

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Divisional Court)  
NOTICE OF APPLICATION**

BETWEEN:

**B.W (Brad) Blair**

*In his capacity as the current Commissioner of the Ontario Provincial Police  
and his personal capacity*

Applicant

- and -

**THE OMBUDSMAN OF ONTARIO**

Respondent



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**NOTICE OF APPLICATION**

**APPLICATION UNDER Section 14(5) of the *Ombudsman Act*, RSO 1990, c.O,6 as amended, Rules 14.05(1), 14.05(3)(g), 38, and 68 of the *Rules of Civil Procedure*; Sections 2, 4, 6, and 7 of the *Judicial Review Procedure Act*, RSO 1990, c.J.1. as amended; and,**

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**TO THE RESPONDENT**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the Applicant. The claim made by the Applicant appears on the following page.


**THIS APPLICATION** will come on for a hearing on a date and time to be determined by the Registrar of the Divisional Court, Toronto Region, at Osgoode Hall, 130 Queen Street West, Toronto, Ontario M5H 2N5.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date December 14th, 2018

Issued by 

Local registrar

Address of Divisional court  
court office 130 Queen Street West  
Toronto, ON M5H 2N5

**TO:** Mr. Paul Dubé, Provincial Ombudsman  
c/o Ms. Laura Pettigrew, General Counsel  
Office of the Ombudsman of Ontario  
Bell Trinity Square  
483 Bay Street, 10th Floor, South Tower  
Toronto, ON M5G 2C9

Ph: 1-800-263-1830  
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**AND TO:** Ministry of the Attorney General  
Crown Law Office - Civil Law Division  
720 Bay Street, 8th Floor  
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1. On December 11, 2018, the Commissioner of the Ontario Provincial Police (“OPP”), B.W (Brad) Blair, filed a request to the Ombudsman of Ontario to review the hiring process for the next Commissioner of the OPP, out of substantial concern that the hiring process had been subject to potential political interference. Commissioner Blair filed this request both in his professional capacity as the current head of the OPP and his personal capacity as a candidate in the hiring process;
2. On December 12 and 13, 2018, the Ombudsman of Ontario declined to investigate the complaint filed by Commissioner Blair, first stating that the request fell outside the Ombudsman’s jurisdiction, as laid out in the *Ombudsman Act*, and then citing that the Ombudsman has discretion on whether to investigate a complaint;
3. Under section 17 of the *Ombudsman Act*, the Ombudsman has narrow discretion to decline the exercise of his jurisdiction. In his justification for his denial of Commissioner Blair’s request, the Ombudsman did not invoke the circumstances imagined by s. 17, and it is submitted that such circumstances would not apply to the present case. The Ombudsman thus has a public duty to investigate Commissioner Blair’s concerns;
4. In declining to exercise his jurisdiction, the Ombudsman inappropriately broadened or misinterpreted his limited discretion to refuse to investigate a matter under section 17 of the *Ombudsman Act*. In so doing, the Ombudsman has left a matter of great public importance – the potential political interference in the hiring process for the next OPP Commissioner and the deleterious impact on the independence of the OPP – without a mechanism for an impartial review. The citizens of Ontario must have confidence in their civil institutions, including confidence in the mandate of the Office of the Ombudsman;

5. Under section 14(5) the *Ombudsman Act*, the mechanism to challenge the jurisdiction of the Ombudsman is to seek an application before the Divisional Court. The application may be made by the Ombudsman or any person who is directly affected. Commissioner Blair is directly affected by the hiring process, both in his professional and personal capacity; and,

6. Section 14(5) of the *Ombudsman Act* is the *only* available avenue to challenge the jurisdiction of the Ombudsman. Since the Ombudsman has declined to engage his jurisdiction on two occasions, Commissioner Blair is left with no other remedy but to pursue an application before the Divisional Court.

**THE APPLICANT MAKES APPLICATION FOR:**

7. A determination of the jurisdiction of the Ombudsman of Ontario under s. 14(5) of the *Ombudsman Act*, R.S.O. 1900, c.O.6. in respect of the December 11, 2018, request by the Commissioner Blair to the Ombudsman of Ontario, to review the hiring process for the next Commissioner of the OPP;
8. An order in the nature of *mandamus* to compel the Respondent Ombudsman of Ontario to exercise his jurisdiction under section 14(1) of the *Ombudsman Act* to conduct an investigation into the hiring process for the Commissioner of the OPP;
9. An order that the application be case managed to ensure an expedited determination of the matters raised in the application;
10. For the applicant's costs of this application on a partial indemnity basis; and,
11. Such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS OF THE APPLICATION ARE:**

**I. Overview**

12. This is an application for a declaration that the Ombudsman has jurisdiction to investigate the facts brought to his attention by the Applicant, Commissioner Blair, and a judicial review in respect of the ongoing failure or refusal of the Ombudsman to perform his statutory duty to investigate;

13. The Applicant is the current Commissioner of the Ontario Provincial Police (“Commissioner Blair”). Commissioner Blair brings this application in his capacity as Commissioner of the OPP and in his personal capacity. Commissioner Blair sought the intervention of the Ontario Ombudsman pursuant to section 14 (1) of the *Ombudsman Act* due to grave concerns regarding the process by which the next Commissioner of the OPP was selected (“the hiring process”). Commissioner Blair’s concerns, shared by many residents of Ontario, relate to potential political interference in the hiring process, which in turn raise serious questions about the independence and credibility of the OPP. As a front-runner candidate for the position of Commissioner, Commissioner Blair was personally affected by the hiring process. As Commissioner of the OPP, he is concerned about the legitimate apprehension of inappropriate political interference in the operations of the OPP. As a resident of Ontario, he is affected by the troubling hiring process which has threatened to undermine the credibility of the OPP and thereby threaten the effectiveness of law enforcement and the rule of law;

14. Commissioner Blair made the difficult decision of raising his concerns with the Ombudsman, making a formal request for an investigation of the hiring process on December 11, 2018. Under section 14(1) of the *Ombudsman Act*, the statutorily-defined function of the Ombudsman is “to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a public sector body and affecting any person or body of persons in his, her or its personal capacity”;

15. On December 12, 2018, the Ombudsman informed Commissioner Blair, by way of letter, that he would not be investigating Commissioner Blair's complaint, stating it fell outside the investigative jurisdiction of the Ombudsman. In his letter, the Ombudsman erred in mischaracterizing Commissioner Blair's request as relating to "a function and decision of the Executive Council, which is not reviewable by [the Ombudsman's] Office";
16. On December 12, 2018, Commissioner Blair, through counsel, clarified that his request for an investigation was not a request to investigate Cabinet's decision to appoint the next Commissioner of the OPP. Counsel made clear that Commissioner Blair's request for an investigation related to the selection and recommendation process *prior* to the matter being put before Cabinet for deliberation, and that the request also related to the *effect* of Cabinet's decision;
17. By way of letter dated December 13, 2018, the Ombudsman reiterated that he would not investigate the hiring process. The Ombudsman maintained that the issue did not fall within his jurisdiction; and,
18. Faced with the refusal of the Ombudsman, Commissioner Blair seeks a declaration that his request does fall within the jurisdiction of the Ombudsman. Commissioner Blair also seeks an order in the nature of *mandamus* compelling the Ombudsman to exercise his jurisdiction and investigate the concerns raised by Commissioner Blair.

## **II. The Ministry of Community Safety and Correctional Services' Recruitment and Hiring Process ("the hiring process")**

19. Commissioner Blair assumed command as Commissioner of the OPP on November 3, 2018. The relevant Order-in-Council, 1213/2018, appoints Commissioner Blair to serve at the pleasure of the Lieutenant Governor in Council for a period not to exceed February 3, 2019;

20. The OPP is a division of the Ministry of Community Safety and Correctional Services (“the Ministry”). Under the *Police Services Act*, the Minister of Community Safety and Correctional Services (“the Minister”) is responsible for the OPP;
21. Commissioner Blair responded to a job posting by the Ministry of Community Safety and Correctional Services (“the Ministry”), originally posted on October 22, 2018 (“the original posting”), and subsequently modified on October 24, 2018 (“the modified posting”), for the position of Commissioner of the OPP;
22. The significant difference between the two postings was that the required qualifications were considerably lowered in the modified posting from what they had been in the original posting. Specifically, the minimum rank requirement of “Deputy Police Chief or higher, or Assistant Commissioner or higher in a major police service” which featured in the original posting – and has been a requirement in all postings for the position of Commissioner of the OPP since 2006 – was absent in the modified posting. The modified posting only required candidates to be an “experienced executive with a background in policing.” Commissioner Blair has the requisite experience to qualify even under the traditional and more exigent posting and he applied for the position;
23. Both postings explained that “the Ministry of Community Safety and Correctional Services is seeking a proven, visionary leader whose dedication will inspire the confidence and respect of the Police and communities across Ontario, to ensure and maintain public safety and trust in our Province.” Both postings also explained that the Commissioner of the OPP reports to the Deputy Minister of Community Safety and Correctional Services (“the Deputy Minister”). While ultimately the appointment of someone to the position of Commissioner of the OPP is made by Cabinet via an order-in-council, the Ministry of



Community Safety and Correctional Services, is the body responsible for the OPP, and it is the Ministry that took steps to select a name to recommend for Cabinet's consideration;

24. The Premier and the Minister's public rationale for the elimination of the minimum rank requirement was that the job posting was modified "to broaden the potential pool of applicants." Media reports indicate that 27 candidates applied and 13 received invitations to the first of two rounds of interviews. Of the 27 candidates, Commissioner Blair is aware of only four who did not meet the original threshold requirements. One of these four candidates is Toronto Police Service Superintendent Ron Taverner ("Superintendent Taverner");

25. Only three candidates received second-round interviews: Commissioner Blair, OPP Provincial Commander Mary Silverthorn, and Superintendent Taverner. The candidates were interviewed in that order;

26. First-round interviews were held on November 12, 2018. The interview panel consisted of three people: Paul Boniferro, the Deputy Attorney General of Ontario; Salvatore (Sal) Badali, a Partner at the search firm, Odgers Berndtson, engaged to assist with the hiring process; and Mario Di Tommaso, the Deputy Minister of Community Safety. Deputy Minister Di Tommaso became the Deputy Minister on October 22, 2018, the same day the job posting went public. Deputy Minister Di Tommaso had previously served as Superintendent Taverner's direct supervisor with the Toronto Police Service for a number of years;

27. Second-round interviews were held on November 20, 2018. In advance of the second-round interviews, Commissioner Blair was informed that the interview panel would consist of the following

people: Dean French, the Premier of Ontario's Chief of Staff; Steve Orsini, the Secretary to Ontario's Provincial Cabinet; Deputy Minister Di Tommaso; and Sal Badali;

28. In advance of his second-round interview, Commissioner Blair saw Dean French leave the building. Approximately ten minutes prior to the beginning of Commissioner Blair's second-round interview, Commissioner Blair was informed that Dean French would no longer be participating in the second-round interview panel; and,

29. Throughout the interview process, Sal Badali informed Commissioner Blair on numerous occasions that he had no input or decision-making power regarding the hiring process for the next OPP Commissioner.

### **III. Deliberations and Decision of Cabinet *After* Taverner's Name was Recommended to Cabinet**

30. At the end of Commissioner Blair's second-round interview, Sal Badali informed Commissioner Blair that he would receive a call regarding the ultimate outcome either on the afternoon of Wednesday November 21, 2018, or on Wednesday November 28, 2018. This was because the Cabinet meets on Wednesdays, and Cabinet would formalize the appointment of the new Commissioner, via an order-in-council;

31. Just after 12:00pm on Tuesday, November 20, 2018 – mere hours after Commissioner Blair's interview – OPP Corporate Communications received an email from a Senior Communications Coordinator with the Ministry indicating that the name of the new OPP Commissioner may be released as early as that very same day – i.e. November 20, 2018 – and requesting a review of a draft news release. At approximately 3:17pm on Tuesday November 20, 2018, Mr. Badali phoned Commissioner Blair and

informed him that a name was before the Secretary of Cabinet, Steve Orsini, and was being “socialized”. Commissioner Blair was not expecting to receive a call from Mr. Badali until Wednesday November 21, 2018, at the earliest. The totality of the above facts led Commissioner Blair to believe that a name for the next OPP Commissioner had been selected in advance of Cabinet’s Wednesday deliberations;

32. Deputy Minister Di Tommaso phoned Commissioner Blair around 12:34pm on Thursday, November 29, 2018, and informed him that Superintendent Taverner would be appointed as the next Commissioner of the OPP. Deputy Minister Di Tommaso asked Commissioner Blair to stay with the OPP and support Superintendent Taverner’s leadership. The public announcement for the new OPP Commissioner was ultimately not made until approximately 5:30pm on Thursday November 29, 2018;

33. Superintendent Taverner is scheduled to assume command of the OPP on Monday December 17, 2018; and,

34. Following the public announcement of Superintendent Taverner as the new OPP Commissioner, public concern mounted regarding the independence of the process. In response to public pressure, Members of the Cabinet made the below public comments (captured in Hansard) maintaining that Cabinet was not involved in the hiring process or hiring decision, rather, that Cabinet had merely endorsed the hiring decision arrived at by an independent hiring panel:

December 3, 2018

**Hon. Sylvia Jones:** “The choice was made by an independent commissioner, and it was approved by cabinet on Thursday. I’m proud of the OPP commissioner, and I look forward to working with him in the coming years.”

December 4, 2018

**Hon. Silvia Jones:** “The independent hiring committee unanimously supported the appointment of Ron Taverner. I was happy to endorse that at cabinet last Thursday.”

December 5, 2018

**Hon. Doug Ford:** “There was no better choice — a transparent choice, by the way, that I wasn’t involved in whatsoever. There were three individual people on a panel who made that decision. I didn’t know the decision until the day it was made.”

...

**Hon. Sylvia Jones:** “The opposition should be ashamed of taking a five-decade candidate and suggesting that there was anything inappropriate about him applying and ultimately receiving an endorsement with 100% support — and 100% support from me and our cabinet on Thursday when we endorsed that independent hiring.”

...

**Hon. Sylvia Jones:** “Speaker, allow me to share some of the facts of this story: First, an independent hiring commission 100% endorsed Ron Taverner. Then we moved from there to cabinet — a 100% endorsement of Ron Taverner as the OPP commissioner.”

35. Premier Ford conducted a press conference on December 4, 2018. When asked whether he was involved in the hiring process, Premier Ford stated: “So let me be very clear on this. Absolutely not. It was an independent panel, made up of three people, Odgers – the Executive Search Firm – was very reputable across the country. There’s Steve Orsini, the principle to the cabinet and the deputy minister of that department. They came up with a panel, they interviewed people and it was unanimous, unanimous decision. And I told them very clearly, I don’t want anything to do with this whatsoever.”

#### **IV. The Request for Review of the Hiring Process**

36. The Applicant sought a review of the 2018 hiring process that led to the appointment of the next OPP Commissioner, current Superintendent Taverner of the Toronto Police Service, by filing a request before the Ombudsman of Ontario on December 11, 2018;

37. In his request to the Ombudsman, Commissioner Blair sought an impartial review of the OPP Commissioner hiring process, due to concerns about potential political interference in the hiring process and the deleterious effect on the independence of the operations of the OPP;

38. Commissioner Blair sought a review of the hiring process, in both his professional capacity as the current Commissioner of the OPP and his personal capacity as a candidate in the hiring process itself. Due to Commissioner Blair's participation as a candidate in the OPP Commissioner hiring process, Commissioner Blair was privy to details of the hiring process, as stated in his December 11, 2018, request to the Ombudsman and his affidavit in support of this application;

39. On both December 12, 2018, and December 13, 2018, the Ombudsman of Ontario declined to investigate the complaint:

- a) On December 12, 2018, the Ombudsman of Ontario declined to investigate the December 11, 2018, complaint on the basis of jurisdiction. The Ombudsman of Ontario stated that the appointment of the OPP Commissioner is ultimately a decision of cabinet and cited section 13(1)(b) of the *Ombudsman Act*, which precludes reviewing "deliberations and proceedings of the Executive Council or any committee thereof";
- b) On December 12, 2018, Counsel for the applicant wrote to the Ombudsman, clarifying that the applicant's December 11, 2018, request was not a request for a review of a decision of the Executive Council. Rather, the request was for an independent review of the hiring process that preceded the deliberation and decision by Cabinet, and of the *effect* of the ensuing order-in-council on the public or administration at large;
- c) On December 13, 2018, the Office of the Ombudsman responded, maintaining and reiterating the Ombudsman's view that he lacks jurisdiction to investigate the December 11, 2018, complaint *and* citing his discretion to decline to investigate Commissioner Blair's request for review:
  - i. The Ombudsman wrote that the *Ombudsman Act* provides him "with the authority and discretion to investigate decisions, recommendations, acts, and omission in the course of the administration of a public sector body. The Ombudsman has

traditionally exercised his broad discretion under the Act to ensure that investigations are consistent with this role”;

- ii. The Ombudsman stated that Commissioner Blair’s request does “not involve incidents of maladministration on the part of a public sector body, or engage the Ombudsman’s mandate”;
- iii. The Ombudsman stated that his role “does not extend to the investigation of the political actions (or alleged actions) of members of the executive including the Premier or their political staff”; and,
- iv. The Ombudsman raised the avenue of a complaint before the Integrity Commissioner which could address the issue of “MPP integrity as well as member’s staff ethical conduct issues”; however, the Ombudsman noted that the “Integrity Commissioner’s mandate may not encompass the full extend [*sic*] of the circumstances” raised by Commissioner Blair’s complaint.

**V. Commissioner Blair’s Request Engages the Ombudsman’s Mandate and the Ombudsman has a Public Duty to Investigate**

40. The Ombudsman is a holder of public office with a statutory function “to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a public sector body and affecting any person or body of persons in his, her or its personal capacity” (emphasis added);

41. The hiring committee was struck, took actions, and made a recommendation to Cabinet in the course of the administration of the Ministry, which is the public sector body responsible for the OPP and to which the Commissioner reports. Under section 1(1) of the *Ombudsman Act*, “public sector body” is defined as including “a governmental organization”, which is in turn defined as “a Ministry, commission, board or other administrative unit of the Government of Ontario and includes any agency thereof”. The recruitment and hiring process was therefore a process undertaken “in the administration of a public sector body”;

42. The recruitment and hiring process that ended in the recommendation of a name to Cabinet was therefore a process, constituted of acts and omissions undertaken in the administration of a public sector body. Similarly, the hiring committee's recommendation to Cabinet was made in the course of the administration of a public sector body. Both the process and the recommendation affected the administration of the OPP and Commissioner Blair in both his professional and personal capacity;

43. Commissioner Blair's request for an investigation therefore falls squarely within the mandate of the Ombudsman. The Ombudsman has erred in stating that the facts set forth in Commissioner Blair's request do "not involve incidents of maladministration on the part of a public sector body, or engage the Ombudsman's mandate" The applicant's position is that the Ombudsman has jurisdiction to investigate the applicant's complaint;

44. In addition to having the jurisdiction to investigate, the Ombudsman lacks the discretion to refuse to investigate the applicant's complaint. The Ombudsman does have broad investigative powers, but this is not equivalent to having broad discretion. The *Ombudsman Act* sets up a presumption that the Ombudsman will investigate any complaint that falls within his mandate. Only in very limited instances may the Ombudsman exercise discretion to refuse to investigate, under section 17 of the *Ombudsman Act*;

45. The broad investigative power and function of the Ombudsman – to investigate *any* decision, recommendation, act, or omission done or made in the course of the administration of a public body – is clearly inclusive of any such decision, recommendation, act, or omission that was made or done as a result of inappropriate political interference or cronyism, including interference by a member of the Executive and/or their staff. It would be contrary to the function and purpose of the Ombudsman to exclude from his review any decisions or actions that are made or done as a result of improper interference or pressure by

a member of the Executive. Furthermore, Commissioner Blair's request for review does not focus narrowly on "political actions...of members of the executive including the Premier or their political staff";

46. An order in the nature of a declaration will provide clarity that the Ombudsman of Ontario has the jurisdiction to review the hiring process for the position of OPP Commissioner;

47. The Ombudsman has narrow discretion to decide to decline the exercise of his jurisdiction, none of which he has invoked, or which apply in the present circumstances. He thus has a public duty to investigate Commissioner Blair's concerns;

48. This duty is owed to Commissioner Blair, who has a clear right to its performance. Commissioner Blair has twice requested performance of the duty, and twice been refused it. The Ombudsman does not have unfettered discretion to refuse to investigate;

49. Commissioner Blair does not have any other adequate remedy available to him. Commissioner Blair does not have a remedy before the Integrity Commissioner under the *Members Integrity Act*, which concerns complaints from Members of Provincial Parliament about the conduct of other Members, in respect of decisions which further a "member's private interest or improperly to further another person's private interests." This remedy is not available to Commissioner Blair as he is not a Member of Provincial Parliament. Further the scope of Commissioner Blair's request is broader than the concern that Members of the Provincial Parliament furthered private interests for personal gain. The Applicant's request for an impartial review extends to the impact of potential political interference in the hiring process on the public confidence in the OPP as an independent policing agency, the perceived independence and integrity of the OPP, and the impact on Commissioner Blair personally, as a candidate in the hiring process;



50. Furthermore, recourse through the *Members Integrity Act* is not an effective vehicle for addressing contraventions by sitting Members of the Provincial Parliament, where the governing party holds a majority. Any recommendations made by the Integrity Commissioner would be put before the MPPs, in assembly, to decide, via a vote on whether to act on the Integrity Commissioner's recommendations. Such a vote is final and conclusive. As the government of the day holds a majority government, it would be unlikely that any findings of wrongdoing would be upheld.

51. An order in *mandamus* will ensure that the Ombudsman exercises his jurisdiction under section 14(1) of the *Ombudsman Act*, and as required;

52. *Mandamus* will have the practical value and effect of shedding light on a concerning process which has shaken the public's confidence in the credibility and independence of the OPP. Transparency and answers to pressing questions will help pave a way forward to restoring public confidence, including the confidence of Commissioner Blair, in the OPP. Should there be no investigation, Commissioner Blair will be affected: the decreased credibility of the OPP caused by widespread suspicions and concerns about the hiring process will affect his decision of whether to stay with the OPP, as invited to do by Deputy Di Tommaso. An order of *mandamus* directing the Ombudsman to conduct an investigation will have the practical value and effect of either quelling Commissioner Blair's reasonable suspicions that the administration of the OPP was subjected to an unfair and inappropriate hiring process, and/or of opening the door to the possibility of a new hiring process and could restore Commissioner Blair's and the wider public's confidence in the credibility and independence of the OPP.

53. If the Ombudsman does not review the complaint, the independence of the OPP will continue to operate under a cloud of suspicion. This is a serious matter as the independence of the OPP – a body that can be called in to investigate provincial politicians – must be seen as legitimate in the eyes of the citizenry.

As stated in the Ipperwash Inquiry Report, “even though there may not be actual interference by politicians in police operations, the public’s perception of non-interference by the government is a fundamental principle that the Premier, Ministers, and other politicians must adhere to.”;

54. On the balance of convenience, an order in the nature of a declaration and *mandamus* must lie;

55. The combination of a declaration and order in *mandamus* will ensure access to the only available remedy for the scope of Commissioner Blair’s complaint;

56. There is no equitable bar to the relief sought by the Commissioner Blair;

57. Rules 14.05(1), 14.05(3)(g), and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Regulation 194;

58. Sections 2, 4, 6, and 7 of the *Judicial Review Procedure Act*, RSO 1990, c.J,1, as amended;

59. The *Ombudsman Act*, RSO 1990, c.O.6.;

60. The *Police Services Act*, RSO 1990, c P.15; and,

61. Such further and other grounds as counsel may advise and this Honourable Court permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

62. The Decisions of the Ombudsman, dated December 12 and 13, 2018;

63. The Affidavit of Odi Dashsambuu and the exhibits thereto; and,

64. Such further and other evidence as counsel may advise and this Honourable Court permit.

**DATE:** December 14, 2018

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**B.W (Brad) Blair Commissioner,**  
*In his capacity as the current Commissioner of the Ontario  
Provincial Police and his personal capacity*

**Applicant**

**-and- THE OMBUDSMAN OF ONTARIO**

**Respondent**

Divisional Court File No.:

**ONTARIO SUPERIOR COURT OF JUSTICE**

Proceedings commenced in TORONTO

**NOTICE OF APPLICATION**

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