So Chief  
19 Superintendent, thank you for attending. Thank  
20 you for your able assistance, and you are free to  
21 go.

22 THE WITNESS: Thank you very much, Your Honour.

23 If I may, this is an exhibit, I believe.

24 THE ADJUDICATOR: Yes, that's 18. I was  
25 wondering where it went to. Yes, that's it.

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July 17, 2008

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1           THE WITNESS:    Thank you very much.  Thank you,  
2           Mr. Gover.

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