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This is Exhibit "27" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

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Royal Canadian Mounted Police External Review Committee

Off-Duty Conduct



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Off-Duty Conduct

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The Committee publishes a series of discussion papers to elicit public comment to assist the Committee in the formulation of recommendations pursuant to the *Royal Canadian Mounted Police Act* (1986). The views expressed in this paper are not necessarily the views of the Committee.

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**Royal Canadian Mounted Police
External Review Committee**

Discussion Paper Series

Number 7: Off-Duty Conduct

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FOREWORD

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This discussion paper is the seventh in a series produced by the Research Directorate of the RCMP External Review Committee.

It could not have been written without the cooperation and assistance of many people in the police community across the country. The Committee would like to extend its sincere appreciation to all those who have helped, particularly those who met with the consultant and provided valuable information to assist him in the preparation of this report.

Simon Coakeley
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OFF-DUTY CONDUCT

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"I will keep my private life unsullied as an example to all."

from a "Law Enforcement Code of Ethics"

INTRODUCTION

It is only in relatively modern times, and even now only in certain societies, that the private and work lives of individuals have come to be regarded as so separate and distinct.¹ Cultural traditions, as much as factors such as urbanization and industrialization, seem to play a key role in determining the extent of separation between a person's work life and his or her home life. In his well-known study of public policing in Japan, for instance, Bayley argued that one of the reasons for the enviable record of the Japanese police with respect to the propriety of their conduct is the extent to which the work group "dominates personal life"² in that country.

In North America, at least during the 20th century, our traditions have been very different. Influenced by the ideas of classical liberalism, in which individualism and privacy are celebrated, North American employees are likely to think that what they do during their off-duty hours is not their employer's business. To paraphrase the oft-quoted words of one arbitrator, the employer is not the custodian of the employee's character.³

Despite this attitude, it has long been recognized in labour relations law that some off-duty conduct of an employee may have sufficient negative implications for the employer that the latter is entitled to take steps to prevent it, or to respond to it with disciplinary or other measures should it occur. A great deal of attention has been devoted to trying to delineate with greater precision the extent of this right of employers to try to influence and react to off-duty employee conduct.⁴ Arbitrators, judges, legislators, and more recently management consultants and health professionals have become involved. This paper reviews the broad principles of management and discipline which have evolved in this area in recent years.

There has been a recognition, too, that employment in public services may carry with it greater responsibilities for employees with respect to the propriety of their off-duty conduct than is the case with most purely private employees. Indeed, recent public interest in the private lives of those who hold, or aspire to, public offices, suggests that these expectations of those in public life are not limited to employees, as that term has traditionally been understood.

On the other hand, with the growth of modern concerns about the social responsibility and business ethics of even private corporations, the argument that public employees should be held to higher standards of conduct than private employees may be weakening. The enormous harm that may be caused to the environment, public health and public safety by incompetent, corrupt or unprofessional employees in some occupations has been recognized. Because of this, there appears to be a growing willingness to entertain monitoring or screening of off-duty conduct which might have a negative impact on an employee's performance on the job. The current debate over random testing of employees and prospective employees for illegal drug use is but the most obvious and controversial manifestation of this trend.

Because of its unique association with public safety and the integrity of the law and legal

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system, the public police officer's job has always been regarded as involving special responsibilities in this respect. The special powers which are accorded to police to interfere with the liberty of citizens are also seen as requiring that police officers maintain an unusually high standard of personal conduct. From the very beginnings of the modern public police force, officers were urged

[t]o recognize always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behavior, and on their ability to secure and maintain public respect.⁵

The special responsibilities of police officers in this regard were explicitly recognized by Mr. Justice Rand of the Supreme Court of Canada in *R. and Archer v. White* in which, referring to a member of the RCMP, he said:

...the member, by joining the Force, has agreed to enter into a body of special relations, to accept certain duties and responsibilities, to submit to certain restrictions upon his freedom of action and conduct and to certain coercive and punitive measures prescribed for enforcing fulfilment of what he has undertaken. These terms are essential elements of a status voluntarily entered into which affect what, by the general law, are civil rights, that is, action and behaviour which is not forbidden him as a citizen.⁶

To what extent this characterization of police discipline codes and procedures, penned 35 years ago, is still applicable in the current era is open to question. Today, employment discipline is generally regarded as intended to be remedial rather than "coercive and punitive",⁷ and all such regulations must be measured against standards of civil rights enunciated in the *Canadian Charter of Rights and Freedoms*⁸. The general principle which it reflects, however -- that police officers can legitimately be held to higher standards of private as well as public conduct than those demanded of the citizenry at large -- seems to be just as well accepted today as it has been at any time in the past.⁹ The debate now, as always, is over how much higher those standards may legitimately be, and in what respects (and with respect to what conduct) they may legitimately differ from standards demanded of ordinary citizens and other employees.

SCOPE

This discussion paper explores one largely neglected aspect of this general responsibility of police officers. The main objectives of the paper are:

- (1) to identify the broad principles which define the extent to which police forces are permitted to regulate the off-duty conduct of their members, and discipline them for breaches of such regulations;

- (2) to identify the general areas of conduct which have been the object of such attempts at regulation and discipline;
- (3) to identify changes which have been occurring in both these areas in recent years, and the extent to which trends are discernible;
- (4) to compare, in a general way, the situation of police officers in this regard with that of other public and private sector employees; and
- (5) to consider what reforms are being suggested in this area, and the reasons why such reforms are needed.

The paper is not concerned, other than peripherally, with issues concerning disciplinary processes, such as procedure, competing forums, concepts of double jeopardy, standards and burden of proof, etc. This is because these issues are rarely unique to the handling of off-duty, as opposed to on-duty, infractions, and are in any event the subject of other papers which have been commissioned by the RCMP External Review Committee. For similar reasons, there shall not be substantial attention given to the issue of what sanctions are being meted out, or considered appropriate, for off-duty disciplinary infractions. While occasional reference is made to decisions from other countries, the focus of this paper is on the situation in Canada.

METHODOLOGY

The bulk of the work undertaken in preparing this discussion paper consisted of conventional library and legal research, but focusing necessarily as much, if not more, on "arbitral jurisprudence" as on decisions of the "regular courts". In addition, however, approaches were made to officials associated with a dozen large police departments in Vancouver, Edmonton, Winnipeg, Toronto, Ottawa, Montreal, Halifax and Dartmouth, seeking more detailed information about relevant legislative and regulatory provisions, force policies and practices, and individual cases in which off-duty conduct had been the subject of decisions and rulings. Almost 40 interviews were held with officials in the following categories:

- (1) police managers (especially heads of internal affairs units);
- (2) police association and union representatives;
- (3) provincial police commission representatives;
- (4) persons involved in police training;
- (5) representatives of provincial Solicitor General's Departments;
- (6) representatives of public complaint and disciplinary review bodies;

- (7) municipal, provincial and federal government officials (especially lawyers and others concerned with conditions of public service employment and the administration of human rights legislation);
- (8) academics and others with expertise in employment and labour relations law.

From these interviews, much was learned about the policies and practices, not only of the police forces represented but also of other police forces in Canada. Time and other constraints precluded surveying a statistically representative sample. The object was to discover, as best we could within these constraints, what is the current range of attitudes, policies and practices with respect to the control and regulation of off-duty conduct of police and other public sector and private sector employees in Canada at present.

We are grateful to all those who assisted with our research in this way. Unfortunately, protection of the confidentiality of some of the information provided to us, as well as the privacy of officers involved in some of the cases we reviewed, precludes us not only from identifying publicly those who did assist us, but also from citing, as freely as we would have wished, the sources of much of the information we obtained. We regret that considerations of space have precluded us from referring specifically to much of the vast amount of information which was provided to us by these various sources. It has, however, greatly assisted our analysis.

REGULATION AND CONTROL OF OFF-DUTY EMPLOYEE CONDUCT: SOME GENERAL PRINCIPLES

In general, the extent to which an employer can legitimately seek to regulate the off-duty conduct of employees, and take action in response to breaches of such regulations, depends upon a number of factors. If employees are not unionized, the employer will be governed by the principles of the common law of master and servant (employment and labour relations law) developed by the courts over the years, as well as the provisions of specific statutory enactments which impinge on the employment relationship. With respect to the private sector, statutory provisions are almost never concerned with off-duty employee conduct. Such matters are not infrequently covered, however, by statutory provisions governing public sector employment (such as those in public service acts, municipal acts, election acts (re off-duty political activities, etc.)).

Where employees are unionized, the extent to which, and the circumstances under which, the employer can regulate employee conduct and discipline employees will usually be defined or constrained to a greater or lesser extent by the terms of a collective agreement. Such terms will normally prevail over the more general principles of the common law, because they are treated as the expression of the common will of the employer and the employees in the bargaining unit. They may often be interpreted and applied, however, in light of common law principles, thus allowing the common law to influence negotiated terms of employment indirectly.

Most often, in unionized situations, the employer's right to regulate off-duty conduct will be governed by a general management rights clause in the collective agreement. In these circumstances, the extent of the employer's right to promulgate and enforce rules concerning the off-duty behaviour of employees will be determined in light of general principles of reasonableness and notice. That is to say, any such rule promulgated by the employer will only be enforceable against employees if it is held to be a reasonable one (i.e. that there is a rational connection between the rule, the conduct which it seeks to regulate and the employer's legitimate interests), and if adequate notice of the rule has been given to employees.¹⁰ If a rule (e.g. a rule prohibiting employees from working for a competitor during off-duty hours) is written into a collective agreement, however, these conditions will be deemed to have been met (since the collective agreement is the product of agreement between the employer and the bargaining unit employees).

Arbitration cases have established some reasonably clear principles by which the reasonableness of an employer's rule concerning the off-duty behaviour of employees can be assessed. The most often cited statement of these principles is that of arbitrator Anderson in *Re Millhaven Fibres*:

...[I]f the discharge is to be sustained on the basis of a justifiable reason arising out of conduct away from the place of work, there is an onus on the Company to show that:-

- (1) the conduct of the grievor harms the Company's reputation or product;
- (2) the grievor's behaviour renders the employee unable to perform his duties satisfactorily;
- (3) the grievor's behaviour leads to refusal, reluctance or inability of the other employees to work with him;
- (4) the grievor has been guilty of a serious breach of the Criminal Code and thus rendering his conduct injurious to the reputation of the Company and its employees;
- (5) places difficulty in the way of the Company properly carrying out its function of efficiently managing its Works and efficiently directing its working forces.¹¹

Even if it is not provided for in a collective agreement, however, it is now well recognized that the employer has the right to discipline an employee for participation in off-duty activities which conflict with that employee's duties to the employer. It has also been established that principles similar to the ones just cited will be used to determine whether this is the case with respect to particular activities.

As Palmer has noted, on the basis of a review of pertinent arbitration cases in Canada, there

is "an extremely broad range of activities over which an employer's interest may extend."¹² Just what this range is in any given instance will be determined largely by the nature of the employer's business, and the standards generally recognized within the industry of which it forms a part. Thus, as Brown & Beatty point out:

...depending upon the circumstances and context in which the grievance arises, the nature of the employer's operations, and the character of the conduct complained of, identical off-duty conduct may or may not expose an employee to disciplinary sanctions.¹³

SPECIAL CONSIDERATIONS RELATING TO PUBLIC SERVICE EMPLOYMENT

While private sector employment relations are largely governed by the common law and the terms of collective agreements (at least as far as the regulation and control of off-duty conduct are concerned), public service employment is much more commonly regulated by legislation. This is true of the regulation of off-duty as well as on-duty conduct and, in recent years at least, has become especially true of the public police occupation.

Thus, for instance, as we shall note in more detail below, public service acts now routinely include provisions regulating certain aspects of off-duty public employee conduct, such as involvement in political activities. In the case of the public police, detailed codes of discipline or codes of conduct or ethics are now included in most provincial police acts, as well as the federal *RCMP Act*,¹⁴ or in subordinate legislation (regulations or by-laws) enacted pursuant to them. All of these codes cover aspects of off-duty as well as on-duty conduct, although the extent to which particular provisions of them are applicable to off-duty conduct is often a matter of interpretation. Breaches of the codes are legislatively declared to be cause for disciplinary action.

The important point to bear in mind here is that such legislated provisions supersede the more general principles of the common law (and usually also override the provisions of collective agreements) discussed above, which largely govern private sector employment relations. Thus, a validly enacted provision regulating some aspect of off-duty conduct will be enforceable through a disciplinary process regardless of whether it conforms, for instance, with the *Millhaven* principles cited above. Only in the event of doubt as to the scope or meaning of a legislated provision (e.g. whether a prohibition on "discreditable conduct" is intended to cover a particular kind of off-duty behaviour) will common law principles be invoked as an aid to interpretation. Otherwise, the only way to attack the application of a legislated rule concerning off-duty conduct is to argue either that it is *ultra vires* (i.e. the legislating body was not authorized to promulgate such a rule), or that the rule violates some constitutional requirement (e.g. some requirement of the *Charter*).

By way of example, such a legal challenge was recently launched in the courts by the Calgary Police Association against provisions in the force's Police Administration Manual regulating "outside business interests" of members of the force, which had been enacted by the Calgary Police Commission. The Association argued that enactment of such a regulation was not authorized by the *Alberta Police Act*¹⁵ or, if so authorized, was an unreasonable exercise of the Commission's

legislative authority and contrary to the rules of natural justice. It argued further that in any event it involved a violation of the principles of fundamental justice protected by section 7 of the *Charter*. The Alberta Court of Queen's Bench, and subsequently also the Alberta Court of Appeal, ruled in favour of the Calgary Police Commission on all of these grounds;¹⁶ leave to appeal to the Supreme Court of Canada was refused.

The point, then, is that different (and often higher) standards of conduct can be, and frequently are, applied to public service employees through primary and subordinate legislation than those which are typically applied to private sector employees through the common law and collective bargaining.

Court rulings have established, too, that where such specific legislation has been enacted, it supersedes not only the common law but also the more general provisions of labour relations legislation.¹⁷ Nowadays, such legislation usually also takes precedence over the terms of collective agreements, although this has not always been the case for all police forces in Canada. The Nova Scotia *Police Act*, for instance, used to contain a provision to the effect that "Nothing in this Act contained shall affect the provisions of any collective agreement entered into pursuant to the *Trade Union Act* and in force at the time this Act comes into force".¹⁸

Having said all this, it should be noted that some public service discipline codes specifically incorporate the *Millhaven* (common law) principles into their provisions (e.g. Section 4.5 of Revenue Canada, Customs and Excise's Code of Conduct and Appearance, and Section 19 of the Department of National Defence's Code of Discipline). In these cases, of course, public servants are in a similar position with respect to the regulation of off duty conduct, as private sector employees.

SPECIAL CONSIDERATIONS WITH RESPECT TO PUBLIC POLICE OFFICERS

It has long been recognized that public police officers are not simply employees like others in public employment, but are holders of a particular public office (that of "constable" and "peace officer") by virtue of which they enjoy a relatively independent legal status.¹⁹ In most jurisdictions, police officers are recognized as enjoying this status at all times, whether they are on duty or off duty (and typically in all parts of the province in which they are appointed).²⁰ While the implications of this special status for the regulation and control of off-duty police conduct do not appear to have been clearly established in any definitive court ruling, there does seem (from our interviews) to be general agreement about two aspects of it.

The first aspect involves off-duty police officers who witness criminal or other disorder over which they would legitimately have jurisdiction if they were on duty, and intervene to exercise their authority as peace officers (e.g. to arrest someone). These police officers are considered in most police circles to have automatically put themselves on duty. Thus any conduct which is in the purported legitimate exercise of formal police authority will be regarded not as off-duty conduct (even if it occurs during off-duty hours), but as conduct in the performance of duty. Within American legal parlance, an officer under such circumstances, even if off duty at the time, is said to be acting "under color of law",²¹ and thus in the execution of duty. The case of *Lockhart v. Ens*²²

illustrates well the potential dangers to officers involved in attempts to exercise their official authority while off duty and out of uniform. In that case an off-duty officer out of uniform attempted to give a motorist a ticket for a driving infraction. The driver of the vehicle, not realizing that he was being accosted by a police officer, and thinking that he was about to become the victim of a mugging or a robbery, wound up his car window, catching the officer's arm in it, and attempted to drive away, seriously injuring the officer in the process. (The driver was held civilly liable for the officer's injuries even though his mistake as to the officer's identity was believed by the court.)

The second aspect involves abuses of police authority during off-duty hours and must be distinguished from the out-of hours exercise of duty. In one case which came to our attention, a police officer whose wife was involved in a dispute with a third party over the purchase of a truck, went to the residence of the third party during his off-duty hours, showed his police badge and emphasized that the third party was dealing with a police officer's wife (presumably hoping that this would encourage the third party to take a different stand in his negotiations over the purchase of the truck). The third party complained to the officer's police force about this abuse of authority, and the officer was disciplined for discreditable conduct. It is clear that in such cases, the officer's conduct is not properly considered to be on-duty conduct (since he had not purported to be in the legitimate exercise of his authority as a peace officer, and had not therefore put himself back on duty), but as an off-duty abuse of his position as a police officer for personal advantage.

In some cases, the distinction we have just drawn seems to be somewhat blurred. In another case which came to our attention, for instance, an officer who was driving home in his own vehicle at the end of his shift (and therefore off duty) was involved in an accident with another vehicle. He drew up an incident report himself, and also persuaded his passenger to submit statements which falsely exonerated him from any blame for the accident, blaming instead the driver of the other vehicle. When his police force discovered this, he was disciplined for not following force procedures (he should have summoned traffic unit officers) and for discreditable conduct (his attempts to obstruct a proper investigation of the accident). While it was never determinatively decided, it would seem that this incident should properly be regarded as on-duty misconduct rather than off-duty abuse of the officer's position. This is because, as a peace officer, it was a potentially legitimate exercise of his authority to investigate the accident (even though his force's policies required him not to under these circumstances, and even though in this particular case he was abusing his authority for personal advantage). The matter, however, is not entirely free from doubt.

In another, perhaps clearer, case, an officer who was on his way home from work in his own car, was "cut off" on the highway by another vehicle. He began to flash his headlights at the other vehicle in front of him, indicating that the driver should pull over. When she did not, he followed her until she pulled into the driveway of her home. He pulled into the driveway behind her, and proceeded to write out a traffic ticket for her alleged driving infraction. During this encounter he used very abusive and insulting language. As a result of the other driver's complaint, the officer was disciplined for discreditable conduct. Again in this case, there was no doubt that the officer had the legal authority (and perhaps even a legal duty) as a peace officer to respond to a driving offence which he observed, even during his off-duty hours. By exercising this authority, the officer automatically put himself back on duty (or so prevailing opinion holds). His misconduct is thus most

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properly viewed as on-duty rather than off-duty misconduct.

While this distinction may seem somewhat tendentious, it is important to make it because it has possible legal implications. This is because the civil law concept of vicarious responsibility (whereby employers are held legally responsible for the civil wrongs of their employees) applies only to such wrongs which occur in the execution of the employee's duties. Thus, an employer cannot normally be held vicariously liable for an employee's off-duty misconduct, but will normally be liable for an employee's on-duty misconduct, even if it involves abuse of the employee's authority.²³ While it has been argued that the independent legal status of constables precludes such vicarious liability at common law, this uncertainty has now been cured by statutory provisions holding police chiefs responsible for wrongs committed by their constables in the execution of their duties in virtually every jurisdiction in Canada.²⁴

Concerns over the possibility of vicarious responsibility for the conduct of officers while off duty have led some police forces in the United States to adopt very specific policies concerning when officers may and may not exercise their peace officer powers while off duty.²⁵ The theory behind such policies is that if an officer purports to exercise his authority in violation of the explicit policy of the force he will not be regarded as acting "under color of law", and the department will thus not be civilly liable for any wrongdoing he may commit.²⁶ As we shall note below, many Canadian police forces have adopted policies concerning off-duty employment of their officers. Such policies, however, do not address this particular issue.

The other aspect of the continuous peace officer status of police officers which seems to be the subject of general agreement is that the main justification for it is thought to be that, because of the nature of police work, there is a need for police officers to be available for duty at all times, even when they are off duty. Virtually all police forces have internal regulations requiring such availability (often including requirements that officers reside within, or within a certain distance of, the area in which they work). This requirement that officers be available to be called up for duty at any time at short notice (e.g. to respond to a major emergency) is said to justify higher standards with respect to the off-duty conduct of police officers than is the case for other public service and private sector employees who are not required to be available for duty round-the-clock. In particular, disciplinary tribunals have argued in many cases that police forces are entitled to be very hard on officers who consume legal or illegal intoxicating substances to excess off duty, because such consumption is likely to render the officer unfit for emergency duty (although of course in the case of illegal substances, other considerations also come into play).

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THE DISTINCTION BETWEEN EXTRA-DUTY AND OFF-DUTY EMPLOYMENT

Another distinction which has to be understood in the context of the regulation and control of off-duty police conduct is that between off-duty and so-called extra-duty employment (sometimes also referred to as special-pay duty or call-out duty).

In every jurisdiction which we visited, provisions were made in force regulations or policies for such extra-duty employment. Such employment occurs when some member of the public (usually a private corporation) enters into an agreement with the police force for the provision of special police services for a fee. Obvious examples would be a sports stadium which contracts for the services of police officers to provide extra protection and order maintenance during a sporting event, or a jewelry store which contracts to have a police officer stand outside its premises during the hours in which it is open to the public. Such arrangements are almost always subject to the approval of the chief of police (although the logistics of assigning particular officers to these tasks are sometimes left, under the terms of a collective agreement, to a police association or union), and are governed by a standard form of agreement. Services under such agreements are generally provided by officers who are not scheduled to be on shift (i.e. who would otherwise be off duty) at the times for which the services are required, and collective agreements frequently include formulas for determining which officers will have priority with respect to the right to be offered such assignments. The standard agreements also usually specify the rates of pay which officers who are assigned to these duties are to receive. Such rates are typically negotiated with the police association or union, and are usually the equivalent of overtime pay rates. Usually, the person contracting for extra-duty services pays the officers directly for their services although, in some forces, the officers are paid by the force which then recovers the appropriate amount from the person contracting for the services.

There is variation among forces as to what kind of extra-duty assignments will be permitted. The general rule, however, seems to be that extra-duty assignments can only involve the kind of work which would be contemplated for officers on regular duty (keeping the peace, enforcing the law where appropriate, etc.). In some forces, there is no clear policy as to what kind of extra-duty assignments will be permitted; this decision is left to the discretion of the chief of police. There appears to be a growing trend, however, towards the adoption of formal written policies in this area. Indeed, the Nova Scotia *Police Act*²⁷ now requires all municipal police boards in that jurisdiction to establish written policies respecting both extra-duty and off-duty employment of the members of their forces, and specifies some minimum content for such policies. Some of the policies which have been established under this provision, however, do not seem to reflect a clear understanding of the difference between extra-duty and off-duty employment.

The important point about such extra-duty employment for the purposes of this paper, however, is that although officers who are off duty are assigned to extra-duty employment, while performing such tasks they are regarded as being fully on duty and subject to all the same rules and regulations as apply when they are engaged in their regular duties. This typically includes the

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requirement to be in uniform unless the force specifically permits them to be in civilian clothes, and to be under the supervision and orders of superior officers.

These characteristics of extra-duty employment are well reflected in the *NS Police Act*, which provides that:

21(1) Every [municipal police] board shall establish a written policy respecting extra-duty employment by members of its police force and the policy shall

- (a) define extra-duty employment;
- (b) provide that requests for a member of the police force to be employed on extra duty be made to the chief officer;
- (c) require that a member of the police force engaged in extra-duty employment shall wear his uniform except where the chief officer determines that plain clothes are required;
- (d) require that at all times while on extra duty the member of the police force is under the orders of the police force and no one else.²⁸

Extra-duty employment is thus, theoretically at least, in sharp contrast to true off-duty employment, in which police officers, while off duty, perform services pursuant to private arrangements with employers other than their police forces, which arrangements are not made through their police forces. They remain off duty at all times while engaged in such employment. Unlike the situation with extra-duty employment, therefore, the police force and police governing authority are not liable for any wrongdoings committed in connection with such off-duty employment unless they purport to exercise their authority as peace officers (as discussed above).

As we note below, true off-duty employment of police officers is the subject of some regulation (and in some instances outright prohibition) by most police forces.

Because officers undertaking extra-duty work are generally considered to be on duty, we do not consider these activities further in the paper. Reiss' exploratory study of this subject in the United States, however, provides a good starting point for anyone interested in this area.²⁹

INSTRUMENTS FOR THE REGULATION OF OFF-DUTY POLICE OFFICER CONDUCT

As noted earlier, in virtually all jurisdictions in Canada, police officer conduct is the subject of regulation through provisions of primary or subordinate legislation setting out codes of discipline, codes of conduct or codes of ethics. In most jurisdictions, such codes are enacted as part of a *Police Act* (as was, for instance, the case under Part II of the old *RCMP Act*³⁰) or (more commonly) as part

of regulations enacted pursuant to such Acts (see e.g. the *Police (Discipline) Regulation*³¹ passed pursuant to the *British Columbia Police Act*).³²

These regulations are province-wide or, in the cases of the RCMP and the Royal Newfoundland Constabulary, force-wide. In addition provincial police acts also provide authority to police governing bodies, and sometimes also to chiefs or commissioners of police, to promulgate force-specific regulations. Until very recently, some provinces (e.g. Manitoba and Québec) did not have province-wide codes of discipline or conduct, and in these circumstances such codes varied greatly from one force to another, both in terms of their general scope and in terms of the extent to which they specifically regulated off-duty conduct.

Legislated codes of police discipline have shown a tendency to become very detailed. A not untypical, although perhaps somewhat extreme, example of this is a municipal regulation which sets out 149 separate offences against discipline under 21 broad headings. Of that total, 105 are worded in such a way that they could cover off-duty conduct. Such offences range from "engaging in employment for an employer other than the City" to "engaging in immoral practices".

All of the many disciplinary codes which we have examined include offences embracing off-duty conduct which are very broadly worded. The most common (and most commonly used) of these is the disciplinary offence of "discreditable conduct". A typical example of such an offence is found in the code of discipline in the *BC Regulation*, which provides that:

1. Discreditable conduct, that is, if he
 - (a) acts in a disorderly manner or in a manner prejudicial to discipline or reasonably to bring discredit upon the reputation of the police force,...³³

While the breadth and vagueness of such rules are understandable, they arguably constitute an inducement to arbitrary and discriminatory enforcement. There is probably not a single police officer who could honestly say that he or she has never been "uncivil to a member of the public" either on or off duty, yet this offence appears in the discipline codes of most police forces.

The disciplinary offence of "discreditable conduct", which is a mainstay of police discipline, especially for off-duty conduct, carries with it the unfortunate result that officers may in effect be disciplined for matters over which they have little or no control. This is because whether or not a particular instance of conduct is reasonably likely to bring "discredit" on the police force (the nub of this offence) will depend upon whether the perpetrator's membership in the police force is likely to become publicly known. Where the officer is off duty and has not identified himself as a police officer (i.e. in cases other than the classic abuse-of-authority cases), whether his or her membership in the police force is likely to become known may depend upon circumstances entirely beyond the officer's control (e.g. the presence or absence of a diligent journalist). The inevitable result would seem to be that conduct of an officer who lives in a large, relatively anonymous, urban area is inherently less likely to be "discreditable" than the same conduct of an officer working in a small

rural community where everybody knows everyone else. The necessary implication is that officers working in small communities are held to higher standards of private conduct than officers working in large urban areas. While this increased responsibility for rural officers may well be explained as "part of the job", it can easily lead to a perception of unfairness on the part of officers.

A case which illustrates a recognition of this relativity of the notion of discredit is one which involved a relatively inexperienced officer in a small town. The officer was charged with several instances of discreditable conduct. One of these involved his going to a local bar in an intoxicated state and asking to see a nude dancer he had met on a previous occasion. Told that she was not there, he then asked another dancer to go with him to find the one he had been looking for. She refused, and while she was dancing in a booth for some patrons of the bar, the officer entered the booth flashing his police ID badge and identified himself as a member of the police force. He then went to another establishment to look for the other dancer, and again identified himself with his badge as a police officer. When members of the local municipal police force arrived as a result of a complaint, he identified himself to them as a police officer and told them that he was investigating a murder. He was taken to the local police station where he admitted that he had not in fact been investigating a murder but was merely conducting a "personal investigation". He was convicted in a service court of discreditable conduct. A review board which reviewed this decision commented that while this conduct was less serious than some other offences alleged against the officer, "in view of the fact that it occurred in a relatively small town, where the reputation of the [force] is important", the officer's conduct on this occasion could properly be regarded as discreditable.

In addition to disciplinary codes, Police forces have very extensive manuals of policies and procedures, approved by their governing authorities, some of which touch on off-duty conduct. These policies are drawn into the discipline net by general provisions in discipline codes which make it a separate disciplinary offence to act in contravention of such policies and procedures. A good example of this is provided by the policies of some forces which require members to reside within the municipality, or within a certain distance of it. Failure to conform to such a policy is typically a disciplinary offence itself. An order by a superior officer to conform to the policy constitutes a lawful order, and failure to comply with the lawful order of a superior officer constitutes the separate disciplinary offence of "insubordination".³⁴

In addition to provincial and internal police force regulations and policies, some off-duty conduct of police officers in some jurisdictions is also regulated by other provincial legislation and/or municipal bylaws or policies. In many jurisdictions, for instance, off-duty political activities of police officers are regulated through the provisions of provincial election acts or municipal acts, while off-duty employment is regulated by city ordinances or policies detailing conflict of interest guidelines or codes of ethics.

In sum, police executives typically have available to them very extensive instruments with which to regulate and control off-duty activities of their members. Many of these instruments go far beyond the common law in the extent to which they purport to regulate such off-duty conduct. This is due to the fact that they often do not require any proof of a rational link between the impugned conduct and the legitimate interests of the police force, as the common law generally does. For

discipline to occur, it is sufficient to establish that the officer has violated a duly promulgated rule of conduct or policy; the force does not have the additional burden (which the private employer bears) of proving that the conduct in question did in fact (or was likely to) negatively affect the legitimate interests of the force in some way. Rather, this latter conclusion is often simply presumed from the existence of the rule or policy.

The rules tend to be so voluminous and so vaguely worded that no officer could be expected to fully comprehend their content and scope. Indeed, senior officers whom we interviewed (including those who were responsible for internal disciplinary matters) frequently admitted to uncertainty as to the scope and application of many of these rules. Even more frequently these senior officers indicated that they knew of no instances in which many of the rules had been invoked as the basis of disciplinary action against officers.

As Ericson³⁵ has pointed out, however, even if many (or most) of the rules are rarely or never invoked in practice, their very existence, and the possibility that they could be invoked at any point, constitute significant resources for police managers in controlling their officers' conduct both on and off duty.

ORGANIZATIONAL RESPONSES TO OFF-DUTY MISCONDUCT

The most common organizational reaction to off-duty employee misconduct, of course, is disciplinary action, or at least the threat of it. As our interviews confirmed, discovery (especially as a result of a public complaint) combined with minimal investigation proves sufficient by itself in many cases to induce self-correction on the part of an errant officer. We were told countless times that minor or first-time off-duty misconduct had been satisfactorily dealt with by the officer concerned being "spoken to" or simply "told", without any need for the invocation of formal disciplinary measures. For the officer concerned, this informal manner of responding has the particular advantage that it typically does not result in any entry on his or her formal service record.

At the more serious end of the offence scale, when discharge would be a likely outcome of a successful disciplinary charge, we learned that discovery and the threat of disciplinary action is frequently sufficient to induce an offending officer's resignation (after which disciplinary action is no longer possible).³⁶

For these reasons, it is virtually impossible to obtain any data as to the actual extent of off-duty infractions for any police force; the dark figure is invisible and therefore unknown. We also found, however, that aggregate statistics on even recorded infractions are apparently not kept or monitored by most of the police forces that we visited. We asked our interviewees to tell us what proportion of public complaints and internal discipline cases during the last few years had involved off-duty conduct. Most indicated that they were unable to provide such statistics, and we were provided instead with informed guestimates which ranged wildly from less than 5 percent to more than 50 percent. Most forces, however, estimated that off-duty conduct is involved in less than 5 percent of formal disciplinary charges against their officers, indicating that off-duty misconduct is not regarded by them as a major problem.

Two alternatives to disciplinary action which are at least potentially available to some forces in some cases are those of medical discharge and so-called administrative release. The former may be available where off-duty conduct involves serious alcoholism or other substance abuse, the latter where off-duty conduct has led to criminal convictions resulting in incarceration or the loss of driving privileges. The argument here would be that whether or not the off-duty conduct constituted a disciplinary offence, the conduct or its consequences are such as to render the officer unfit or unable to perform his or her duties, and therefore liable to dismissal. In the case where an officer has been sentenced to a period of incarceration as a result of off-duty conduct, an argument might also be made that this constitutes an effective abandonment of his or her position of employment, again justifying termination.

While we are aware of attempts in other areas of public employment to adopt these alternative responses to problematic off-duty conduct,³⁷ we discovered no cases in which police organizations had attempted such alternatives. Indeed while administrative release is contemplated in legislation covering other public servants, it does not appear to be contemplated as an option (other than for probationary constables) in most legislation governing police organizations. The somewhat enigmatic subsection 37(2) of the *Alberta Police Act*, which provides that:

- (2) Notwithstanding the provisions of a collective agreement, the [municipal police] commission may terminate the services of a police officer for reasons other than disciplinary reasons.³⁸

is a notable exception. We have not been able to ascertain, however, whether, or to what extent, this provision might have application to the control of, or response to, off-duty police officer conduct in Alberta.

Another, more limited exception appears to be provided for in paragraph 4(3)(c) of the Regulations under the *NS Police Act*, which is discussed further.³⁹ Medical discharge, on the other hand, is provided for in some police regulations.⁴⁰ Because this is the subject of another Discussion Paper published by the RCMP External Review Committee,⁴¹ it will not be considered in this paper.

A notable and important trend in recent years, however, is the development of employee assistance and peer group counselling programs which have begun to play an increasingly important role in police forces' responses to certain kinds of off-duty conduct problems, notably alcohol, drug and stress-related problems.⁴² The health orientation of such approaches has certainly not replaced disciplinary approaches. We were, however, told of a number of cases in which either disciplinary action was delayed to give officers a chance to sort out their off-duty problems with medical or counselling assistance, or disciplinary penalties were suspended on condition that the officer

successfully participate (or more commonly, continue to successfully participate) in some kind of treatment or counselling program.

In one such case, an officer, while off duty, had been found in an intoxicated state in the company of four prostitutes on a public street, and was consuming alcohol in his personal vehicle at the time. He was charged with discreditable conduct, found guilty, and the penalty imposed was that he should resign within seven days or be dismissed. On his appeal to the municipal police board, an agreed settlement of the matter was reached between the constable, the police chief and the board, under which the original penalty was replaced by the following:

- (1) Const. [X] will be reinstated on the [ABC] Police Department effective [date].
- (2) Const. [X] will not receive any pay or allowance from the date of his dismissal until [the date of his reinstatement].
- (3) For a period of one year commencing on [the date of his reinstatement], Const. [X] will be on probation with the [ABC] Police Department, the conditions of which are
 - (a) that he not drink alcoholic beverages
 - (b) that he continue to the satisfaction of the Chief with his present course of rehabilitation, including his attendance at A.A. and his ongoing participation in the Department's employee assistance program
 - (c) that he properly perform his duties as a constable with the Department.
- (4) At the conclusion of one year, the Chief shall report to the Commission and if the terms of the probation have been met to the satisfaction of the Commission, Const. [X] will revert to normal status.
- (5) If Const. [X] should breach any term of its probation, his dismissal from the Department will be confirmed by the Commission.⁴³

In confirming its acceptance of these terms of settlement, the municipal police board emphasized that "it is expressly understood that the Commission views Const. [X]'s conduct on the evening of [date] as reprehensible and in normal circumstances as grounds for dismissal from the force." The board concluded:

The Commission was convinced on the evidence that Const. [X] is an alcoholic, that his behaviour on the evening in question was related to his alcoholism, and that since then he has taken steps to rehabilitate himself. This agreement was proposed by the Commission to give Const. [X] a chance to continue with that rehabilitation and to turn himself into a strong link and competent performer in the [ABC] Police Department.

Around the same time, this police board reached a similar agreement with another of its officers who had been involved in serious alcohol-related off-duty misconduct. The police force reports that both officers successfully fulfilled the conditions of their probation, are now fully reinstated, and have, together, been the mainsprings in the establishment of a successful peer group counselling program within the force. They are now considered highly valued members of the force. The apparently remarkable success of this approach in these two cases has convinced the force that this should be the way of the future in dealing with such cases.

There is some reason to think that this kind of approach to off-duty conduct which is determined to be the product of alcohol or drug dependency or addiction may, at least in some jurisdictions, now be mandatory rather than optional. This is because in some human rights legislation in Canada, alcoholism and drug dependency have been recognized as "disabilities" or "handicaps", on the basis of which discrimination in employment is prohibited. Section 25 of the *Canadian Human Rights Act*,⁴⁴ for instance, provides that "disability" means "any previous or existing mental or physical disability and includes disfigurement and previous or existing dependence on alcohol or a drug". Section 3 provides that "disability" is a "prohibited ground[s] of discrimination", and Section 7 provides that:

7. It is a discriminatory practice, directly or indirectly,
 - (a) to refuse to employ or continue to employ any individual, or
 - (b) in the course of employment, to differentiate adversely in relation to an employee,

on a prohibited ground of discrimination.

[Emphasis added]

Such provisions are relatively new in Canadian law and their exact implications for the application of employment discipline (for on- or off-duty conduct) remain somewhat unclear. A recent decision of the Supreme Court of Canada,⁴⁵ however, suggests that this kind of legislation places an onus on an employer to take all possible steps to accommodate an employee so as to avoid discriminating against him or her on a "prohibited ground of discrimination", unless the employer can demonstrate that such steps would involve "undue hardship" for the employer. In particular, an occupational requirement or qualification established by an employer which has the effect of discriminating against a particular employee or class of employees on a "prohibited ground of discrimination" will

only be upheld as *bona fide* and lawful if the employer can demonstrate that the requirement or qualification is "objectively related" to, and "reasonably necessary" for the performance of the job, and that it accommodates the employee's protected "disability" at least up to the point of "undue hardship" to the employer.

Translated to the context of a police officer suffering from alcoholism or drug addiction, this case suggests that, in the absence of any clear statutory authority for discipline or dismissal, there would be an onus on the police force to demonstrate that not being an alcoholic or a drug addict is objectively related to, and reasonably necessary for, the performance of any work to which the officer might reasonably be assigned without undue hardship to the force. Since both alcoholism and drug addiction are remediable disabilities, it would also presumably be incumbent upon the force to demonstrate that it had taken all reasonable steps not causing undue hardship to the force, to "accommodate" the disabled officer (by, for instance, giving him or her a reasonable chance to obtain a cure for the disability, or at least bring it within manageable bounds), before any discipline for conduct arising out of it (let alone dismissal) could be justified.

It will be evident from this that such laws require careful and responsible judgments to be made, for instance about whether, and to what extent, alcoholism or drug addiction is or is not compatible with the performance of different kinds of police work, what would amount to reasonable "accommodation" of an alcoholic or drug-dependent officer, and at what point such accommodation would result in "undue hardship" to the force. The courts, however, have apparently not yet been faced with a concrete case in which to make such judgments.

There is, of course, the additional problem -- which is a very real one in the police context -- of how such legislative provisions are to be reconciled with equally explicit provisions in police legislation and regulations which characterize excessive consumption of alcohol, on or off duty, as a disciplinary offence. As noted below, most police discipline codes contain such provisions. Here there is the possibility that such provisions may be held constitutionally invalid as being in violation of *Charter* guarantees with respect to such standards as equality and non-discrimination on the basis of "mental or physical disability" (section 15), or "principles of fundamental justice" (section 7). This possibility would only exist to the extent that such provisions result in differential treatment for police officers compared with other employees, and the differential treatment could not be justified as reasonably necessary for the fulfilment of its legislative mandate by the police force. Since there are as yet apparently no reported cases in which such issues have been raised, we can do no more than speculate how they might be resolved by the courts.

Clearly, the more remedial, non-punitive approach to such problems will be likely to forestall such legal challenges. Those responsible for police discipline, however, would undoubtedly do well to prepare themselves for such challenges in the future. It is possible, too, that to the extent that occupational stress is being recognized as a medically treatable disability, conduct which can be successfully demonstrated to have been the product of such stress may also have to be responded to in ways other than the traditional disciplinary approach. The Ontario Workers' Compensation Appeals Tribunal, for instance, recently recognized work-related stress as sufficient basis for a compensable claim by an employee of a provincial youth centre.⁴⁶ This possibility, however, raises

issues which go far beyond the scope of this discussion paper.

There remains, of course, the mechanism of a public complaint as a way of responding to alleged off-duty misconduct of an officer. In this respect, however, practice and legislation vary significantly from one jurisdiction to another. Whether off-duty conduct can be the subject of a formal public complaint (i.e. handled under legislated processes for responding to such complaints) will depend on the definition of a "complaint" in the particular legislation concerned. Under the RCMP Act, for instance, the RCMP Public Complaints Commission has jurisdiction only to entertain complaints "concerning the conduct, in the performance of any duty or function under this Act, of any member or other person appointed or employed under the authority of this Act".⁴⁷ Complaints concerning off-duty conduct are thus excluded from the Commission's jurisdiction by definition. A similar situation is created by section 51 of the amendments to the *Québec Police Act*, which refers to "a complaint respecting the conduct of a police officer in the exercise of his duties and constituting a default under the Code of ethics."⁴⁸

Such is not the case for most statutory bodies in Canada charged with responding to public complaints against the police. In most cases, "complaints" are defined either to include allegations of disciplinary offences,⁴⁹ or broadly enough to include virtually any conduct, whether on or off duty.⁵⁰

POLICE TRAINING WITH RESPECT TO OFF-DUTY CONDUCT

An important question to be addressed is how police officers learn about the standards of conduct they will be expected to meet while off duty.

In many forces, recruits are required to subscribe to a code of ethics on joining the force. The manual of one police department (which will not be identified) stated that all members of the force are required to abide by the following "Police Officers' Code of Ethics":

As a police officer I recognize that my primary obligation is to serve the public effectively and efficiently by protecting lives and property, preventing and detecting offences, and preserving peace and order.

I will faithfully administer the law in a just, impartial and reasonable manner, preserving the equality, rights and privileges of citizens as afforded by law.

I accept that all persons rich or poor, old or young, learned or illiterate, are equally entitled to courtesy, understanding, and compassion. I will not be disparaging of any race, creed or class of people.

In the performance of my duties I acknowledge the limits of my authority and promise not to use it for my personal advantage. I vow never to accept gratuities or favours or compromise myself or the Police Service in any way. I will conduct my public and private life as an example of stability, fidelity, morality, and without equivocation adhere to the same standards of conduct which I am bound by duty to enforce.

I will exercise self-discipline at all times. I will act with propriety toward my associates in law enforcement and the criminal justice system. With self-confidence, decisiveness and courage I will accept all the challenges, hardships, and vicissitudes of my profession. In relationships with my colleagues I will endeavour to develop an "esprit de corps".

I will preserve the dignity of all persons and subordinate my own self-interests for the common good. I will be faithful in my allegiance to Queen and Country. I will honor the obligations of my office and strive to attain excellence in the performance of my duties.

[Emphasis added.]

The notes which follow this code of ethics in the manual include the following advice on off-duty conduct:

Your conduct while off duty, as a member of the community, is as much under critical notice as when you are on duty. In this regard you must remember that the behaviour of an individual reflects upon the entire police service.

We asked officials at two major police training institutions to what extent standards of off-duty conduct are discussed in their basic recruit training programs. The answer was similar in each case. A single session on police ethics is included in each course. In one case this is a three-hour session, in the other a 90-minute session. Our informants were not able to estimate with precision the extent to which off-duty, as opposed to on-duty, conduct is the subject of discussion in these sessions. One said that he thought that it might occupy 20 minutes of a three-hour session. The other said that it would vary from class to class, depending on the level of interest in the subject shown by the students.

In one case, the main instructional material used for this session is a 15-page booklet on police ethics. Half of this booklet is devoted to a general discussion of ethics in a police context, in which off-duty conduct is not specifically addressed. The remainder of the booklet consists of a set of "Canons of police ethics", and a "code of ethics", which have been endorsed by the International and Canadian Associations of Chiefs of Police. A brief bibliography for further reading follows.

The "canons of police ethics" includes the following:

Article 6. Private Conduct

Law enforcement officers shall be mindful of their special identification by the public as an upholder of the law. Laxity of conduct or manner in private life, expressing either disrespect for the law or seeking to gain special privilege, cannot but reflect upon the police officer and the police service. The community and the service require that the law enforcement officers lead lives of decent and honorable citizens. Following the career of a police officer gives no individual special perquisites. It does give the satisfaction and pride of following and furthering a broken [sic] tradition of safeguarding the Canadian public. The officers who reflect upon this tradition will not degrade it. Rather they will so conduct their private lives that the public will regard them as examples of stability, fidelity and morality.

The four-paragraph "code of ethics" includes the following:

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying laws of the land and regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

In one case, we have been unable to ascertain what other instructional materials, if any, are used in teaching these sessions, and in particular whether decisions in actual disciplinary cases are used as examples for students. In the other case, we have been advised that no other written materials are used in these sessions. Officials of both institutions stressed, however, that issues of personal conduct, both on and off duty, are likely to arise in discussions in other sessions of the basic training course, although they were not able to give an indication of how often this in fact occurs.

KINDS OF POLICE OFF-DUTY CONDUCT WHICH HAVE BEEN SUBJECT TO DISCIPLINE

For reasons noted earlier, we are unable to provide any statistical data indicating what proportions of discipline cases involve which kinds of off-duty misconduct. What we shall do in this section of the paper, therefore, is provide examples of the kinds of off-duty conduct which are either contemplated in police discipline codes or reflected in actual discipline cases which have been brought to our attention. For clarity, we have classified these kinds of conduct into nine broad categories.

(1) CRIMINAL CONDUCT

Conviction for a criminal offence, even if the relevant conduct occurred while the officer was off duty, is regarded as grounds for discipline in all Canadian police jurisdictions. In most police discipline codes, conviction is listed as a separate offence in its own right, often under the broad heading of "discreditable conduct". Section 17 of the *Alberta Municipal Police Disciplinary Regulations* provides a good illustration:

(a) DISCREDITABLE CONDUCT, that is to say, if he

...(v) is guilty of an indictable offence under a federal statute, plan offence punishable upon summary conviction under the *Criminal Code* (Canada)...⁵¹

This provision also provides a good illustration of the extent to which some police disciplinary codes demand higher standards of conduct from police officers than are demanded of other employees. It will be recalled that the common law rules stipulate that conviction of a criminal offence involving off-duty conduct will only be grounds for discipline if the offence is "serious" and "thus rendering his conduct injurious to the reputation of the Company and its employees" (*Millhaven*).

The common law rule places a burden on the employer to demonstrate a significant relationship between the criminal offence for which the employee was convicted and the legitimate interests of the employer. Just how difficult this can be is well illustrated by the arbitrator's decision in *Re Iron Ore Co. of Canada and United Steelworkers, Local 5795*.⁵² This was a policy grievance, in which the union local was seeking to challenge a company rule. The rule being challenged was that any employee who was convicted of "trafficking in narcotics, armed robbery [or] sex-related criminal offences" would henceforth be terminated "whether or not the offence giving rise to the conviction takes place on Company property."

The arbitrator ruled that this was not a reasonable rule (the collective agreement authorized the company to make "reasonable rules and regulations to be observed by the employees") for general application. The reason for the ruling was that employee convictions for such offences involving off-duty conduct were not necessarily and inevitably prejudicial to the interests of the company. To be reasonable, a rule would have to require separate consideration of each case on its individual merits, rather than provide for automatic termination regardless of the particular circumstances of each case.

The provision of the Alberta police discipline code cited above is, of course, in one sense much broader than that which was proposed by the company in the *Iron Ore* case, because it applies to convictions for all criminal offences, rather than for particular classes of criminal offences. On the other hand, it is narrower, because it does not stipulate that dismissal will necessarily result from a conviction for the disciplinary offence. Most significantly, however, the Alberta provision does not require the police force to demonstrate that the officer's criminal conviction will have damaging effects on the force's interests. Instead, the provision defines such a conviction as "discreditable conduct"; by being criminally convicted, the officer has apparently automatically committed the

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disciplinary offence of "discreditable conduct".

Not all police regulations are as harsh as the Alberta code in this regard. Regulations under the *NS Police Act*, for instance, provide that:

a member of a municipal police force may be dismissed upon conviction for an indictable offence or an offence punishable on summary conviction pursuant to an Act of the Province, a province or territory of Canada or the Government of Canada which, in the opinion of the municipal board of police commissioners or the chief officer... renders the member unfit to perform his duties as a member.⁵³

While this provision is in one important respect broader than the Alberta provision (it includes convictions under provincial and territorial enactments), it does place a burden on the board to establish that the conviction "renders the member unfit to perform his duties". Mere proof of the conviction (whatever the offence) will not satisfy this requirement.

The Nova Scotia provision is also interesting because it seems to provide for a form of administrative release in such cases, rather than a disciplinary discharge. Conviction for a criminal offence is not defined as a disciplinary offence, therefore formal disciplinary process would not have to be followed before an officer could be dismissed under this provision of the Regulation. Somewhat anomalously, however, the "Code of Conduct and Discipline" set out in the next section of the Regulation provides for the following disciplinary offence:

[being] found guilty of an indictable offence or an offence punishable on summary conviction under any statute of Canada, the Province or any province territory in Canada which renders the member unfit to perform his duties as a member;⁵⁴

The combined effect of these two provisions would seem to be that disciplinary proceedings need not be instituted if a dismissal is sought on grounds of a criminal or other conviction, but must be followed if some lesser penalty is sought.

A third approach is illustrated by the Regulations of the Winnipeg Police Department, which provide for the disciplinary offence of:

124 (20) COMMITTING AN OFFENCE, that is:

- (a) being convicted of an offence in a superior court of criminal jurisdiction, a court of criminal jurisdiction or a summary conviction court, which conviction is detrimental to the prestige of the Department
- (b) being convicted of being an accessory to or conniving at the commission of an offence against any Provincial or Federal Statute.

[Emphasis added.]

Again this seems somewhat anomalous in that under paragraph (a) some detriment to the prestige of the Department has to be shown in order to establish the disciplinary offence, while under paragraph (b) there is no such requirement.

There are ample cases to illustrate the point that the mere fact that an officer has not been convicted of a criminal offence (e.g. if charges have been withdrawn), or where the case has been diverted out of the criminal courts, does not mean that he or she cannot be disciplined for apparently criminal conduct. If it is thought to be "discreditable conduct", he or she can be disciplined in some police departments, although in others such an outcome is thought to preclude disciplinary proceedings. We have, however, come across cases in which disciplinary proceedings have been successfully pursued even after an acquittal in the criminal courts, an outcome which is usually explained by the fact that in some jurisdictions the standard of proof is not as high for disciplinary proceedings as for criminal proceedings. Indeed, the Supreme Court of Canada has held that disciplinary offences are not to be treated as "offences" for the purposes of Section 11 of the *Charter*,⁵⁵ and that conviction for a major service offence does not preclude prosecution for a criminal offence based on the same facts.⁵⁶ In reviewing a disciplinary case, however, the Ontario Police Commission has held that a disciplinary conviction had to be quashed when the officer's criminal conviction was set aside on appeal.

In some instances, disciplinary codes are explicit about the relationship between criminal and disciplinary proceedings. Section 5 of the *Regulation respecting the code of ethics and discipline of members of the Sûreté du Québec*, for instance, provided that:

A member may be the subject of a complaint notwithstanding the fact that he has been acquitted or convicted by a court of criminal jurisdiction of an offence with respect to which the facts giving rise to an accusation are the same as the facts on which the disciplinary charge is based.⁵⁷

It is clear, even from our limited research, that actual discipline cases have involved convictions for a wide variety of criminal offences, ranging from attempted murder to shoplifting. Undoubtedly, however, the most common instances in this category involve convictions (or allegations) of shoplifting, impaired driving, assault or sexual assault.

There seems to be no doubt in any of these cases that conviction for a criminal offence is sufficient in itself to constitute a disciplinary default. Rather, discussion in the cases centres on what the penalty should be. Even quite minor cases of petty shoplifting, in which officers have sought to explain their misconduct as a product of stress or embarrassment, have resulted in dismissals from the force, with adjudicators arguing that the fact that this offence involves dishonesty makes an officer convicted of it inherently unsuitable for continued employment as a police officer. The Federal Court of Appeal, however, has recently ruled that such a blanket approach to the

determination of a penalty for a disciplinary infraction is inappropriate; each case must be considered on its own merits and in light of all relevant circumstances.⁵⁸

(2) OTHER ILLEGAL CONDUCT

As we have noted (see the provisions from the discipline codes quoted in the preceding section), many police discipline codes contain a specific disciplinary offence of having been convicted of a non-criminal offence (e.g. under non-criminal federal or provincial legislation). We have come across cases in which officers have been disciplined as a result of convictions for such offences, either pursuant to such specific discipline code provisions or under the umbrella offence of "discreditable conduct". In Ontario and New Brunswick, for instance, officers have been disciplined for, among other things, having been convicted of hunting at night contrary to provincial legislation.

In most jurisdictions which we visited, however, we were told that while disciplinary action in such cases is certainly theoretically possible, in practice it is rarely invoked, especially with respect to isolated (as opposed to repeat) incidents, and especially in cases of convictions for minor driving offences such as speeding. Two reasons were cited for this. In the first place, such offences are thought to be too trivial to justify discipline. Secondly, such incidents often do not come to the attention of the force (especially if they occur outside the force's jurisdiction), and most forces do not go out of their way to discover them. There is apparently no requirement in most forces that an officer report such a conviction to the force. We did encounter the following rule, however, in the regulations of one force we visited:

4.2.2. DISCREDITABLE ACTS TO BE REPORTED

A member shall report forthwith to a supervisor or a member of the Internal Affairs Unit:

- whenever he is charged with a criminal offence, giving the particulars of the charge and the agency or individual laying the charge
- details of any instances where another member performs acts or conducts himself in a manner which will, or is likely to, bring discredit on the reputation of the Force.

Breach of this regulation is, of course, itself a separate disciplinary offence.

(3) POLITICAL ACTIVITIES

Active participation in politics has always been thought to be incompatible with the impartial and independent exercise of discretion which is such an essential element of police work. Indeed, the vaunted "independence" of the police has usually been justified in terms of the need to protect the exercise of their authority from "improper political interference".⁵⁹ Despite this general

consensus about the need to "keep politics out of police work", it is only quite recently that many police discipline codes have included specific prohibitions on political activity by police officers, whether on or off duty. Indeed, we were somewhat surprised to find that many police discipline codes do not contain such prohibitions, and we have found only one case in which an officer has been charged with a disciplinary offence for political activities.

Regulation 791 under the old Ontario Police Act, referring to the Ontario Provincial Police Force, provided that:

- 62. No member of the Force shall,
- ...
- (b) take any part in politics or occupy an official position in a party organization, but this does not affect the right of the member to private political views or to vote.⁶⁰

Members of the Provincial Police Force, however, are "Crown employees" subject to the Ontario *Public Service Act*, which provides that Crown employees other than deputy ministers or other Crown employees designated in regulations under the *Act* can run for elective office in municipal, provincial or federal elections, under certain specified conditions (sections 11 & 12). Section 12 provides that:

- 12.(1) Except during a leave of absence granted under subsection (2), a Crown employee shall not,
- (a) be a candidate in a provincial or federal election or serve as an elected representative in the legislature of any province or in the Parliament of Canada;
- (b) solicit funds for a provincial or federal political party or candidate; or
- (c) associate his position in the service of the Crown with any political activity.⁶¹

Subsection (2) provides that only Crown employees who are not deputy ministers or designated in the regulations can apply for such a leave of absence.

In 1980, OPP officers were not designated under the regulations. Consequently, an OPP constable applied for, and was granted, a leave of absence to run as a Conservative candidate in the federal election that year. He was not elected and, when he returned to his duties, he was charged with "discreditable conduct" for his political activities. He filed a grievance, which was upheld, the arbitrator acknowledging that there appeared to be a conflict between the provisions of *Regulation 791* and the provisions of the *Public Service Act* and its regulations, but concluding that the constable was within his rights in applying for a leave of absence and running for office.

The disciplinary charge against him had been held in abeyance pending the resolution of this grievance and, as far as we can tell, was never resumed. In 1983, the Ontario Divisional Court confirmed this view of the conflict between the provisions of *Regulation 791* and those of the *Public Service Act*.⁶²

The Government of Ontario, however, responded to this situation by designating OPP officers under the *Public Service Act* regulations, so that they can now no longer run for political office, with or without a leave of absence.

Under Section 38 of Ontario's *Municipal Act*,⁶³ an employee of a municipality is entitled to a leave of absence to run for a municipal elected office, but if elected must resign. In 1985, a Durham Regional Police officer took leave of absence, was elected to municipal office and resigned from the force. He took legal action, however, to challenge the requirement that he resign. The action was settled by way of Minutes of Settlement under which the officer's resignation was withdrawn, and he was granted an unpaid leave of absence while he continued to hold elected office.

The Ontario *Police Services Act* now provides that "No municipal police officer shall engage in political activity, except as the regulations permit."⁶⁴ At the time of writing, however, the new regulations had not been published.

A similar approach to the regulation of political activities of police officers, both on and off duty, was taken by the *SQ code of ethics*:

21. A member must be politically neutral in the performance of his duties.

The following in particular constitute breaches of discipline:

- (a) being present in uniform at a political meeting, unless he is on duty at that place;
- (b) failing to show moderation in publicly expressing his political opinions;
- (c) during an electoral period, publicly expressing his political opinions, soliciting funds for a candidate for election, a party authority or a political party, or publicly expressing his support for a candidate for election or for a political party.⁶⁵

As far as we have been able to determine, few municipal police forces have prohibitions on political activities of their members which are as explicit as this. On the contrary, we were told of many instances of police officers holding elected political offices (e.g. as members of municipal councils or school boards) in neighbouring municipalities to those where they were employed. Indeed we heard of one police officer who sits as a member of the local police commission in a nearby municipality.

In 1980, it was reported that a Niagara Regional Police officer had been given permission by his Chief to run for a seat on a county board of education within the force's geographical area of jurisdiction. The police chief was reported in the press at the time to have said that he gave his permission because:

[I]t is not a political thing. Police have a sense of duty the same as any fellow citizen, but they must remember they are policemen 24 hours a day. I would not sanction anyone running for councillor on regional council where, for example, he may be required to vote on the police budget.⁶⁶

Senior police officers generally seem to agree, however, that it is not appropriate for police officers to run for, or hold, political office within the areas in which they work many would go further than this by banning such political activities altogether.

Arguments have been made in the United States that the involvement of police officers in the political process is beneficial rather than detrimental. Professor William Ker Muir, Jr., has argued that police officers' involvement in politics strengthens public debate about policing issues and leads to more open police institutions whose leaders are more focused on the larger community rather than just the police. Additionally he believes it develops police officers' communications and negotiation skills and dissipates police cynicism about the world being divided into good and bad.⁶⁷

The current preference for community-based policing as the mode for the future, however, raises significant questions about the more traditional negative attitudes towards police involvement in politics. In particular, it raises the question of when involvement with the community, or with community organizations, can be characterized as sufficiently 'political' to be incompatible with the independent and impartial exercise of police authority.

At a seminar on community policing held at the Canadian Police College in 1986, one of the foremost U.S. exponents of community-based policing recounted early experiences with this style of policing in Flint, Michigan. He described how officers had been given great autonomy and flexibility to develop links with their local communities, and develop "problem-oriented" rather than "incident-oriented" solutions to policing problems, in conjunction with community members. Police officers were encouraged to become "social activists" within their communities. All was thought to be going well with this program until one day an officer of the force, during his off-duty hours, and not in uniform, was seen to be leading a march of community residents on the city hall, demanding more efficient garbage collection. The speaker noted that it was at this point that police officials began to realize that there might be more to community-based policing than they had bargained for!

A second issue which the prohibition of political activities raises is the question of how compatible such prohibitions are with the *Charter* guarantees of equality, and freedom of speech and association. In this connection, it is worth noting that the Supreme Court of Canada has upheld the constitutionality of the provisions of the Ontario *Public Service Act*.⁶⁸ In *Osborne v. Canada*,⁶⁹ however, the Federal Court of Appeal held that the provisions of section 33 of the federal *Public Service Employment Act*⁷⁰ which prohibited public servants from working for political parties were

in violation of the *Charter*, and therefore constitutionally invalid. An appeal of this case is currently before the Supreme Court of Canada.

These cases do not, however, resolve the issue of whether more extensive restrictions on political expression, such as those in the Ontario and Quebec police regulations cited above, would be found to be compatible with the requirements of the *Charter*. As far as we can determine, none of these provisions has yet been challenged in the courts.

(4) OUTSIDE EMPLOYMENT AND BUSINESS ACTIVITIES

This is the area of off-duty conduct in which the gap between official policies (and sometimes even the law) and practice seems to be the widest. We encountered many legislative provisions and force policies which prohibited any and all outside (or "secondary") employment of police officers. Yet we have encountered no force in which management does not concede that such secondary employment or business activity is commonplace among its members. In practice, it seems that such prohibition or regulation is enforced only when cases come to the attention of management where it is seen to be a problem. For the rest, deviation from the official rules seems to be routinely understood and tolerated.

Two trends in this area are clearly discernible. The first is a trend from outright prohibition to regulation. The second is a trend from reliance on unfettered discretion of police chiefs in this area (i.e. outside employment or business activities are only permitted if the chief's approval has been obtained, and there are no formal rules to guide the chief in exercising his discretion in this area) to more detailed and formal policies.

There are still many jurisdictions in Canada in which secondary employment or business activities of police officers are officially prohibited. For example, the *SQ code of ethics* provided:

A member of the Police shall occupy himself solely with the work of the Police Force and the duties of his position. He may not assume any other employment nor engage in any business, directly or indirectly.⁷¹

It is not entirely clear whether, or to what extent, the last three words of this regulation prohibit officers from arm's-length investments or other interests in businesses (e.g. investments in stocks and shares, or interests in businesses owned by family members). We have not been able to ascertain to what lengths the force goes to enforce this general prohibition.

More common than such outright prohibitions nowadays, however, are general regulatory provisions such as the following, which appeared in *Regulation 791* under the *Ontario Police Act*:

29. Except with the consent of the chief of police, granted in accordance with the bylaws of the board [of police commissioners] or council, as the case may be, no member of a police force shall engage directly or indirectly in any other occupation or calling, and he shall devote his whole time and attention to the

service of the police force.⁷²

Under such a regulation, it was up to the police governing authority (the board or council) to decide whether to lay down policy guidelines for the chief in this matter, or leave it entirely to the chief's discretion.

As noted earlier, the *NS Police Act* now requires all municipal police governing authorities in that province to promulgate policies concerning off-duty employment of their members. It also provides that:

- (3) The chief officer shall determine whether employment is extra-duty employment or off-duty employment, and whether a particular kind of off-duty employment is permitted or prohibited within the off-duty police guidelines.⁷³

The Nova Scotia Police Commission has drafted a model policy in this area (as well as a model policy concerning extra-duty employment) for the guidance of municipal police governing authorities. The model policy on off-duty employment reads:

Off-duty employment means all non-police related work performed by off-duty members of a municipal police department.

A member of a municipal police department may not undertake to perform any off-duty work, for remuneration or otherwise, which is likely to bring discredit upon the police force, nor perform such off-duty work which is likely to interfere with the efficient performance of his duties as a police officer.

A member shall not be involved in fund raising, solicitation activities, contract or work for any person for remuneration by any member of the public, that may bring discredit to the force or otherwise place the member in violation of any section of the Code of Conduct and Discipline as set out in part 2 of the Regulations made pursuant to the *Police Act*.

A member of a municipal police force shall not engage in the service of civil documents nor work as a private investigator or private guard or engage in the business of providing private investigators or private guards for hire, either within or outside of the municipality for which he is employed.

A member of a municipal police force shall not wear any article of uniform while engaged in off-duty employment.⁷⁴

We were provided with copies of many of the policies on off-duty employment which municipal police governing authorities had promulgated under section 21 of the *Police Act*. Most, but not all, followed closely the Nova Scotia Police Commission's model policy set out above, thus ensuring

a high degree of uniformity on this issue, at least at the level of official policy, in police forces across the province (although of course the contract police services of the RCMP in the province are not subject to these policies).

It will be noted that the Nova Scotia policies cover only off-duty employment, and are silent on investments and business activities, which remain largely unregulated. We were told by members of the forces we visited in Nova Scotia that these areas tend to be regulated informally in accordance with the conflict of interest guidelines promulgated by city or town administrations for all their municipal employees. Indeed, we were told the same thing in many other jurisdictions we visited, in which police employment and/or business and investment activities are not formally regulated by written policies drawn up by the police forces or governing authorities themselves.

Even in those jurisdictions which had formal policies on these matters, we noted that in some cases the policies appeared to have been interpreted extremely permissively. In one jurisdiction, for instance, we learned that a police officer, employing his fellow officers while off duty, was providing firearms and street survival training under contract to his own and other local police forces. His regular job was that of firearms training officer for his force. This off-duty business activity was apparently approved not only by his own police force, but also by the provincial police commission, which was arranging for his company's services to be provided to other police forces. Although there was some acknowledgement that such off-duty business activity could be viewed as involving a substantial conflict of interest, it was apparently justified on the basis that the training this officer was providing was not available to police forces from other sources in the province. Under these circumstances, it was believed that any conflict of interest was outweighed by the benefits which police forces in the province were deriving from this service.

In another instance, we were told of a police officer who was running a business selling uniforms and equipment. His own police force was one of his business clients. Apparently this was not thought to be an unacceptable conflict of interest such that the force was prepared to take any action with respect to it.

In a third case, we were told of a president of a municipal police association who had been running a business which provided the services of off-duty police officers (who were members of his association) to guard provincial liquor outlets under contract. The contract stipulated that the pay for such services should be equal to the overtime rates which the police officers would earn in their regular employment. These overtime rates, of course, were determined by a collective agreement between the association and the police governing authority. The officer involved has now left the force, but this situation apparently persisted for several years without any disapproval by the force.

Some other jurisdictions have been even more explicit in defining acceptable kinds of off-duty employment and business activities. In June, 1985, the Calgary Police Commission inserted the following provisions in the Calgary Police Service's Administration Manual:

87.0 OUTSIDE BUSINESS INTERESTS

87.1 A member will not invest in any of the following businesses or ventures or accept part-time employment in any of the following occupations:

- (i) bill collector;
- (ii) skip tracer;
- (iii) watchman, security guard, or other security work;
- (iv) taxi or limousine driver, or the owner or operator of a taxi service or limousine service;
- (v) owner, operator or employee in an establishment in which alcohol is consumed;
- (vi) owner, operator, or employee in an establishment in which gambling occurs;
- (vii) insurance adjuster or investigator;
- (viii) private investigator;
- (ix) escort, or an employee of an escort agency;
- (x) process server;
- (xi) armored car driver or guard;
- (xii) body guard;
- (xiii) any occupation which requires a member to be armed.

87.2 A member may invest in a business or venture not listed in Section 87.1 and may accept part-time employment in an occupation not listed in Section 87.1 providing the following conditions are met:

- (i) the member's effectiveness as a peace officer will not be adversely affected;
- (ii) participation in the business or other venture or part-time employment, will not create a conflict of interest with the member's duties as a peace officer; and
- (iii) the business or venture, or part-time employment, will not be demeaning to the member's position as a peace officer or to the Service.

87.3. Prior to investing in a business venture or accepting part-time employment to which s. 87.2 applies, a member must apply for and receive permission to do so from the Chief of Police. Applications must be in writing and include the name and address of the employer, or owner of the business, and the duties and responsibilities the member will be expected to fulfill.

- 87.4 A member who is notified by the Chief of Police that his application to invest in a business or venture, or accept part-time employment, does not meet the conditions specified in Section 87.2 may, within 30 days, appeal to the Commission.
- 87.5 A member will not, under any circumstances, use any of the resources of the Service to assist him in carrying out any function of a business or venture, or part-time employment.
- 87.6 A member who, at the time this Amendment comes into force, is employed in a part-time position in an occupation listed in Section 87.1 shall terminate such part-time employment, or dispose of such investments, as the case may be, within twelve months from the effective date of this Amendment.

This represented the most comprehensive attempt to regulate the area of off-duty employment and business activities ever undertaken in a Canadian police jurisdiction. As noted above, the new regulation was unsuccessfully challenged in *Calgary Police Association*. The Alberta Court of Appeal upheld the lower court ruling to the effect that the regulation was intra vires, not unreasonable and not in violation of the *Charter*. The court's unanimous judgment concluded:

...we hold the view that restrictions on extra-curricular activity found in the disciplinary regime of a modern police force are domestic and internal contractual arrangements that may be negotiated or modified by the parties in the usual course.⁷⁵

The Ontario Provincial Police Force has since adopted a regulation modeled closely on the Calgary version.

It will be evident that these kinds of regulations create the possibility of two quite distinct disciplinary offences. First, there is the offence of engaging in secondary employment or business activities without the requisite permission (usually the permission of the chief). Second is the offence of engaging in secondary employment or business practices which are regarded as unacceptable.

Realistically, the second kind of case will arise only in those jurisdictions (which are now few in number) where permission is not required to engage in secondary employment or business activities. In such circumstances, discussion centres on whether particular kinds of employment or business activity are compatible with full-time employment with the police force. From our interviews, we would conclude that the three criteria set out in Section 87.2 of the Calgary policy represent an appropriate distillation of prevailing concerns of police forces in this area. They are a concern that the secondary activities not be such as to adversely affect the officer's job performance (e.g. because of long hours or physical demands which leave the officer too tired to work effectively as a police officer); a concern that the activities not involve a conflict of interest with the officer's

police work (this may, of course, vary according to what assignment the officer has); and a concern that the activities not adversely affect the reputation of the officer or the force.

We have come across few written decisions which discuss these matters in detail. The reason for this seems to be that proving lack of requisite permission for secondary employment or business activities is so relatively easy that tribunals rarely have the opportunity to address these larger questions. One such recent case, however, involved an implicit conflict between two governmental agencies. In this case, a constable in Manitoba had applied for registration as a real estate salesman, with the intention of selling real estate part-time when off duty. His application was the subject of a hearing by the Manitoba Securities Commission. The regulations of his police force prohibited its members from "engaging in employment, for an employer other than the City", and the Registrar of the *Real Estate Brokers Act*⁷⁶ had advised him that his application would not be entertained unless he could show that he had the permission of his chief of police. He had accordingly applied for such permission, which had been granted. In granting it, however, the chief's representative had reminded him of the rule against outside employment. Apparently because of this rule, however, the Securities Commission had adopted a long-standing policy of not granting licences to police officer applicants. When advised of this policy, the officer withdrew his application. After this, the Registrar had written to him saying that:

In my view, it is inappropriate for an individual, who carries the weight of authority granted him by virtue of his employment as a police constable and a peace officer, to also deal with members of the public in the capacity of a real estate agent. This is a long-standing policy of my office.

A few months later, however, the officer reapplied, enclosing a supporting letter from a real estate firm, in which it was pointed out (a) that the police force concerned did not object to his application, and was willing to tolerate self-employment but not employment by others, (b) that the Chairman of the Manitoba Police Commission had indicated that he was not opposed to the application or aware of any legal impediment with respect to it, and (c) that another police officer in the province was already registered as a salesman, and was in good standing. The Registrar referred the matter to the Securities Commission for a decision. In rejecting the application, the Commission wrote:

The policy [of not granting licences to police officers] is designed to protect the public from any mischief that might occur by reason of a person's position or perceived position. Police constables hold a special position in the community and depending on the citizen, are perceived in various lights. A constable could, because of his position, unknowingly bring pressure to bear on the public and by the same token, the public could use the police constable to their advantage. The policy is designed to deal with such situations. It is the opinion of this Commission that the policy is just as true and necessary today as it was fourteen years ago.

The officer sought judicial review of the Commission's decision by the Court of Queen's Bench of Manitoba. In upholding the officer's challenge to the Commission's decision, and directing the Commission to register the officer as a real estate agent, Mr. Justice Coleman concluded that:

In my opinion the Commission erred in refusing the applicant a licence by relying solely on the policy that has been uniformly applied against police officers in general without dealing with the application solely on its merits and on an individual basis. Furthermore I would respectfully find that such a general policy was of a discriminatory nature and that the onus on the registrar and/or the Commission of establishing that such policy was in the public interest was not established on the evidence.⁷⁷

In reaching this conclusion, Coleman J. emphasized that the fact that practising as a real estate salesman might involve a breach of the force's regulations prohibiting outside employment "would be a matter solely between a police officer and his employer",⁷⁸ and should not have been given any weight by the Commission in arriving at its decision. He characterized the reasons cited by the Commission in support of its policy against police officers as "speculation", noting that no complaints had been received over the years against the one police officer who had "unintentionally" been licensed by the Deputy Registrar in contravention of the policy. He noted that police officers "by reason of their specialized training and experience are accustomed to dealing with the general public and in particular on matters of detail and integrity, all of which are excellent tools, not only for a real estate sales person, but also serves to the benefit of the general public", and that "when employed as a salesman [the officer] would not be in uniform and there would be no need in disclosing his identity as a police officer."⁷⁹ He also drew attention to the fact that schoolteachers, who could be school principals or vice-principals, thereby also occupying positions of responsibility and authority within the community, were not similarly prevented from being licensed.

It is, of course, a matter for speculation as to whether the court would have taken a similar position had there been evidence that the constable's force had been opposed to the granting of a licence. The case is important, however, in that it suggests that the courts, when given the opportunity, may require justification of even clear rules prohibiting secondary employment by police officers. In this respect, the case might be interpreted as evincing a desire to treat police officers as much as possible similarly to the way other employees are treated in this matter. What this means is that, although the legitimate requirements for the effective performance of the police job may vary from those of other jobs, there will nevertheless be an expectation that restrictions on off-duty employment and business activities by police officers must be justified in terms of those requirements. This is consistent with the necessity that they be justified under the common law (*Millhaven*) principles which apply to other employees. Such restrictions cannot simply be imposed by executive fiat.

Too much should not be read into Mr. Justice Coleman's decision in *Partridge*, however, especially in light of the unanimous decision of the Alberta Court of Appeal upholding the Calgary Police Commission's general secondary employment policy in *Calgary Police Association*. Mc Clung J.A., delivering the judgment of the court, held that the rules promulgated by the Commission

were clearly authorized by the Alberta *Police Act*, nor did their "imposition arise in breach of any rule of natural justice."⁸⁰ He further held that the rules were clearly supportable "to prevent conflicts with the recognized duties and responsibilities of police officers generally" and could not be considered unreasonable or in violation of *Charter* rights.⁸¹

It is worthy of note, however, that in its very short judgment, the court reached this conclusion without any detailed examination of the rules themselves. Thus, for instance, there was no discussion of the particular justifications which might legitimately be invoked for prohibiting each of the particular forms of employment and business activities prohibited by the rules. This might be thought to be a weakness in the persuasiveness of the decision, which could perhaps be exploited in future litigation.

(5) DOMESTIC AND SOCIAL ACTIVITIES

As we have noted, the disciplinary offence of discreditable or disgraceful conduct is so broadly defined that it can be applied to an almost infinite range of private or public off-duty conduct. Indeed, in our research and interviews we encountered an amazing variety of cases of discreditable conduct, ranging from a female police officer who posed nude for a magazine (not a Canadian case), to a male officer who cohabited with a 16-year-old girl in a small town, a male officer who engaged in homosexual practices in a public washroom, officers who painted an obscene message on a neighbour's fence, and several cases in which officers were disciplined for associating with known criminals or other undesirables (e.g. prostitutes). Many officers have been disciplined for using obscene or insulting language in public places, and for being intoxicated and disorderly in public. There have been, more recently, cases in which officers were disciplined for sexual harassment and expressions of racial hatred while off duty.

While in the past certain sexual orientations and practices (such as homosexuality) would undoubtedly have been regarded by police forces as amounting to discreditable or disgraceful conduct, even if engaged in off duty and in private, modern human rights legislation would preclude such disciplinary charges in most jurisdictions. This does not, of course, mean that such practices are now fully tolerated, let alone supported, by police organizations. A senior female police officer in England is currently the subject of disciplinary proceedings for allegedly swimming in her underwear in a businessman's swimming pool while on duty. She is, however, simultaneously pursuing a complaint that her force has persistently discriminated against her in employment decisions on the basis of sex.⁸²

Along with the broadly defined offence of discreditable conduct -- which at least requires the police force to show some adverse relationship between the off-duty conduct and the legitimate interests of the police force, and in this respect parallels the standards of conduct applied to other employees -- some police discipline codes contain other equally broadly defined offences which do not require proof of such a rational connection between the conduct of the officer and the interests of the police force. Under the Winnipeg Police Department's regulations, for instance, it is an offence for any officer when in uniform and in public view, whether on or off duty, to use tobacco or chew gum.

With respect to racism and sexism, many police departments, mindful of the need for harmonious community relations, have promulgated explicit policies prohibiting such conduct by officers both on and off duty. The Metropolitan Toronto Police Force's *Standing Order No. 24* is regarded as something of a model in this regard. In addition to enjoining members of the force against "any expression or display of prejudice, bigotry, discrimination, and sexual or racial harassment", the Order contains the following paragraph:

Members of the Force are conspicuous representatives of government and are symbols of stability and authority upon whom the public can rely. As such, members of this Force must recognize that individual dignity is vital to a free system of law and that while all persons are subject to the law, they are equally entitled to dignified treatment by all persons involved in law enforcement. Therefore, members of the Force must, at all times, whether on duty or off duty, refrain from conduct or remarks which may be interpreted in a way that is detrimental to themselves, the Force, the Metropolitan Corporation, or any other person or agency involved in the administration of justice.

[Emphasis added.]

The Order specifies that "disciplinary action will be taken against members who contravene this Declaration of Concern and Intent".

Another area of regulation which can significantly affect the private lives of officers is regulation of where they may live. Many police forces specify that their officers must live either within the municipality where they are employed, or within a specified distance from it. Legal challenges to such regulations by police officers have proved unsuccessful,⁸³ and the Court of Queen's Bench in New Brunswick held in 1987 that such regulations do not violate officers' mobility rights under Section 6 of the *Charter*.⁸⁴

Officers in charge of internal affairs units have consistently told us that the offence of associating with known criminals is a particularly difficult one to sustain, since innocent explanations are hard to rebut. A not untypical case recounted to us involved an officer who was a fitness enthusiast, and frequented a local gym during his off-duty hours. The force knew, and he knew, that the gym was operated and frequented by known criminals, and the force advised him that he should not continue his patronage of it. He, however, insisted that his only interest in being there was to do his physical training, and that alternative comparable facilities were not available to him elsewhere. The force apparently did not feel that a disciplinary charge would be sustainable under these circumstances.

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Another explanation which is often difficult to refute is that an officer is associating with criminals in order to obtain information or cultivate an informant. Since this involves a claim that the officer is engaged in police work, however, it can be overcome with respect to further associations through the expedient of an order to the officer not to pursue such lines of inquiry. Such superior orders have been judicially recognized as lawful⁸⁵. If the officer then continues the association, a charge of insubordination can be laid.

(6) IMPROPER DISCLOSURE OF POLICE INFORMATION

In all Canadian jurisdictions, the improper disclosure of police information is a disciplinary offence. While addressed in codes of discipline under categories such as improper disclosure of information, breach of confidence or confidentiality, prohibition of such behaviour is also specified in standing orders concerning the release of news and information and in departmental media relations policies.

One of the most comprehensive statements concerning improper disclosure of police information is found in Alberta's *Municipal Police Disciplinary Regulations*, which define "breach of confidence" as follows:

- (i) divulges any matter which it is his duty to keep secret, or
- (ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons, or
- (iii) without proper authorization from a superior officer or in contravention of any rules of the police force of which he is a member communicates to the news media or to any unauthorized person any matter connected with the police force, or
- (iv) without proper authorization from a superior officer shows to any person not a member of the police force or any unauthorized member of the force any book or written or printed paper, document or report that is the property of or in the custody of the police force, or

...⁸⁶

While certainly not as comprehensive as the one outlined above, most provisions prohibit the oral or written disclosure of confidential information to the public, press, radio, television or to an unauthorized person.

A few explicitly prohibit the inspection of or access to any confidential information by unauthorized persons. In one case we came across during our study, a young officer was charged and convicted of "disgraceful conduct" for taking a girlfriend into the police station while he was

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off duty, opening a locked safe containing confidential information (including information about informants) in her presence, and showing her around the exhibits room and armoury. In his decision, the trial officer said that he could "appreciate the fact that a young police officer may want to impress a young lady by playing his role as a policeman", but that such conduct could not be excused.

Generally, the disclosure of any police-related information is held to be 'improper' when such disclosure may be detrimental to effective operations of the police department or is without proper authority. Obviously, those forces which have clear and explicit policies in this area (e.g. a media policy) will find it easier to establish whether a particular disclosure was or was not authorized.

One of the most serious forms of improper disclosure of police information involves tipping off a friend or relative that he or she is under police investigation. One case involved an officer who informed his brother-in-law that a stake-out on his home was being conducted by detectives and instructed him to dispose of any drugs that might be on the premises. In another case which came to our attention, a female police officer was alleged to have disclosed at a social gathering the fact that allegations had been made to the police about a resident of a small town to the effect that he had been sexually abusing his children. The man's ex-wife complained to the police force, and at the time of our interviews this case was still under investigation.

Other cases suggest that, in certain limited circumstances, unauthorized disclosure of even potentially damaging police-related information will not constitute a disciplinary offence. In one case, charges of discreditable conduct were laid against an officer who attended a special meeting of the municipal council for the municipality in which he worked, and discussed police matters. The officer was convicted and appealed this decision to the provincial police commission. The commission held that he was not guilty of discreditable conduct, and commented:

How can this be considered discreditable conduct considering that the Council is the governing authority of the police force and he was notified by them to attend?

In another case, a constable who, acting on behalf of his police association, and without consulting his board of police commissioners, sent confidential documents that were prejudicial to the force and its chief directly to the provincial police commission, was convicted of discreditable conduct. On appeal, the Ontario Police Commission ruled that the constable's

...conduct is not discreditable for policy reasons that Police Associations should be at liberty to approach the Commission for advice and assistance without fear of prosecution.

The emergence of practices of community-based policing may well require some redefinition of the practical boundaries of the offence of improper disclosure of police information. If officers are to become more integrated with the communities where they work, and communities are to become more involved in policing policy and decision-making, a distinction between on-duty and off-duty community consultation may become harder to sustain. Police officers may be encouraged

to discuss policing matters with community members whenever the opportunity arises, and regardless of whether they happen to be on or off duty at the time. While unauthorized disclosure of such information will, of course, still be an offence, the scope of authorization seems likely to change in favour of greater openness. Definitions of what constitutes improper or prejudicial disclosure may well have to change too.

Within the rest of the public service, and in the private sector, there are no common standards in this area, since the restrictiveness of information policies varies enormously in both sectors, depending on the nature of the enterprise concerned. One important difference is that the public sector, including the police, is now regulated in most jurisdictions by so-called "freedom of information" legislation, which also contains provisions restricting the release of information which could jeopardize individual privacy. As far as we have been able to tell, however, this legislation does not differentially affect off-duty, as opposed to on-duty, conduct of public servants.

(7) PUBLIC CRITICISM OF THE POLICE, CRIMINAL JUSTICE SYSTEM, ETC.

Closely related to the issue of improper disclosure is that of public criticism by an officer of the police force, or of other aspects of, or functionaries within, the criminal justice system. Most police discipline codes include provisions which either explicitly or implicitly make such public criticisms a disciplinary offence. For example, Alberta's *Municipal Police Disciplinary Regulations* include the following in the definition of the offence of "breach of confidence":

signs or circulates a petition or statement in respect to a matter concerning the police force, except through the proper official channel or correspondence or established grievance procedures.⁸⁷

Cases in which attempts have been made to discipline police officers for publicly criticizing their departments when off duty have been rare, and rarely successful. In one case, which achieved considerable public notoriety, a police officer was charged with discreditable conduct when, despite warnings from his supervisor not to do so, he appeared in public in a rock band wearing his police uniform. When he complained to the press about what he perceived to be the unfairness of the disciplinary process, this was treated by the force as a further offence of discreditable conduct. Although he was initially convicted, he appealed the decision, and the case was eventually settled, the officer receiving a substantial cash payment in return for resigning.

In another case, an officer wrote to a newspaper; the letter was published and contained strong criticism of a member of a commission of inquiry which was investigating an incident involving the officer's police force. His rank and his association with the force appeared at the bottom of the letter. He apparently received an informal verbal reprimand for this, and wrote a second letter to the newspaper explaining that his first letter had been written in his personal capacity, rather than as a member of the police force.

Critics of such provisions may argue that they represent a violation of fundamental freedom

of thought, belief, opinion and expression, including freedom of the press and other media guaranteed by Section 2(b) of the *Charter* and thus raise the issue of whether such rights for police officers are limited by their positions as peace officers. Williams asserts that "...a policeman's rights are constrained by the employer-employee relationship in that he owes loyalty and trust to his employer the same as any employee, public or private."⁸⁸

In contrast to police forces, the public sector sets out definitive statements prohibiting public criticism. For example, the Code of Conduct of Employment and Immigration Canada impresses upon employees the reticence required of a public servant under existing jurisprudence and the reticence required of a public servant as compared to an ordinary citizen and proceeds to specify:

CEIC/D employees must not indulge, through any public medium, in any criticism or adverse comment with respect to any Minister, deputy head, or governmental or Commission/Department policy, programs, services, on matters remote from collective bargaining (i.e. terms and conditions of employment) and those closely associated with political controversy. It must be emphasized that public criticism or denunciation by employees of their leaders or superiors is incompatible with the employment relationship and will be regarded as misconduct.

As a result of the rather unexpected jury acquittal in the now-famous *Ponting case* in England in 1984,⁸⁹ it began to be thought that there may be some circumstances in which whistle-blowers will be protected from disciplinary action. There is, however, little judicial support for such an exception,⁹⁰ especially in Canada where courts have been particularly unreceptive to the pleas of civil servants who have publicly criticized their departments or gone public about alleged irregularities.

In *Fraserv. Public Service Staff Relations Board*,⁹¹ the Supreme Court of Canada upheld the dismissal of a federal public servant, holding that his persistent and highly visible attacks on one of the government's major policies demonstrated a lack of loyalty which was inconsistent with his duties as one of its employees. In *Re Ministry of Attorney-General, Corrections Branch and British Columbia Government Employees' Union*,⁹² an arbitrator upheld the dismissal of two senior correctional officers who had strongly criticized the operations of the Corrections Branch of the British Columbia Attorney-General's Ministry on a radio show.

(8) ABUSE OF AUTHORITY

Under the categories of abuse of authority, unlawful or unnecessary exercise of authority or less commonly that of corrupt practice, most codes of discipline specify that abuse of an officer's authority as provided by statute constitutes a disciplinary default. Regulatory provisions vary, however, in the way they define abuse of authority. Alberta's *Municipal Police Disciplinary Regulations*, for instance, contain the offence of

- (g) UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY, that is to say, if he is unnecessarily discourteous or uncivil to a member of the

public.⁹³

By contrast, Manitoba's *Law Enforcement Review Act* provides for the following disciplinary default:

- (a) Abuse of authority, including
 - (i) making an arrest without reasonable or probable grounds,
 - (ii) using unnecessary violence or excessive force,
 - (iii) using oppressive or abusive conduct or language,
 - (iv) being discourteous or uncivil,
 - (v) seeking improper pecuniary or personal advantage,
 - (vi) without authorization, serving or executing documents in a civil process, and
 - (vii) discriminating on the basis of race, nationality, religion, colour, sex, marital status, physical or mental handicap age, source of income, family status, political belief, or ethnic or national origin.⁹⁴

Other regulatory definitions of abuse of authority which we have seen include such matters as the use (without reasonable justification) of a baton, billet, handcuffs or other restraining device, and influencing an individual in custody to make a guilty plea.

The wording of such provisions, while not directed to off-duty conduct *per se*, is often applied to it, as is illustrated by an incident reported in the annual report of a complaints review body:

Mr. X alleged that Inspector A "misused his position as an officer of the Law". The incident occurred when Mrs. A, the mother-in-law of Mr. X, decided to recover a vehicle which she had sold to him. Mrs. A and Inspector A [her husband], who was off duty, went to Mr. X's residence where Mr. X, after discussion, turned over the keys of the truck to Mrs. A who drove it away. Mr. X failed to state in his testimony in what manner Inspector A abused his position as police officer in his dealings with Mr. X. The Board agreed with the Chief of Police who found the presence of Inspector A in this situation to be inappropriate and made him aware of his role as a peace officer in disputes of this nature. The Board dismissed the appeal after hearing the evidence of Mr. X.

Most recorded abuse of authority cases have involved abuse of authority for personal advantage as in the case cited above. Another case cited to us involved an off-duty police officer

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who attempted to cash a post-dated cheque at a bank after identifying himself as a police officer, and replied with obscene language when the teller refused to cash the cheque. He was dismissed from the force.

In a 1988 incident, two off-duty officers who arrested a taxi driver for impaired driving without sufficient cause were charged with unlawful exercise of authority. The officers appealed their convictions and penalties of two and three days leave respectively. In its decision to confirm the penalties, the provincial police commission raised the issues of the credibility of the officers and the sufficiency of the penalties in securing both general and specific deterrence. In another case, an off-duty officer who was accompanied by another officer and a civilian, all of whom, representing themselves to be police officers, questioned and searched two groups of citizens, was charged with a major offence of discreditable conduct. In disallowing an appeal and confirming the penalty of dismissal, the provincial police commission emphasized a higher standard of conduct for police officers:

Our whole police system is based on public trust in police officers' meeting a standard of conduct beyond that demanded of citizens generally. Police have special powers, and, in consequence, the highest standards of conduct are imposed. The present instance where, in the company of two experienced police constables, a civilian is allowed to break the law by identifying himself as a police officer is one which cannot be condoned; it is one that destroys that very relationship of public trust that police constables must have.

(9) UNAUTHORIZED/IMPROPER USE OF POLICE EQUIPMENT/PROPERTY)

All police forces have rules about the use of departmental equipment, although these rules vary somewhat from force to force. Most forces, for instance, allow their officers to take their service revolvers home with them, on the theory that in the event of an emergency call-out, they will arrive properly equipped. Use of such equipment for personal, as opposed to official, purposes, however, is regarded as a disciplinary offence by most forces.

Such prohibitions include the wearing of the police uniform on inappropriate occasions, as is illustrated by the case cited above in which the officer wore his police uniform while performing in a rock band.

Many police regulations also insist that when worn in public, the police uniform must be worn in its entirety or not at all. Thus, for instance, the Winnipeg Police Force's regulations include the offence of "appearing in public dressed partly in identifiable uniform and partly in civilian attire".

Other public and private sector employers undoubtedly impose rules concerning the wearing of uniforms while off duty (especially rules requiring tidy appearance, etc.) in order to protect the image of the employer's organization. The particular public responsibilities of the police, however, in addition to the need to ensure unequivocal public recognition of police officers, provide grounds

for more stringent regulations concerning the wearing of a police uniform.

Off-duty misuse of the police identification badge, of course, tends to be characterized as a form of abuse of authority, as discussed above.

CONCLUSIONS

While we have been able to cover only a fraction of the great amount of pertinent material to which we were given access during the research for this paper, we have attempted to illustrate not only the broad range of off-duty conduct which police forces in Canada have sought to regulate, control and discipline their members for, but also the range of regulatory strategies and responses which police forces have adopted in this regard. We have also sought to compare these with the situations pertaining to other public and private sector employees.

Our review reveals a number of significant trends, most notable of which is the trend towards replacing vaguely defined prohibitions with quite detailed policies. Calgary's policy on outside employment and business activities provides the most vivid example of this trend, which reflects not only a move towards greater specificity in regulation, but a move in favour of clear rules rather than vague prohibitions whose interpretation and application depends on the discretion or judgment of chiefs of police and disciplinary tribunals. While this is undoubtedly a beneficial trend from the point of view of police officers who have to try to live in conformity with the rules, it may well carry some costs in terms of reduced flexibility for police managers. In the era of the *Charter*, however, it is probably not a trend which could have been long forestalled.

Another less clear trend has involved elimination, or at least relaxation, of prohibitory regulation which was once thought appropriate. This is particularly noticeable in the areas of secondary employment (which used to be prohibited entirely by many police forces), political activity, cohabitation arrangements and private sexual conduct. In other areas, however, regulation of off-duty conduct appears to be expanding; explicit restrictions on racial and sexual harassment provide clear examples. As new approaches to policing (such as so-called community-based policing) begin to take hold, it seems likely that other areas of regulation may have to be reconsidered.

The heavy reliance of police forces on the concept of "discreditable conduct" as the basis for regulating off-duty conduct, and the broad interpretations and applications of this term, raise some other difficult questions. On the face of it, the concept of "discreditable conduct" appears to mirror the common law rules respecting the regulation of off-duty conduct which apply to most other employees in the public and private sectors. For the concept seems to require that conduct will be subject to regulation only if a rational connection between it and the legitimate interests of the employing police force can be demonstrated. There can be no doubt from the cases, however, that the breadth with which "discredit" has been interpreted in the police context has allowed for interventions in officer's off-duty lives which are considerably greater than those normally authorized in the case of other employees. As we have noted, the courts (including the Supreme Court of Canada) have upheld the right of police forces to impose higher standards of off-duty

conduct on the part of their officers than those imposed on other citizens.

Even when this is acknowledged, it does not answer the question of what the limits might be in this regard. To put it another way, the breath of the concept of "discreditable conduct" raises serious questions about the extent to which engagement in the police occupation allows officers to have a private life over which the police force does not have supervisory jurisdiction. This is compounded by the prevalence of regulatory prohibitions which do not require proof of a rational connection between the conduct and the legitimate interests of the police force.

This issue has been raised most recently by the Metropolitan Toronto Police Association in connection with proceedings under the Metropolitan Toronto Police Force Complaints Act, 1984,⁹⁵ and now the *Ontario Police Services Act*, which provides that:

75. Complaints by members of the public about the conduct of police officers shall be dealt with in accordance with this Part.⁹⁶

Since the term "conduct" is not defined or limited anywhere in the Act, section 75 would appear to contemplate that the Public Complaints Commissioner can entertain any complaint concerning any conduct of a police officer, whether the officer was on or off duty at the time. Indeed, the Ontario Divisional Court has recently confirmed that off-duty conduct could be the basis for a complaint under the *Police Services Act*, even though at the time the conduct occurred the complainant did not know that the person involved was a police officer.⁹⁷

This is merely a particularly clear example of the way current regulations seem to authorize almost unlimited supervision of, and intervention into, the private lives of officers. What is not clear from our review is what the limits of such supervision and intervention might be. On the face of it, one would think that the *Charter* might play an important role in setting such limits, and in defining for police officers a realm of truly private life for which they are not accountable to their police forces. The few *Charter* challenges which have been taken, and which we have noted, however, do not seem to offer police officers much comfort in this regard, since police force regulations have been consistently upheld as not violating *Charter* rights.

On the basis of our review, we would not expect this virtual immunity from legal challenge to continue for long. In the first place, there have been few such challenges so far. As more challenges emerge, as they undoubtedly will, the likelihood that some of them will be successful will increase. Secondly, as pointed out earlier, the cases which have been decided under the *Charter* so far are not noteworthy for the careful and detailed scrutiny of the regulations they display. More sophisticated arguments in future cases, requiring more exacting scrutiny by the courts for their disposition, may produce different results.

Quite apart from legal challenges, regulations regarding off-duty conduct of police officers raise more general social questions about how we regard our police, and what kind of people we expect them to be. How, for instance, can we expect them to be more in tune with the communities they serve and more empathetic towards those they police -- both ostensible and laudable goals of

community-based policing - if we deny to them the most basic rights to private lives and freedom of expression which other citizens enjoy'? In this regard, the words of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedure within the Royal Canadian Mounted Police seem just as appropriate today as they were when it wrote them 15 years ago:

The discipline system with the greatest likelihood of success is one which, through its provisions and procedures, earns the respect of those for whom it is administered. Essential to such a system are provisions which demonstrably recognize and protect the rights of members.⁹⁸

In order to achieve such a system, the first priority would seem to be the development of a rational principled basis for it. A key to this would seem to be the adoption of a fundamental principle which underlies legally authorized intervention with respect to off-duty employee conduct in the private sector namely, that such intervention can only ever be justified if the employer can demonstrate a rational connection between the off-duty conduct and the legitimate interests of the employer. As has frequently been noted in this paper, this basic principle is not consistently recognized in current rules governing police force interventions with respect to off-duty police officer conduct.

TOWARD A MORE RATIONAL BASIS FOR THE REGULATION AND CONTROL OF OFF-DUTY POLICE OFFICER CONDUCT

If it is accepted that there are characteristics and requirements of police work which distinguish it from other work, and these distinctive aspects are taken into account, there is no reason why the accepted common law principles respecting employer regulation and control of off-duty conduct should not be regarded as equally appropriate and adequate to the context of the police occupation. Such an approach (which is the normal one in other areas of employment) would require that the *bona fide* occupational requirements of police work and the police force's legitimate reputational interests be identified. It would also require that disciplinary action with respect to off-duty police officer conduct would, in each case, have to be justified through the demonstration of a rational connection between the impugned conduct and these legitimate requirements and interests.

Since most of the existing regulatory provisions respecting off-duty police conduct are rarely or never invoked, it may be that such an approach would not produce significantly different results in practice. It would probably serve to enhance the legitimacy of such discipline in the eyes of police officers, however, and may serve to forestall legal challenges which can be anticipated under the existing regime, some of which could be expected to be successful.

Bona fide occupational requirements and reputational interests respecting police work

In view of the current debates over the proper role of the public police, it is of course particularly difficult to identify a set of *bona fide* occupational requirements and reputational interests respecting public police work which would be universally accepted. The following are offered, therefore, merely as an illustration of how the regulation and control of off-duty police officer conduct might be made more consistent and principled, recognizing that the occupational requirements suggested may not necessarily be the most appropriate or acceptable ones. Even assuming that they are the right ones, however, the relative weight attached to them could be expected to vary according to the particular type of police work involved in any given case:

- (1) An understanding of, and respect for, prevailing notions of peace and good order - necessary for the peace-keeping functions of police work;
- (2) A respect for, and obedience to, the laws of the land - necessary for law enforcement functions;
- (3) A demonstrated commitment to impartiality and against unacceptable prejudice and discrimination
 - necessary for all police work involving contact with or consequences for members of the public;
- (4) Demonstrated honesty, trustworthiness, and conduct and deportment worthy of general social respect
 - necessary to ensure public confidence in, and hence accessibility to, police as service providers, especially in situations of conflict and crisis,
 - also necessary to ensure credibility of police as witnesses in court;
- (5) A specified minimum level of physical and mental fitness
 - necessary for (and to be determined by) actual physical and mental demands of police work;
- (6) Availability for, and fitness for, duty at all times
 - necessitated by the nature of peace officer status which is an incident

of employment as a police officer.

It could be suggested that beyond the limits of these *bona fide* occupational requirements and reputational interests, police officers are entitled to a private off-duty life in which they are free from interference or surveillance by their employing police forces. Furthermore, as under common law applicable in the private sector, the onus should always remain on the police force to justify intervention on the basis of these criteria. A *prima facie* presumption in favour of an officer's privacy and non-intervention should always be recognized.

Accommodating changes in the police role

The current preference for community-based policing raises questions as to whether the traditional *bona fide* occupational requirements for police work will still be appropriate or accorded the same relative weight and application in the future. For instance, our current notions of what the impartiality requirement consists of, and possible implications of this requirement for off-duty political activities of police officers, may well need review. The point illustrates the need for occupational requirements which form the basis for discipline to be kept in constant review to ensure that they appropriately reflect current conceptions of the police officer's (and police force's) role in society.

The nature of police force responses to off-duty police officer misconduct

Informal and formal discipline have been the most common police force responses to off-duty police officer misconduct. Changes in the nature of such responses, however, have resulted from two important trends in the late 20th century.

First has been a trend, within employment discipline generally, towards emphasis on the remedial rather than the punitive purposes of discipline. This has implications primarily for the allowable responses once misconduct has been established, rather than for the definition of misconduct itself.

The second important trend has occurred through the promulgation of human rights and anti-discrimination laws which have redefined certain conduct (especially that which is related to alcoholism, drug dependency, sexual orientation, and perhaps even occupational stress) either as the product of disabilities or, in the case of sexual orientation, as legally protected conduct, rather than as misconduct which can appropriately be the subject of (punitive) discipline. These laws now require that such conduct must be responded to using approaches which emphasize accommodation and, in the case of disabilities and were possible without undue hardship to the employer, remediation, rather than those of traditional punitive discipline.

Those two trends dovetail effectively to require an approach towards police force intervention with respect to off-duty conduct of police officers which will have (and in some cases quite different outcomes) from the more traditional punitive, disciplinary approach.

Implications of these suggestions

- (1) Many existing outdated (and rarely invoked) disciplinary offences relating to off-duty conduct, and all those which do not require a rational connection between the impugned conduct and the *bona fide* requirements of the police job to be demonstrated, could be removed from police disciplinary codes.
- (2) Disciplinary decisions with respect to off-duty police conduct would be based on a set of agreed, articulated and rational principles which, over time, would be the subject of consistent and accepted interpretation and application. (Greater publicity of decisions would facilitate this.) The result would be a disciplinary regime which would have greater legitimacy in the eyes of police officers and the public, and would actually be fairer and easier to defend.
- (3) The regulation and control of off-duty police officer conduct would be based on the same fundamental principles as the regulation of off-duty employee conduct in the private and public sectors more generally (although of course those general principles might often produce different outcomes when applied to police work than they would when applied to other occupations).
- (4) Managerial flexibility to adapt existing criteria for discipline, and interpretations and applications of the police role would be enhanced.
- (5) Approaches to responding to off-duty conduct of police officers would be more readily adaptable to changing conceptions of fundamental human rights, equity and protections against unlawful discrimination.
- (6) The right of officers to a private, off-duty life free from interference and surveillance by their employing police forces would become more clearly defined and more effectively protected.

Whether, and to what extent, these suggestions are adopted depends in part on the attitudes of legislators and other rule makers. More importantly, though, their adoption depends on how police officers and managers see their roles in society. It would appear that this perception is still evolving.

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ENDNOTES

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2. D. Bayley, Forces of Order: Police Behaviour in Japan and the United States (Berkeley: University of California Press, 1976) at 71.
3. *Re United Automobile Workers, Local 1524 and General Spring Products Ltd* (1968), 19 L.A.C. 392 (Weatherill) at 395.
4. See, for example, D. Brown & D. Beatty, Canadian Labour Arbitration, 3d ed., (Aurora, Ont.: Canada Law Book Co., 1990) para 7:3000 if [hereinafter Brown & Beatty]; E. Palmer Collective Agreement Arbitration in Canada, 2d ed., (Toronto: Butterworths, 1983) at 381-401 [hereinafter Palmer].
5. C. Reith, The Blind Eye of History (1952; rpt Montclair, N.J.: Patterson Smith, 1975) at 157.
6. (1956), 114 C.C.C. 77 (S.C.C.) at 80-81.
7. C. Shearing, Post-Complaint Management: The Impact of Complaint Procedures on Police Discipline, Discussion Paper 4 prepared for RCMP External Review Committee (Ottawa: Minister of Supply and Services Canada, 1990).
8. Part I of the *Constitution Act*, 1982, being Schedule B of the *Canada Act* 1982 (U.K.), 1982, c. 11 [hereinafter the *Charter*].
9. *Re Carpenter and Vancouver Police Board et al.* (1983), 47 B.C.L.R. 161, 149 D.L.R. (3d) 405 (S.C.); aff'd (1985), 63 B.C.L.R. 310, 18 D.L.R. (4th) 585 (C.A.); leave to appeal refused *sub nom. Vancouver Police Board v. Carpenter*, [1985] 2 S.C.R. xiii (1 October 1985); *Carpenter v. Vancouver Police Board*, [1986] B.C.W.L.D. 437 (S. C.); rev'd (1986) 9 B.C.L.R. (2d) 99, 34 D.L.R. (4th) 50, [1987] 2 W.W.R. 97, 23 Admin. L.R. 166 (C.A.); leave to appeal refused *sub nom. Vancouver Police Board v. Carpenter*, [1987] 1 S.C.R. xv (14 May 1987), 44 D.L.R. (4th) vii; (1988) 33 B.C.L.R. (2d) 183 (S.C.) [hereinafter *Carpenter*].
10. *Re Iron Ore Co. of Canada and United Steelworkers of America, Local 5795* (1983), 11 L.A.C. (3d) 53 (Bruce).

11. *Re Millhaven Fibres Ltd, Millhaven Works, and Oil, Chemical and Atomic Energy Workers Int'l, Local 9-670* (1967), 1 (A) Union-Management Arbitration Cases 328 (Anderson) at 329 [hereinafter *Millhaven*].
12. Palmer, *supra*, note 4 at 385.
13. Brown & Beatty, *supra*, note 4 at para 7:3010.
14. *Royal Canadian Mounted Police Act*, R.S.C., 1985, c. R-10 [hereinafter old *RCMP Act*], as am. R.S.C., 1985, c. 8 (2d supp.) [hereinafter *RCMP Act*].
15. S.A. c. P-12.01 [hereinafter *Alberta Police Act*].
16. *Calgary Police Association et al. v. Calgary Police Commission and Chief of Police City of Calgary*, [1986] A.W.L.D. 809 (O. B.); aff'd (1988), 57 Alta L.R. (2d) 8, [1988] 2 W.W.R. 741 (C.A.) [hereinafter *Calgary Police Association*].
17. See, for example, *Carpenter*, *supra*, note 9.
18. S.N.S. 1974, c. 9, sub. 40(2), repealed by S.N.S. 1985, c. 33, s. 22.
19. P. Stenning, Legal Status of the Police, Study Paper prepared for the Law Reform Commission of Canada (Ottawa: Minister of Supply and Services Canada, 1982).
20. See, for example, *R. v. Johnson et al.*, [1966] 1 C.C.C. 226 (Ont. C.A.); *Adrian Messenger Services and Enterprises et al. v. The Jockey Club et al.*, [1972] 2 O.R. 369 (H.C.); *Police Services Act*, 1990, S.O. 1990, c. 10, sub. 42(2) [hereinafter *Ontario Police Services Act*].
21. K. Brophy, "Department Civil Liability for Officer's Off-Duty Acts" (Feb. 1982) 49:2 Police Chief 16 at 16-17 [hereinafter Brophy].
22. (1974), 54 D.L.R. (3d) 407 (Sask. Q.B.).
23. See *Short v. Henderson Ltd* (1946), 174 L.T. 417 (H.C.).
24. See, for example, *Alberta Police Act*, *supra*, note 15, s. 39.
25. See, for example, "Models for Management" (Dec. 1988) 55:12 Police Chief 71.
26. Brophy, *supra*, note 21.
27. R.S.N.S. 1989, c. 348, s. 21 [hereinafter *NS Police Act*].
28. *Ibid.* sub. 21 (1).

29. Albert J. Reiss Jr., Private Employment of Public Police, (Washington, D.C.: National Institute of Justice, 1988).
30. *Supra*, note 14, s. 25.
31. B.C. Reg. 330/75 [hereinafter *BC Regulation*].
32. R.S.B.C., c. 331.1 [hereinafter *BC Police Act*].
33. *Supra*, note 31, Appendix A, para. 1 (a).
34. See, for example, *Re Coates and Ontario Police Commission* (1979), 23 O.R. (2d) 568, 95 D.L.R. (2d) 560 (Div. Ct.).
35. R. Ericson, "Rules For Police Deviance" in C. Shearing (ed.) Organizational Police Deviance (Toronto: Butterworths, 1981) 83-110.
36. There would appear, though, to be an emerging legislative tendency to change this situation. Section 105 of the *Ontario Police Services Act*, *supra*, note 20, provides:

105. (1) This section applies to a police officer who resigns from the police force after a hearing is ordered under section 90 or 91.

(2) If the police officer resigns before a board of inquiry is constituted under section 93, the following rules apply:

1. No board of inquiry shall be constituted unless the police officer, within twelve months of the resignation, applies for employment with a police force or is employed by a police force.
2. In that case, the board acquires jurisdiction over the police officer despite the earlier resignation.

(3) If the police officer resigns after a board of inquiry is constituted, the following rules apply:

1. The board of inquiry loses jurisdiction over the police officer.
2. If the police officer, within twelve months of the resignation, applies for employment with a police force or is employed by a police force, the board's jurisdiction is revived.

Similarly recent amendments to the *Québec Police Act*, L.R.Q. 1977 c. P-13, create a new

system of dealing with ethical misconduct by police officers and provide:

53. Any police officer who resigns remains subject to the jurisdiction of the commissioner with respect to any act he committed while he was a police officer.

An Act respecting police organization and amending the Police Act and various legislation, L.Q. 1988, c. 75, as am. L.Q. 1990, c. 27, s. 53.

For a complete discussion of the provisions of the Ontario *Police Services Act* and the new Québec legislation, see, RCMP External Review Committee, Disciplinary Dismissal -- A Police Perspective, Discussion Paper 6, (Ottawa: Minister of Supply and Services Canada, 1991).

37. Correctional Services Canada, "Report on Termination of Employment for Off-Duty Criminal Acts", (unpublished, 1990).
38. *Supra*, note 15, subs. 37(2).
39. N.S. Reg. 101/88. See page 30.
40. See, for example, R.R.O. 1980, Reg. 791 (made under the Police Act, R.S.O. 1980, c. 381 [hereinafter the *Ontario Police Act*]), para. 27(e) [hereinafter *Regulation 791*].
41. RCMP External Review Committee, Medical Discharge -- A Police Perspective, Discussion Paper 3 (Ottawa: Minister of Supply and Services Canada, 1989).
42. RCMP External Review Committee, Employee Assistance Programs -- Philosophy, theory and practice, Discussion Paper 5 (Ottawa: Minister of Supply and Services Canada, 1990).
43. In order to protect the identity of this and other unreported cases, all identifying elements have been removed.
44. R.S.C., 1985, c. H-6.
45. *Central Alberta Dairy Pool v. Human Rights Commission (Alta)*, [1990] 2 S.C.R. 489, 113 N.R. 161, [1990] 6 W.W.R. 193.
46. See, M. Conrod, "Ont. WCAT allows youth worker to collect for stress" [*Ontario*] *Lawyers Weekly*, 23 November 1990, at 13.
47. *RCMP Act*, *supra*, note 14, sub. 45.35(1).
48. *An Act respecting police organization and amending the Police Act and various Legislation*,

supra, note 36.

49. See, for example, *BC Police Act*, *supra*, note 32, s. 49.
50. See, for example, *Alberta Police Act*, *supra*, note 15, sub. 43(1); *NS Police Act*, *supra*, note 27, sub. 23(1); *Ontario Police Services Act*, *supra*, note 20, s.75.
51. *Municipal Police Disciplinary Regulations*, Alta Reg. 179/74, as am. *Municipal Police Disciplinary Amendment Regulation*, Alta Reg. 79/78, para 17(a). See now *Police Service Regulation*, Alta Reg. 356/90, para. 5(2)(e).
52. (1983), 11 L.A.C. (3d) 53 (Bruce) [hereinafter *Iron Ore*].
53. *Supra*, note 39, para. 4(3)(c).
54. *Ibid.*, para. 5(1)(j).
55. *Trumbley and Pugh v. Metropolitan Toronto Police*, [1987] 2 S.C.R. 577, 45 D.L.R. (4th) 318.
56. *R. v. Wigglesworth*, [1987] 2 S.C.R. 541, 45 D.L.R. (4th) 235.
57. O.C. 467-87, s. 5 2nd para. [hereinafter *SQ code of ethics*]. There is no similar provision under the new *Code of ethics of Québec police officers*, O.C. 920-90 [hereinafter *Québec Code*].
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59. Stenning, *supra*, note 19.
60. *Supra*, note 40, s. 62.
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63. *Municipal Act*, R.S.O. 1980, c. 302.
64. *Supra*, note 20, s. 46.
65. *Supra*, note 57, s. 21. There is no similar provision under the *Québec Code*, *supra*, note 57.
66. "Policemen allowed to run for county board of education" *The [Toronto] Globe and Mail*, 23 October 1980.

67. W. Muir, Jr., "Police and Politics", (Summer/Fall 1983) 2:2 Criminal Justice Ethics 3.
68. *Supra*, note 61, see *OPSEU v. Ontario (Attorney General)*, [1987] 2 S.C.R. 2, 41 D.L.R. (4th) 1 and *OPSEU v. Ontario (Attorney General)*(1988), 65 O.R. (3d) 689 (H.C.J.).
69. [1988] 3 F. C. 219, 52 D.L.R. (4th) 241 (C.A.).
70. R.S.C., 1985, c. P-33.
71. *Supra*, note 57, s. 22. There is no similar provision under the *Québec Code*, *supra*, note 57.
72. *Supra*, note 40, s. 29. See *Ontario Police Services Act*, *supra*, note 20, s. 49.
73. *Supra*, note 27, sub. 21(3).
74. As in most provinces, the involvement of police officers in the provision of private contract security services (i.e. through private firms) is prohibited by legislation respecting such services. See, *Private Investigators and Private Guards Act*, R.S.N.S. c. 356, sub. 20(2); *NS Police Act*, *supra*, note 27, para 21 (2) (c).
75. *Supra*, note 16, at 743 (W.W.R.).
76. R.S.M. 1987, c. R20.
77. *Partridge v. Securities Commission (Manitoba)*(1986), 61 Man. R. (2d) 301 (Q.B.) at 308.
78. *Ibid.*, at 307.
79. *Ibid.*, at 307-8.
80. *Supra*, note 16, at 743 (W.W.R.).
81. *Ibid.*
82. "Delay sought in sex bias case" *The [London] Independent*, 20 December 1990, at 3.
83. See, for example, *Re Coates and Ontario Police Commission*, *supra*, note 34.
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91. [1985] 2 S.C.R. 455, 23 D.L.R. (4th) 122.
92. (1981), 3 L.A.C. (3d) 140 (Weiler).
93. *Supra*, note 51, para 17(g) now *Police Service Regulation*, *supra*, note 51 para. 5(2)(i).
94. R.S.M. 1987, c. L75, para. 29(a).
95. S.O. 1984, c. 63, repealed.
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This is Exhibit "28" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

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Royal Canadian Mounted Police
Gendarmerie royale du Canada

Canada

[Home](#) > [Values and Ethics Office](#) > Ethics and Integrity in the RCMP

Ethics and Integrity in the RCMP

The Royal Canadian Mounted Police (RCMP) is a national government organization in which all Canadians take pride. In order to keep this confidence, we have a responsibility to meet the high expectations of Canadians in both our personal and professional conduct. Our ethical behavior must be evident in everything we do.

This brochure helps set out the ethical issues surrounding the relationship between the RCMP and the private sector as well as identify legislation that must be considered when decisions are made. It covers the areas of conflict of interest, post-retirement guidelines, hospitality and acceptance of gifts, the sponsorship program and proprietary information.

The operations of the RCMP are carried out by dedicated employees in all job categories. All employees of the RCMP are responsible for ensuring we maintain a professional relationship with our business partners. While we rely on our alliances with private-sector businesses, the Canadian public expects us to ensure that public funds are spent efficiently and in the public's best interest.

RCMP ethical standards are based on six core values: **integrity, honesty, professionalism, compassion, respect and accountability**. These core values make up the basis of every decision we make and help us determine how we should conduct ourselves everyday. Closely following these values allows employees to make informed and ethical judgements in business dealings and the workplace. It is critical that we make sound decisions as we are accountable for them in the end.

Common sense and this guide provide a framework to help us make choices. Your own judgement and values will be at the core of your behaviour and for which you will be held accountable.

We also believe it is essential that the Canadian public and our business partners have a clear understanding of our obligations and standards. In setting out clear obligations, I believe we will maintain the trust that the Canadian public has placed in us.

Conflict of Interest

Consistent with our core values of integrity, honesty, professionalism, compassion, respect and accountability, employees are to avoid any actual, apparent or potential conflicts of interest. This applies to everyday work responsibilities and conduct. All employees must continue to uphold the organization's high standards and conduct themselves in ways that enhance the image of the RCMP. This image can be harmed by cases of outside individuals perceived to have benefitted inappropriately from their dealings



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with the RCMP.

Employees are to respect existing policy in relation to gifts, hospitality and benefits; declining those which are prohibited and reporting those which may be permitted. Employees are to avoid being under an obligation, or the perception of obligation, to a person or organization that might benefit from special consideration. They are to avoid preferential treatment of family, friends, and organizations in which they have an interest, in relation to official matters.

As per Section 37 of the *RCMP Act* and Part 1, Principles, of the conflict of interest and Post-Employment code for the Public Service it is essential to ensure that an employee's duties are completed without a conflict of interest, either real or perceived. All steps must be taken to ensure impartiality and fairness in relationships as well as to protect the image of the RCMP in such areas as gifts, hospitality and secondary employment.

The onus is on the employee to take whatever actions are necessary to avoid being placed in a position of conflict of interest.

Gifts

Gifts, hospitality or other benefits that could influence employees in their judgement and performance of official duties and responsibilities must be declined. Employees must not accept, directly or indirectly, any gifts, hospitality or other benefits that are offered by persons, groups or organizations having dealings with the government.

Accepting offers of incidental gifts, hospitality or other benefits arising out of activities associated with the routine performance of their official duties and responsibilities **is not prohibited** if such gifts, hospitality or other benefits:

- are within the bounds of propriety, a normal expression of courtesy or within the normal standards of hospitality;
- must not bring suspicion on the employee's objectivity and impartiality; and
- would not compromise the integrity of the RCMP or Government of Canada.

It may be exceptionally difficult to decline gifts, hospitality or other benefits offered by individuals or organizations from different cultures with particular approaches to gifts. In such cases, every effort should be made to decline the gifts without offending the persons involved. The inherent call for personal judgement is amplified here. If it is not possible to decline the gift, hospitality or other benefits, employees must immediately report the matter to a manager or supervisor. The manager or supervisor may require that a gift of this nature be retained by the RCMP or be disposed of for charitable purposes.

All gifts, awards and bequests, if they are money or converted into money, acquired in connection with the performance of a regular or civilian member's duties are to be deposited into the Consolidated Revenue Fund to the account of the *Benefit Trust Fund*. Public Service employees are required to turn over gifts to the RCMP via their supervisor.

While the RCMP recognizes customary business practices such as offering and accepting gifts or providing and receiving hospitality benefits, it is expected that all employees of the RCMP, regardless of status, respect the law and government policies. This is especially true in the operations of the RCMP where there is a greater onus on employees to exercise discretion.

It is important to note that this guide also applies when the RCMP is the organization acting as host. It is critical that all RCMP sponsored events and their respective budgets conform to Treasury Board policy and RCMP procedures and guidelines and be approved before any funds are dispersed.

Case Study 1: Accepting gifts

Bob, the NCO in charge of a drug squad, is asked to dine with a local pharmacist to discuss work issues and the pharmacist insists on paying for Bob's meal. Should Bob accept the meal?

Factors to consider:

- *What is the reason for the free meal?*
- *Is Bob in a position to influence any decision affecting the company or organization?*
- *How does it make Bob feel?*
- *How would Bob's peers, colleagues, and the general public react if they knew?*
- *Will Bob's integrity and his objectivity be compromised or perceived to be compromised by accepting the gift?*

Suggested Solution:

The Conflict of Interest and Post Employment Code states that acceptance of gifts, hospitality or other benefits that could influence, or be perceived to have influenced, employees in their judgement and performance of their official duties and responsibilities is not permitted.

Depending on the reason for the invitation, alternative avenues should be explored which would achieve the same results. For example: a one-on-one discussion can help promote better communications and understanding therefore a meeting at the office, parties paying for their own meal and declining the dinner may be the option. If you are in doubt or unclear as to the appropriate course of action, don't accept the gift or contact your immediate supervisor.

Secondary Employment – Outside Activities

Employees must seek approval from a supervisor prior to engaging in any outside activity (including secondary employment) which is likely to give rise to a real, potential or apparent conflict of interest. It is an employee's responsibility to report any outside activity that is directly or indirectly related to the

employee's duties.

Members should not accept remuneration from any government department, agency, or Crown corporation without permission as per section 55 of the *RCMP Regulations*.

All employees must arrange their personal affairs in a manner that ensures they are able to meet their obligations to the RCMP, including, where applicable, emergency duties.

Post-Employment Guidelines

Employees must not take improper advantage of their work experience and/or position after leaving the Force. Restrictions on post-employment may apply, especially in the time period immediately following departure from the Force. (For more information, see *Conflict of Interest and Post-Employment Code for the Public Service*)

Use of RCMP (Government of Canada) Equipment

The unauthorized personal use of RCMP equipment is prohibited. This applies to such items as computers and vehicles. Authorized personal use of vehicles is subject to current "personal use" in the *Income Tax Act* and Treasury Board Circular 1987-34: Executive Vehicles.

Use of the RCMP Name and Image

The RCMP image enjoys world-wide recognition as a primary symbol of Canada and as such it is often assumed that this image is in the public domain and can be used without restriction. This is not the case. Use of the RCMP image is in fact strictly regulated pursuant to provisions in the *Trade-marks Act*, *Copyright Act* and the *RCMP Act*.

The RCMP name and a series of RCMP images are also protected from unauthorized use by virtue of their designation as "Official mark" pursuant to paragraph 9(1)(n) of the *Trade-marks Act*. No person may use these "Official marks" without the consent of the RCMP. Contact Public Affairs and Information Directorate for more information.

RCMP Sponsorship Program

Since the genesis of the RCMP national sponsorship program in the early 1990s, the issue of ethics and conflict of interest have been at the very core of its strategic development and implementation. Beginning in 1995, the RCMP sponsorship guidelines and toolkit were developed to include sections on ethics, conflict of interest and rigorous and transparent financial accounting.

When pursuing a sponsorship agreement it is essential that all arrangements are developed on a firm foundation of ethics and a strong integrity-based approach. The policy centre for guidance on procedures and risk management assessment mechanism is Strategic Partnerships and Heritage Branch, Public Affairs and Information Directorate, at National Headquarters. Staff will be able to directly help individuals seeking advice and will guide them to toolkits developed to inform them on ways to proceed.

Protection of Information

RCMP employees will take all necessary steps to protect third party proprietary information, in compliance with the spirit and intent of the *Access to Information Act*.

There are some exemptions to the release of information. This includes, but is not limited to, security issues and proprietary information. By law, federal institutions are required to protect some proprietary information or information given in confidence by private sector suppliers of goods and services. For example trade secrets, financial, commercial, scientific and technical information confidentially supplied to a government institution can be exempted from disclosure. However, to qualify, this information must always have been treated with confidence by the third party. Information in which a disclosure could result in financial loss or prejudice the competitive position of the third party or interfere with contractual negotiations can be exempted. This is by no means an exhaustive list of exemptions but serves to act as a guide. Please refer to the *Access to Information Act* for more information

It is important to note that suppliers of goods and services to the RCMP have similar obligations. All contracts must comply with Treasury Board and RCMP policies, standards and guidelines such as establishing safeguards for the protection of classified information provided to the supplier for the purposes of their contracts.

Case Study 2:

Bob, an RCMP member, has a house-sitting business. He waters plants, cares for pets, picks up mail, and so forth. Bob's business has always been steady, but he has received even more requests since he gave his RCMP-issued pager number to potential clients.

Bob's calling card for his personal business is truly a conversation piece. In addition to describing the services he offers, his card boasts of his 15 years with the RCMP. The motto on Bob's card reads: "If you find you need to roam, have a Mountie watch your home." Bob's RCMP pager number, RCMP telephone number and RCMP e-mail address are also on his card.

Bob knows that some of his RCMP colleagues do not appreciate all of the time he dedicates to his house-sitting business while he is at his RCMP job. Bob figures they are jealous that he is so ambitious. Is Bob acting appropriately?

Suggested Solution:

Bob's actions are inconsistent with several principles found in the Conflict of Interest and Post-Employment Code for the Public Service . These principles, noted as below, apply to all employees of the RCMP.

- *Employees shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise between the private interests of an employee and the official duties and responsibilities of that employee, the conflict shall be resolved in favour of the public interest.*

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- *Employees shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities.*
- *Employees have an obligation to act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law.*

Related References

RCMP Act

RCMP Regulations, 1988

Conflict of Interest and Post-Employment Code for the Public Service (Section 27/28)

Guiding Principles of the RCMP

Criminal Code of Canada

R vs Hinchey

Related Websites:

- The Access to Information and Privacy Acts are available for viewing at the Department of Justice Canada website under laws of Canada: www.canada.justice.gc.ca
- Treasury Board of Canada: www.tbs-sct.gc.ca

Contact

- Values and Ethics Office
73 Leikin Drive,
Building M4-3 Suite 622
Mailstop 58
Ottawa, ON K1A 0R2

General Office: 613-843-6595 or 613-843-6625

Fax: 613-825-8234

TTY/TDD: 613-993-2232 (Collect calls accepted)

E-mail

Date Modified: 2006-11-20

This is Exhibit "29" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

A solid black rectangular box used to redact the signature of the Commissioner.

A Commissioner, etc.

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NEWS LOCAL

Police work at second jobs



By Shawn Jeffords, The Standard
Friday, May 6, 2011 7:41:24 EDT AM

What does a disc jockey, an Avon salesperson and a bricklayer have in common?

They all work for the Sarnia Police Service, which recently released its annual "secondary activities" disclosure report. The list of odd jobs features 30 police officers and civilians who are engaged in an eclectic mix of hobbies and moneymaking jobs.

The list is made public to provide transparency to the community, said Chief Phil Nelson.

"It's important when you're a police officer that there is no conflict of interest," he said.

Almost a two-thirds of the 30 jobs are held by civilians working for the service, some of whom work part-time. Eleven police officers do additional work.

They include a farmer, an aesthetician, lawn maintenance person, several personal trainers, a professional musician, an artist and writer, a fence and deck builder, and a stable owner.

Under the Ontario Police Act, secondary jobs must be declared by officers or civilian employees. They must then be vetted by police management and approved if they are to continue, Nelson said, adding it's not always an easy call.

"We have turned people down in the past ... If it's a job where you'll be working at it every day off, it may take away from your police duties."

Sarnia Mayor Mike Bradley, who also chairs the city police board, said the regulations help avoid messy conflicts.

"You see it all the time in the States, where they allow officers to work in bars and other establishments where there is a clear conflict of interest," he said. "This ensures that doesn't happen."

Bradley said staff declare activities even when they don't generate much income. Some work at jobs such as volunteer driver for the Inn of the Good Shepherd or trainer for a AAA Atom hockey team. Some of the jobs are registered simply because they dedicate a lot of time to the work, Bradley said.

"For a lot of them, this is just something else they like to do. It's often not even for the money."

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Bradley said the service receives few complaints about the secondary duties. But the city does get negative feedback about firefighters who take on extra work, and there is no requirement to report, Bradley said.


"It's always been more controversial," he said.

sjeffords@theobserver.ca

For breaking news go to theobserver.ca, or check us out on Facebook and Twitter.

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This is Exhibit "30" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.


A Commissioner, etc.

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Ontario Provincial Police
Municipal Policing

**Understanding
Ontario Provincial Police (OPP)
Municipal Policing Costs
2013 Cost-Recovery Formula Update**

Produced by the
OPP Municipal Policing Bureau
OPP Corporate Communications
OPP Business and Financial Services Bureau

November 15, 2013

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Executive Summary

Understanding Ontario Provincial Police (OPP) Municipal Policing Costs is a living document. It is refreshed as formula updates come into effect and as circumstances change.

Background:

The OPP is unique among Ontario police services in that it is legislated by the *Police Services Act* (PSA) to carry out municipal as well as provincial policing responsibilities. Currently, the OPP delivers policing services to 324 municipalities, on a cost-recovery basis.

In late 2011, the Association of Municipalities of Ontario (AMO) and the Ministry of Community Safety and Correctional Services (MCSCS), including the Ontario Provincial Police (OPP), established the AMO/MCSCS/OPP Costing Project Team. The team was created to further an August 2011 commitment by the MCSCS Minister to ensure open and transparent communications related to OPP municipal policing costs. The team was composed of:

- o AMO executive staff
- o Municipal representatives
- o Ontario Association of Police Services Board (OAPSB)
- o OPP representatives
- o MCSCS representatives

Objective:

Municipalities requested detailed information about OPP policing services and their costs in order to: fully understand the cost-recovery process, ensure accountability and identify any potential that might exist for cost efficiencies. The OPP met this request and remains committed to open and transparent communications about these issues.

Understanding OPP Municipal Policing Costs explains exactly how OPP municipal policing costs are calculated and recovered. It was originally released to municipalities on August 7, 2012 and serves as a foundation for on-going discussion and dialogue with municipal partners and stakeholders. In order to remain current, this document has now been revised, incorporating the updated 2013 Cost-Recovery Formula effective on January 1, 2014.

Format:

The report begins with an overview and then more detailed information is presented, topic by topic. Each section has been designed to be read independently or in sequence. Because the financial information is detailed and sometimes complicated, brief explanations, questions and answers as well as charts and graphics are provided along with the financial schedules. To ensure

clarity, explanations of terms that may be familiar to some, but not necessarily to all, have been included.

Conclusion (Summary of Findings):

1. The OPP is providing municipal policing services that meet legislated Adequacy and Effectiveness Standards.
2. The OPP cost-recovery process is mandated and geared to achieving fair cost recovery from municipalities.
3. The OPP continually monitors its budget and actively seeks cost efficiencies which are passed on to municipalities. Despite this, OPP and policing costs in general are continuing to climb. Nevertheless, taken overall, OPP costs continue to compare favourably with other Ontario police services.
4. Uniformed officers' salaries and benefits make up a large proportion of the OPP policing budget (averaging 85 per cent for salary and benefits to 15 per cent for direct operating expenses).
5. Under the OPP model of policing, municipalities may choose to establish or eliminate "enhanced" policing services within their communities. Cost efficiencies may be found through these decisions.
6. The OPP is committed to: open and transparent communications regarding the provision of municipal policing services; the cost recovery for those services; and working together with municipalities to maintain public safety now, and into the future.

Recommendations:

- Ensure effective distribution of the report to all Section 10 "contract" municipalities and Section 5.1 "non-contract" municipalities, AMO, OAPSB and other partners and stakeholders.
- Actively pursue opportunities for dialogue and discussion with partners and stakeholders at conferences, workshops and meetings, etc.
- Build on this communication package format and approach for future Formula updates.
- Evaluate distribution and accessing of the report to ensure relevance.
- Explore opportunities for the AMO/MCSCS/OPP Costing Project Team to continue in its work.

For more information:

OPP Municipal Policing Bureau
777 Memorial Ave, Orillia, ON L3V 7V3
705-329-6200

OPP Municipal Policing - General

Explanation:

- As defined in the *Police Services Act* (PSA), municipalities are required to provide and fund adequate and effective police services in accordance with their needs.
- Under Section 5 of the PSA, a municipality may utilize one of the following policing options:
 - establish a police force;
 - enter into an agreement with one or more other municipal councils to constitute a joint board;
 - enter into an agreement with one or more councils to amalgamate their police forces;
 - or contract services from either a contiguous police force or from the Ontario Provincial Police (OPP) under Section 10 of the PSA; or
 - default to Section 5.1 of the PSA (non-contract policing option).
- The OPP delivers cost-effective and professional policing services to the province, including **324** municipalities; **171** on a Section 5.1 PSA "non-contract" basis and **153** on a Section 10 PSA "contract" basis.
- The OPP operates out of **77** host detachments and **89** satellite offices, five regional headquarters, one divisional headquarters and a general headquarters.
- The OPP is not only responsible to provide police services to parts of Ontario that do not have municipal police services but, in addition, is responsible for traffic safety on provincial roadways, waterways and trails, policing over 969,000 square kilometres of land and over 94,000 square kilometres of water. It also maintains investigative services to assist municipal police services.
- The OPP works closely with the Ministry of Community Safety and Correctional Services and stakeholders in the policing community to improve efficiency and effectiveness and to help shape the future of policing in Ontario.

Questions and Answers:

Q: What additional support services does the OPP provide to municipalities?

A: The OPP provides many programs and services to municipalities including:

- Child Exploitation Investigations
- Tactics and Rescue Unit
- Aviation Services
- Drug Enforcement
- Emergency Response Team
- Major Case Management
- Technical Traffic Collision Investigation
- Snowmobile, ATV, Vessel Enforcement (SAVE)
- Underwater Search and Recovery
- e-Crime Investigations

Q: Why do some municipalities policed by the OPP with similar geographies and populations have different staffing complements and budgets?

A: Because municipalities are different in **other** important ways, for example:

Municipality A: with a population of 5,000; a retirement community with a lower number of calls for service; fewer violent incidents; likely fewer high schools and licensed establishments due to the mean age of the community.

Municipality B: with a population of 5,000; an industrial community with a high number of calls for service; larger number of schools; licensed establishments and a higher number of violent and property crime occurrences given the demographics of the community. Municipality B also has transient residents and an influx of people working in industry which increases response requirements for Calls for Service.

Conclusion: Municipality B will need more staffing and resources than Municipality A to address workload requirements. Another example would be a summer resort community where the population significantly increases on the weekends, requiring more capacity in the OPP response.

Police Adequacy and Effectiveness Standards Regulation under the *Police Services Act*

Explanation:

- The Police Adequacy and Effectiveness Standards Regulation (Adequacy Standards) helps ensure the effective delivery of policing services. It was filed as O.Reg. 3/99 on January 8, 1999.
- The regulation was part of the government's overall strategy to provide Police Services Boards and police services the structure and tools they needed to ensure adequacy and effectiveness. All police services were to be in compliance by January 1, 2001.
- Additionally, the regulation required all Police Services Boards to develop a plan, setting out the steps needed to be taken by the board and the police service in order to meet the requirements of the regulation.
- The Adequacy Standards regulation content is high level and outcome oriented. It provides flexibility in implementation, including service delivery i.e., contracting with another police service or organization, or providing crime prevention initiatives on a regional or cooperative basis.
- The primary focus of the Adequacy Standards regulation is on what police services do, and not how they should do it. Overall, it is designed to address areas of provincial interest, improve the overall management, and ensures that all Ontarians receive core police services.

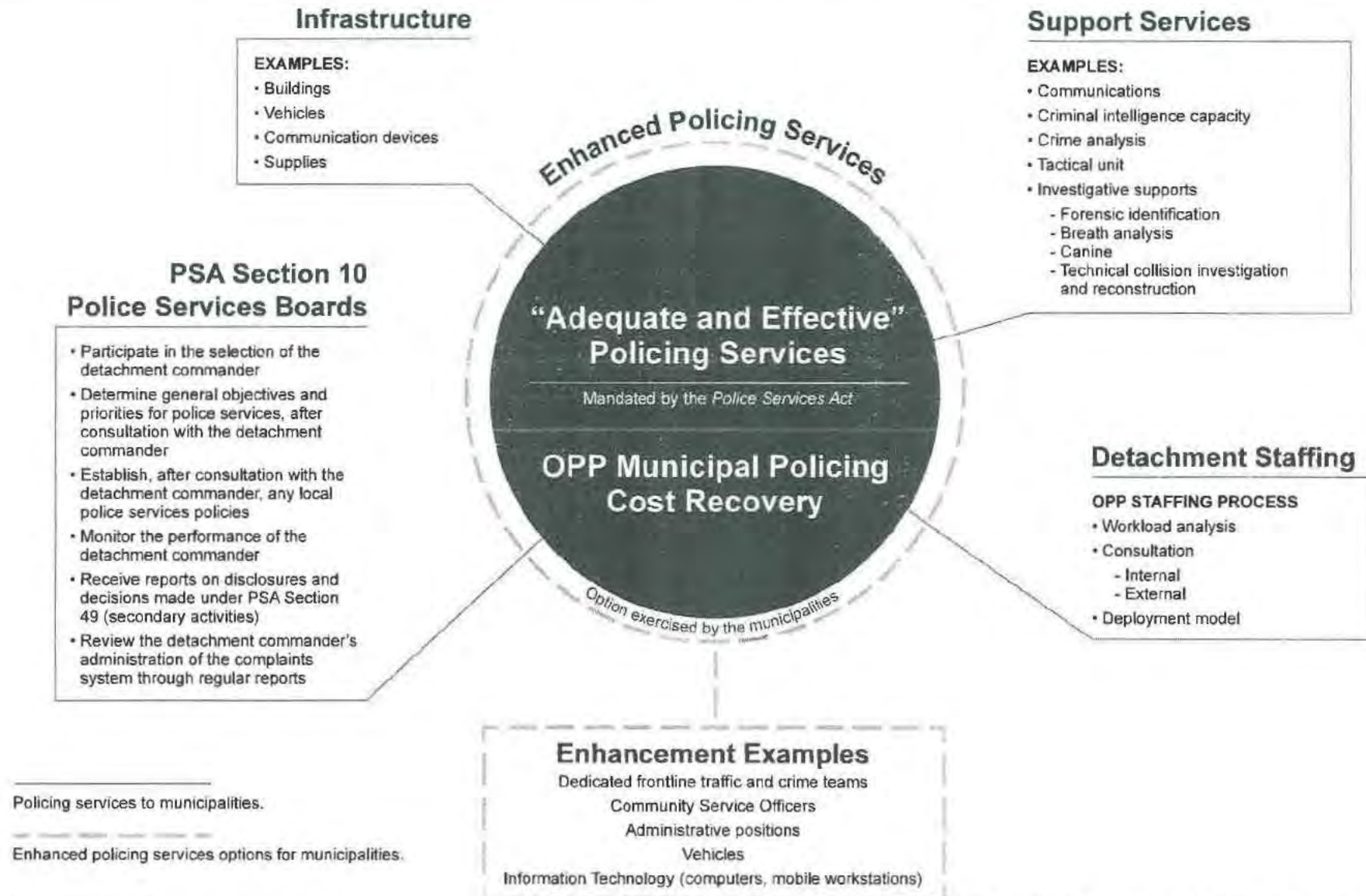
“Adequate and Effective Policing Services”

Explanation:

Section 4 PSA sets the responsibility for providing adequate and effective police services with the municipality. The PSA requires:

- Delivery of adequate and effective police services in accordance with local needs;
- Municipalities are to provide necessary administration and infrastructure to support adequate and effective police services;
- Five core police services are to be delivered:
 - Crime prevention;
 - Law enforcement;
 - Victim assistance;
 - Public order maintenance; and
 - Emergency response services.

OPP Municipal Policing Services: *Police Services Act* (PSA) Section 10



Policing services to municipalities.

Enhanced policing services options for municipalities.

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Administration and Infrastructure

- In providing adequate and effective police services, a municipality, through a Section 10 contract or by default a Section 5 relationship with the OPP is responsible for providing all the infrastructure and administration necessary for providing such services including: vehicles, boats, equipment, communication devices, buildings and supplies.
- One of the objectives in developing the Adequacy Standards was to highlight the importance of police business planning and local accountability.
- As such, the regulation requires that every Police Services Board have policies and procedures in place regarding a number of functions/services.
- The regulation stipulates that every police service must prepare a business plan at least every three years to address:
 - The objectives, core business and functions of the police service;
 - Quantitative and qualitative performance objectives and indicators relating to the provision of: community-based crime prevention initiatives, community patrol and criminal investigative services, community satisfaction with police services, emergency calls for service, violent crime, property crime, youth crime and clearance rates, victim assistance and road safety;
 - Information and technology;
 - Resource planning; and
 - Police facilities.
- Annually, the OPP detachment commander is required to prepare a report for the board relating to the activities of the police service during the previous fiscal year.
- The OPP's business plan program ensures compliance with Adequacy Standards. Detachments seek input from their local Police Services Boards and communities to ensure local priorities are captured in detachment commitments.
- If a municipality contracts services under Section 10 of the PSA, the OPP becomes the service provider and ultimately overall authority is delegated to the OPP Commissioner.
- The regulation also requires every Police Services Board to enter into a protocol with its municipal council, have a skills development and learning plan; develop procedures for the investigation of complaints; and implement a quality assurance process relating to the delivery of adequate and effective police services, as well as compliance with the PSA and its regulations.

Crime Prevention

- The regulation requires that every police service provide community-based crime prevention initiatives in accordance with local needs.
- The regulation also requires that every police service have procedures and processes on community-based crime prevention initiatives. Furthermore the regulation requires that every police service have procedures and processes on problem-oriented policing.

Law Enforcement

- The regulation requires that every police service have in place processes to address:
 - Twenty-four hour policing;
 - Community patrol;
 - Communications and dispatch;
 - Supervision;
 - Traffic management, enforcement and road safety;
 - Criminal investigators;
 - Criminal investigation management plan;
 - Procedures on criminal investigation;
 - Criminal Intelligence;
 - Crime, call and public order analysis;
 - Waterways policing for municipalities designated under subsection 19(1) clause (2) PSA;
 - Court security for municipalities designated under section 137 (1) PSA;
 - Other law enforcement related procedures; and
 - Investigative supports.

Victim Assistance

- The regulation requires that every police service have procedures on providing assistance to victims that:
 - Reflect the principles of the Victims' Bill of Rights, 1995; and
 - Set out the roles and responsibilities of members for providing victim assistance.

Public Order Maintenance

- Every police service is required to have access to the services of a public order unit within a reasonable response time.
- A public order unit must consist of a unit supervisor, and, at minimum, four squads of seven officers including the squad leader.

- In addition, every police service must have procedures addressing the circumstances in which a public order unit may be deployed.
- The regulation further requires that every police service have procedures on police action at labour disputes.

Emergency Response Services

- The regulation requires that every police service have access within a reasonable response time to the following emergency response services:
 - Tactical unit;
 - Hostage rescue team;
 - Major incident commander;
 - Crisis negotiator;
 - Police explosive forced entry technician; and
 - Explosive disposal technician.
- A minimum of 12 full-time tactical officers, including the tactical supervisor, have to be in a tactical unit or hostage rescue team.
- With regard to explosive disposal, a police service may also enter into an agreement with the Canadian Armed Forces or another organization to have these services delivered.

Summary

- Section 5 PSA outlines the options by which a municipality can meet its obligation to provide police services – one of these is by entering into an agreement under Section 10 to have police services provided by the OPP.
- If a municipality fails to provide police services, then the OPP is obligated under the PSA to provide services to the municipality to ensure the Adequacy Standards are met.
- The OPP provides an array of assurance services to all levels within the organization, corporately, regionally and at detachment level to ensure compliance with Adequacy Standards and OPP/Ministry policies, and to establish a culture of continuous improvement within the OPP.

This is Exhibit "31" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

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Responsibilities

Mission Statement

Mandate

Declaration of Principles

Core Functions of Policing Services

Responsibilities Under the *Police Services Act*

Mission Statement

The City of Orillia Police Services Board, in partnership with the Ontario Provincial Police (O.P.P.), is committed to providing an *effective and efficient* police service that improves the safety of the community and reduces crime in the City of Orillia.

The Board supports the O.P.P. to achieve this through education, community involvement, crime prevention, facilities and equipment.

- **Education** and programming in schools play a major role in reducing future incidences of crime. Educating adults both personally and professionally provide the necessary tools to protect them from criminal activity.
 - **Community Involvement** with various adult/youth volunteer groups and other emergency services help to foster positive relationships.
 - **Crime Prevention Programs** identify crime priorities and present solutions to prevent future incidences of crime.
 - **Facilities and Equipment** are essential resources for police to successfully perform their duties and maintain personal safety.
-

Mandate

The City of Orillia Police Services Board is established pursuant to the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended. The Board is responsible for ensuring that the level of policing in the City of Orillia continues to adequately and efficiently meet the requirements of its citizens and the principles identified under the *Police Services Act*.

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Declaration of Principles

The City of Orillia Police Services Board follows these principles:

1. The need to ensure the safety and security of all persons and property in Ontario.
2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
3. The need for co-operation between providers of police services and the communities they serve.
4. The importance of respect for victims of crime and understanding their needs.
5. The need for sensitivity to the pluralistic, multiracial, and multicultural character of Ontario society.
6. The need to ensure that police forces are representative of the communities they serve.

Core Functions of Policing Services

Section 4(2) of the *Police Services Act* outlines core functions that are the minimum required for adequate and effective police services in Ontario. The core functions include:

- Crime Prevention
- Law Enforcement
- Police Assistance to Victims of Crime
- Public Order Maintenance
- Emergency Response

In the case of the City of Orillia Police Services Board, the Ontario Provincial Police is responsible to ensure the delivery of these core functions.

Responsibilities Under the Police Services Act

Section 10(9) of the *Police Services Act* identifies the following responsibilities for the City of Orillia Police Services Board:

- Participate in the selection of the Detachment Commander.
- Determine objectives and priorities for police services, after consultation with the Detachment Commander.
- Establish, after consultation with the Detachment Commander, any local policies with respect to police services (but the Board shall not establish provincial policies for the Ontario Provincial Police with respect to police services).
- Monitor the performance of the Detachment Commander.
- Receive regular reports from the Detachment Commander on disclosures and decisions made under section 49 (secondary activities).

- Review the Detachment Commander's administration of the complaints system under Part V and receive regular reports from the Detachment Commander on his or her administration of the complaints system.

The City of Orillia Police Services Board's website includes links to web pages or sites operated by third parties that will take you away from our site to destinations over which we have no control. Our privacy statement does not apply to the sites of third parties and we do not assume any responsibility for the actions of third parties. We encourage you to review the policies of these sites yourself upon your arrival.

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A Commissioner, etc.

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Our investigators have broad experience and proven track records based on exemplary police careers. They are specifically recruited based on demonstrated investigative ability, consistent professionalism, and a history of personal and professional success. Some of the top homicide, sex crimes, fraud, and forgery investigators have been recruited from the Toronto Police Service, as well as those who have worked with the Royal Canadian Mounted Police (RCMP) and the Federal Bureau of Investigation (FBI) on executive training, organized crime and counter terrorism. The range of investigative services includes but is not limited to:

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- Civil Investigations
- Corporate Investigations
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- Domestic Investigations
- Case Review
- Cold Case Review

Surveillance

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Threat Assessments

- Risk/Threat Assessments and Planning Services
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During the Boston Bombing arrests, on Friday April 5th, 2013, ISN Co-CEO Ron Wretham spent 12 hours coordinating, as the events unfolded, with the CTV News Channel cameras.

Thank you very much Ron.

Very best to you and your family. Your advice has been very helpful for the company and for both of you and for the CTV News Channel during our broadcast on Friday. We have enjoyed it and you were in good

Our Team

Investigative Solutions Network Inc. (ISN) is a full-service private investigations and training organization. It is comprised of a variety of individuals who, working with our diverse client base, provide a complete range of services that will help you navigate through the most difficult and negatively affect your company, organization, business and individuals. Led by Dave Perry, a highly decorated police investigator, background investigator and security professional, ISN offers an experienced, investigative, training and background screening.



Dave Perry, Co-CEO

Dave Perry is an experienced public investigator who has established an international reputation as one of Canada's premier investigators. As a result of a distinguished 27 year career with the Toronto Police Service, there is a lot of respect for him by various media outlets to provide expert opinion on criminal and international cases.

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Ron Wretham, Co-CEO

Ron Wretham has over 10 years as a detective and enforcement professional with the Toronto Police Service. In over a wide range of investigative fields, recognized as a strong leader, Ron has earned the respect from superiors, peers, and subordinates, recognized by the Herald Tribune Police Officer of the Year Award.

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Michael Harvey, Vice President Operations

Michael brings with him a wealth of experience in Public Policing, Private Security and training, the



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Jeffery Egan, President, CTV News, Canada

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Kimberly Perry, Director Business Development



Kimberly is the Director of Business Development at ISN from a technology & sales background, with investigative management experience working with multinational companies and clients. She is highly focused with a comprehensive knowledge and understanding of marketing and sales. Kimberly is currently responsible for the planning, coordination and execution of investigations, security training and background screening.

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Roo Adams, Director Investigations



Roo Adams is a seasoned law enforcement professional holding 32 years with the Toronto Police Service and over 2 years in a managerial position in the private sector. Roo retired as a Senior Fraud Investigator from the Toronto Police Service Fraud Squad where he investigated Internal Corporate Fraud, Credit Card Issues, Mortgage Fraud, Internal Bank Frauds and Revenue Canada investigations for fraudulent tax rebates including a joint investigation under the Economic Action Plan. He was promoted and awarded Officer Legal Assistance in Criminal Matters Acknowledgments to several other countries in obtaining documents in Canada.

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Dr. Peter Collins, Forensic Psychiatrist

Peter Collins is the Psychiatrist with the Criminal Behaviour Analysis Unit of the Behavioural Sciences & Analysis Section - Ontario Provincial Police. Peter is also the Consultant Forensic Psychiatrist to the RCMP "C" Division Integrated National Security Enforcement Team (INSET), the Prefuge Unit of the Florida Department of Law Enforcement and the Behavioural Science Unit of the Calgary Police Service.

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Chris Wilson, Executive Trainer



Chris Wilson is a decorated law enforcement professional including 26 years with the Toronto Police Service and over 5 years in the private sector law enforcement arena. Chris retired from the Toronto Police Service at the rank of Staff Sergeant but the highlight of his career was serving 5 years as a Detective in the Homicide Squad. He has an impressive record including the fact that he solved 32 out of 50 homicide cases assigned to him.

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Kate Liles, Executive Trainer



Kate Liles is a retired Ontario Provincial Police Chief Superintendent and FBI former criminal profiler who has worked across Canada, US, UK and Australia. As a senior police officer, Kate demonstrated a skill set of FBI training and uniformed officers. Her earlier behaviour analysis training and experience contributed to her later success in a variety of assignments and managerial positions (Police for Justice Canada).

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Jim Van Allen, Executive Trainer



Jim Van Allen is a Certified Trainer and experienced Trainer and QA, Assessment Consultant for over 20 years. He has a law enforcement background with investigative experience having retired from the Ontario Provincial Police. Jim was the Manager of the OPP Criminal Profiling Unit for fifteen years. Jim is a graduate of the FBI National Academy and was awarded as a Member of the Order of Merit of the Police Forces by the Executive for Public Protection, Merit Award, Governor General of Canada.

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John Grims, K9 Services

John has been working with the Canadian Mounted Police for several years. He is a K9 handler and has been working with the K9 unit for several years. He has been working with the K9 unit for several years and has been working with the K9 unit for several years. He has been working with the K9 unit for several years and has been working with the K9 unit for several years.

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Jim Van Allen

President at Behavioural Science Solutions Group Inc.
Langley, British Columbia, Canada Security and Investigations

Previous Alpha Group Center for Crime and Intelligence Analysis,
Justice Institute of British Columbia, Investigative Solutions
Network Inc.

Education FBI National Academy

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People Also Viewed



Peter Collins, CD

Associate Professor, Division of Forensic Psychiatry, University of Toronto



Kate LINES

Investigative Specialist at Investigative Research Group



Greg Cooper

Threat Assessment, Criminal Profiling and Law Enforcement Trainer and Consultant



Larry Wilson

Officer in Charge - "H" Division Major Crime Program at RCMP



R.W. (Rob) Goodfellow

President and CEO - Investigative Research Group



Professor Karl Roberts

Professor and Chair of Policing and Criminal Justice at the University of Western Sydney



Ross Bingley

Director at Street Arts Security Inc.



Dr Keith Ashcroft C Psychol CSci AFBPsS

Expert Witness | Consultant | Investigative Psychologist

Background

Summary

Specialties: Experienced in threat assessment, risk assessment, analysis of anonymous and threatening documents, criminal / psychological profiling, investigative consulting, interviewing and interrogation training, statement analysis, behavioral analysis, workplace violence, school violence prevention, death investigations and case reviews, the Sovereign Citizen Movement, script and technical consultation

Has lectured internationally on forensic behavioural analysis, threat assessment and crime scene reconstruction to the federal police in The Netherlands, Belgium and South Africa

Experience

President

Behavioural Science Solutions Group Inc.

October 2008 – Present (5 years 4 months)

Behavioural Science Solutions Group Inc. is a multi-disciplinary group of associates that provides threat assessments and violence reduction strategies. Jim is often contacted as a media consultant regarding psychological and behavioural interpretation of crimes, suspects and offenders

Our specialties include threat and risk assessments, investigative reviews, interviewing support and training.

Our staff are experts in domestic violence, stalking, threatening, extortion, sexual misconduct, school violence and workplace violence.

We can analyze anonymous threats, letters and internet postings for factors that assess risk and provide insight about the author.

1 recommendation



Peter Collins, CD

Associate Professor, Division of Forensic Psychiatry, University of Toronto

[View](#)

Trainer

Alpha Group Center for Crime and Intelligence Analysis
August 2012 – 2012 (less than a year)

Training provided on threat and risk analysis at regional workshops across North America

Independent Contractor - Consultant - Training Development

Justice Institute of British Columbia
2010 – 2012 (2 years) | New Westminster

Assisted in the development of a framework for an online certification program - Threat Assessment and Threat Management. Provided content for one of five requisite courses - Psychology of Violence.

Risk Assessment Consultant

Investigative Solutions Network Inc.
2008 – 2012 (4 years)



Provide Risk Assessment Evaluations, consultation, and comprehensive reports to guide decision making on client safety or criminal enforcement regarding stalking, workplace threats, or domestic violence incidents. Safety planning and victim consultation is available.

Member

Canadian Association of Threat Assessment Professionals
2005 – 2012 (7 years)

Long term member of CATAP

- Presenter at 2012 Banff Conference on Risk Assessment Perspectives of Sovereign Citizens and Freeman

- Development of Structured Professional Judgement study of Sovereign Citizen Operational Risk Evaluation (SCORE)

Member

International Criminal Investigative Analysis Fellowship
1995 – 2011 (16 years)

Certified as an investigative analyst, criminal profiler

Former Manager - Criminal Profiling Unit

Ontario Provincial Police
June 1995 – October 2010 (15 years 5 months)



I was the Manager of the Criminal Profiling Unit and coordinated Unit operations and was a behavioural investigative consultant to criminal justice agencies across Canada.

1 recommendation



Caroline Kerr MBCI
Risk and Business Continuity Coordinator at Red Cross

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Larry McCann
Violent Crime Consultant at Academy Group, Inc.



Sandra Bott
Sales representative, seniors specialist at Royal LePage Your Community

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 - 4 Psychology
 - 4 Statement Analysis
 - 1 Investigative Case...
 - 1 Behavioural Analysis
 - Sovereign Citizen...
 - School Violence...
 - Death Investigations
 - Script and Technical...
- See 1+

Education

FBI National Academy

Diploma, Behavioural Sciences
1996 – 1996

Applied Criminal Psychology,
Crimes of Interpersonal Violence,
Interviewing and Interrogation Module

Additional Info

Advice for Contacting Jim

The best way to contact [Jim](#) is by telephone 604-626-9572

[Jim](#) receives email at behaviouralsolutions@gmail.com. However, email should never be regarded as a certain means of contact in emergent situations. Senders cannot be guaranteed that their server or the server of the intended recipient will exchange the message in an expedient manner. People facing imminent violence are urged to contact their local police agency for an immediate protective response.

Honors & Awards

Additional Honors & Awards

Member of the Order of Merit of the Police Forces 2010

Organizations

407

Additional Organizations

Canadian Association of Threat Assessment Professionals International Criminal Investigative Analysis Fellowship

Recent Activity

Given (2)



Alana N. Cook
PhD Candidate

“ Alana is a developer of the Multi-Level Guidelines (MLG) Structured Professional Judgment tool for Group Based Violence, together with Dr. Stephen Hart. This study introduces an important dimension to understanding this aspect of risk assessment and management which was lacking. This study is the subject of workshops that are relevant to risk assessment practitioners who... [more](#)

March 29, 2013, Jim was with another company when working with Alana N. at Simon Fraser University



Peter Collins, CD
Forensic Psychiatrist - Law & Mental Health Program

“ Peter Collins is an internationally renowned expert in Forensic Psychiatry having worked on thousands of high profile and difficult cases. His insights, advice and recommendations have greatly contributed to public safety in homicide, sexual assault, stalking, domestic violence and child molestation cases. Peter is a tireless contributor of his time and knowledge and is a... [more](#)

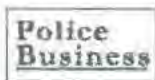
August 24, 2010, Jim worked with Peter at Centre for Addiction and Mental Health

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Tamara Williamson

Probation and Parole Officer at Ministry of Community and Social Services
Ontario, Canada | Government Administration

Education | Simon Fraser University

[Send Tamara a message](#)

15
connections

[ga.linkedin.com/pub/tamara-williamson/33/160/770](#)

Background

Experience

Probation and Parole Officer

Ministry of Community and Social Services
2000 – Present (14 years)

- Manage a caseload predominantly of sexual offenders
- Communicate effectively with clients regarding immediate concerns and provide additional assistance with referrals to community resources
- Liaise with and maintain relationships with stakeholders within limits of confidentiality
- Use various techniques to conduct interviews of clients and collateral contacts in order to complete comprehensive assessments and reports in an accurate and concise manner
- Assess risk to re-offend using empirical risk assessment tools
- Write court ordered reports professionally and efficiently
- Prepare clients to move from one stage of change to the next using appropriate motivational strategies
- Facilitate weekly relapse prevention program to adult male, intellectually disabled offenders
- Monitor compliance and enforcement of Probation Orders, Condition Orders by relying on professional discretion and applying Ministry star
- Select, supervise and schedule volunteer officers, summer and place
- Facilitate Volunteer Probation and Parole officer training, acting as a
- Health and Safety Liaison - Ensure adherence to the office safety plan monthly inspection and compose monthly and annual reports

Skills & Expertise

Most endorsed for...

- 1 Government
- 1 Policy
- 1 Enforcement
- 1 Investigation
- 1 Courts
- 1 Case Management
- 1 Report Writing
- 1 Community Outreach
- 1 Public Safety

People Similar to Tamara



Jackie Mack
Program Supervisor, Municipal & First Nations
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Architect Moshe Safdie
Global citizen and innovator. NUVO's 15th Anniversary Cover Story.

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People Also Viewed



Heather Boyd
Finance/Admin at Dairy Farmers of Nova Scotia

Endorsers

1 person has endorsed Tamara for Risk Assessment



R.W. (Rob) G. GROUP
President and CEO - Investigative Research Group
Ontario, Canada



Timothy Cowles
Owner



Susan Blackburn
Post-Display Supervisor at Broadcast Captioning and Consulting Services



Bill Hyndman
Owner, Hyndman Ltd Contractors



Brenda Mercer



Diana Seminara
Event Coordinator

1 Social Services

Tamara also knows about...

1 Corrections 1 Risk Assessment Policy Analysis Criminal Justice
Public Policy Criminal Investigations Evidence Police Emergency Management
Mediation Legal Research Crime Prevention

Education

Simon Fraser University
Post-Bachelorette, Criminology



Trent University
HBA, English Language and Literature, General



People Similar to Tamara



Jackie Mack
Program Supervisor, Municipal & First Natio...
Connect

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Executive

R.W. (Rob) Goodfellow**President and Chief Executive Officer**robhg@irgcanada.com

Mr. Robert Goodfellow is a retired Superintendent of the OPP with thirty years' experience at the provincial, national and international levels. Mr. Goodfellow has served in various locations throughout Ontario. His experience includes: general duties; major crimes; covert under-cover operations; behavioural sciences; forensic polygraph; fraud; and General Headquarter Executive Management.

Mr. Goodfellow's career postings include: Behavioural Sciences Section; Threat Assessment Unit; Provincial VICLAS Centre; Director, Operational Policy & Strategic Planning; Director, Contract Policing; Director, Crime Prevention Section; Director, Fraud Programs Branch, Ministry of Health & Long Term Care; Liaison Officer to the Ministry of Community Safety & Correctional Services (Deputy Ministers Office); Executive Officer to the Commissioner of the OPP; Executive exchange to SAPOL (South Australia Police); Director, Provincial Communications Operations; and Director, Behavioural, Forensic & Electronic Services (which included all aspects of forensic identification, e-crime/child exploitation, DNA, criminal profiling, polygraph, threat assessment, Ontario Sex Offender Registry, missing persons and unidentified bodies).

Mr. Goodfellow is a graduate of the FBI National Academy, Quantico, Virginia and has received training from the DEA. He has been recognized as an expert witness in many levels of court related to drug identification and enforcement. He is internationally recognized as an expert in body language, statement analysis, interviewing and interrogation. Mr. Goodfellow has studied in depth many of the criminal behavioural sciences including psychopathy, sexual deviancy and stalking. Mr. Goodfellow has lectured at the Canadian Police College, Ontario Police College and the Ontario Provincial Police Academy.

Mr. Goodfellow is a founding Director of CAVCA (Canadian Association of Violent Crime Analysts). He was Chairman of the Ontario Association of Chiefs of Police (OACP) Crime Prevention Committee and a member of the OACP Victims Assistance Committee.

Mr. Goodfellow has received many commendations and awards including the International Award of Honour from the International Narcotic Enforcement Officers Association (INEOA), in San Antonio Texas. It marked only the second time that award had been bestowed on a Canadian police officer.

CLIFFORD STRACHAN

VP - Operationscliffs@irgcanada.com

Mr. Clifford Strachan served as Senior Director in the Disputes and Investigations practice at Kroll Advisory Solutions. He was responsible for managing and investigating a wide variety of files including: internal and external frauds, procurement fraud, internal harassment and sexual harassment complaints, asset searches and recovery, regulatory compliance, litigation support and misuse of intellectual property. He was called upon on a regular basis to offer investigative strategies on a variety of cases. Cliff also has additional experience as a Senior Inspector at the Canadian Imperial Bank of Commerce (CIBC), where he investigated payment card crime and employee misconduct.

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Prior to this, Cliff spent 30 years as a police officer with the Ontario Provincial Police and retired as a Commissioned Officer - Superintendent, having served in the Anti-Rackets Section (Fraud), the Criminal Investigation Bureau (homicide and other major crime) and also served as a Chief of Police for a municipal police service. His investigative experience and skill is highly sought after.

Cliff has testified in all levels of court and has prepared affidavits in support of Anton Piller Orders, Mareva Injunctions and Norwich Pharmacal Orders as well as other warrants. He has lectured on issues related to procurement fraud, employee misconduct and criminal and civil investigations; including fraud.

Cliff has led diverse teams in his career and held direct and indirect reporting responsibilities for large numbers of staff. Cliff will be responsible for all operational matters for IRG; including SIU Insurance, SIU Corporate, Risk Management, Financial and Corruption Investigations, Forensics, Covert and Undercover, Bill 168 and Workplace Investigations, Seniors Strategy, Surveillance and Special Projects.

ASHALEE MOHAMED

VP - Client Solutions

ashaleem@irgcanada.com

Ashalee Mohamed is a long tenured and dedicated member of the IRG team and has performed in many roles; including as an Investigator. Most recently Ashalee was the Director - Sales and Marketing, leading a dedicated team of professionals in exceeding client service expectations. Ashalee has valuable insight and experience in the investigative and insurance industry.

In her leadership role as VP - Client Solutions, her mandate includes; continuing to service her existing client portfolio, providing key strategies and solutions to clients, quality assurance and office management and business development. All current clients Ashalee is working with will be maintained under her portfolio and she will continue to be your key point of contact for IRG.

Ashalee has obtained an honours degree in Criminology with a minor in Political Sciences. Ashalee is an active member of Toronto Insurance Women's Association (TIWA), Canadian Association of Special Investigation Units (CASIU) and the Ontario Insurance Adjusters Association (OIAA). In addition, Ashalee also attends educational seminars, meetings and events related to Canadian Life and Health Insurance Association (CLHIA), Human Resources Professional Association (HRPA), Risk and Insurance Management Society (RIMS), Canadian Defence Lawyers-Legal Association of Canada (CDL).



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Board of Directors

WILLIAM OSTRANDER, LL.B, MA

Chairman/Owner

billostrander@irgcanada.com

For 23 years, William Ostrander was a corporate law partner for one of Canada's largest law firms. Mr. Ostrander received his LLB and his master's degree in political science from the University of Toronto. He is currently a director and investor in a number of corporations in Canada.

RICHARD ARMSTRONG, P.Eng., B.A.Sc

Vice Chairman/Owner

Richard Armstrong is a Mechanical Engineer. Until recently, he was the Senior Partner/Senior Vice-President at the multi-discipline engineering firm Marshall Macklin Monaghan. Mr. Armstrong now provides senior level advice on engineering and related matter, and he is an investor in a wide range of businesses.

GEOFF HORTON

Director

Geoff Horton is a Managing Director of Venturelink LP. Mr. Horton has been involved in managing the VentureLink Group of Funds since joining the predecessor manager in 2001. Prior to that, Mr. Horton was active in early and later stage venture capital investing. He is on the board of a number of corporations.

BRIAN M. SARTORELLI

Director

Brian has been an investigator for many years. He was a Military Police officer for a number of years and left the Military to ultimately embark on his PI career. Brian founded IRG in 1992 and was President and CEO until July 2013 when he retired from that role. He sold the company in 2007 to the current ownership group of which he remains a shareholder, part owner and currently sits as an active member on the Board of Directors.



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Policeman charged in stolen-car conspiracy

[FIN Edition]

Toronto Star - Toronto, Ont.

Date: Dec 7, 1989

Start Page: A.10

Section: NEWS

Document Text

An Ontario Provincial Police officer with 21 years' service has been charged with conspiracy, fraud and five counts of attempted fraud involving kickbacks in a stolen car and construction equipment scam.

Constable George E. Kleinsteinber, 40, who works in the Toronto OPP stolen-auto unit, was charged yesterday.

Superintendent Bob Guay said the charges came after police investigated a private investigation firm that recovered an unusually large number of stolen vehicles, worth about \$800,000.

Fifteen insurance firms in Ontario were charged finder's fees totalling about \$50,000 after recoveries of stolen equipment and vehicles in the Bolton, Coboconk and Alliston areas last summer, he said.

Private investigation firms were tipped off to where stolen vehicles were being kept before police officially recovered them.

The firms would then tell insurance companies that they could find cars for a fee, enabling the insurance companies to pick up cars and later resell them, recouping some of the money they had already paid out to the owner.

Also charged with conspiracy to defraud, five counts of attempted fraud and one count of fraud are Brian Malcolm Sartorelli, 34, of Barrie, owner and president of Simcoe Investigations, and private investigator Brenda Joyce Money, 30, of Barrie.

Timothy Hugh Sexton, 29, of Orillia, a licensed private investigator, is charged with conspiracy to defraud and two counts of attempted fraud.

Pool hall raid nets 16

on gambling charges

Sixteen people were arrested on gambling charges yesterday after police raided a pool hall called Shooters at Wilson Ave. and Keele St.

Metro police said the place operated as a betting house and brought in about \$30,000 a week.

It used a roof-mounted television dish with a descrambler to show horse races live, they said. People could place bets, watch telecasts of races in Maryland and Pennsylvania and collect winnings at track odds.

Betting slips and equipment were seized along with an undisclosed amount of money, a television descrambler and football pool betting slips.

Charged with keeping a common betting house, engaging in bookmaking, engaging in betting and recording bets are Mario Iaccino, 35, of Maple, and Antonio Bernardini, 47, of North York.

Robbery suspects

face new charges

Two men charged in the beating and robbery of an elderly man have been charged with robbing an 89-year-old disabled woman in her downtown Toronto home.

Police said two men got into the woman's house Saturday afternoon, put a knife to her throat and demanded money and slapped her repeatedly in the face.

They broke her walking canes so she couldn't move and ransacked the house, breaking furniture, pictures and china and stealing jewelry and a credit card.

Three men were arrested the next day shortly after Delbert Hamil, 83, was attacked and robbed in his downtown home in a similar way, police said.

John Thomas MacKay, 20, and Cordell Livingstone, 18, formerly of Glace Bay, N.S., are charged with robbery, forcible confinement, breaking and entering, mischief, possession of a dangerous weapon and possession of stolen property.

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Officer charged with fraud*[ME2 Edition]*

Toronto Star - Toronto, Ont.
Date: Dec 8, 1989
Start Page: A.32
Section: NEWS

Document Text

An Ontario Provincial Police officer with 21 years service has been charged with conspiracy, fraud and five counts of attempted fraud in connection with kickbacks in a stolen car and construction equipment scam.

Constable George E. Kleinsteinber, 40, who works in the Toronto OPP stolen-auto unit, was charged Wednesday.

Superintendent Bob Guay said police looked into a private investigation firm that recovered an unusually large number of stolen vehicles, worth about \$800,000.

Fifteen insurance firms in Ontario were charged finder's fees totalling about \$50,000 after stolen equipment and vehicles were recovered in the Bolton and Alliston areas last summer, he said.

Also charged with conspiracy and fraud are Brian Malcolm Sartorelli, 34, of Barrie, owner and president of Simcoe Investigations, and private investigator Brenda Joyce Money, 30, of Barrie. Timothy Hugh Sexton, 29, of Orillia, a licensed private investigator, is charged with conspiracy and attempted fraud.

Gambling charges

laid against 16

Sixteen people were arrested on gambling charges after police raided a pool hall called Shooters at Wilson Ave. and Keele St. Police confiscated betting slips, equipment, money, a television descrambler and football pool betting slips. Charged Wednesday with bookmaking and keeping a betting house were Mario Iaccino, 35, of Maple and Antonio Bernardini, 47, of North York. Another 14 people were charged with being in a betting house.

Pair charged again

in attack on elderly

Two men charged in the beating and robbery of an elderly man have also been charged with robbing an 89-year-old disabled woman in her downtown Toronto home. Police said two men got into the woman's house Saturday afternoon, put a knife to her throat, demanded money and slapped her repeatedly in the face. They broke her walking canes and ransacked the house. John Thomas MacKay, 20, and Cordell Livingstone, 18, formerly of Glace Bay, N.S., were arrested Sunday, shortly after men robbed and attacked an 83-year-old man.

2 high school boys

robbed near schools

Two Metro high school students have been robbed in separate incidents outside their schools. A 15-year-old was punched, kicked and robbed of \$3 and a bus token by five youths outside Central Technical School Wednesday morning.

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Threat Evaluation and Risk Management Strategies

Executive Director

Kostas A. Katsavdakakis, PhD
[Click here for CV](#)

Dr. Kostas Katsavdakakis is a licensed psychologist. He completed a post-doctoral fellowship at The Menninger Clinic in Topeka, Kansas, where he served as the primary interviewer in week-long intensive diagnostic evaluations of adults, including impaired corporate and mental health professionals faced with workplace related problems. Since returning to New York in 2002, Dr. Katsavdakakis served as the Assistant Director of Psychology of a maximum security forensic psychiatric hospital and currently devotes his time to a private criminal forensic and clinical practice, teaching and writing. He is an Adjunct Associate Professor at John Jay College of Criminal Justice where he teaches courses in Criminal Forensic Assessment and the Analysis of Criminal Behavior. Dr. Katsavdakakis is sought out by attorneys and the Court to help evaluate defendants charged with violent sexual and non-sexual crimes and consults with private parties for threat assessment and risk management evaluations. He has presented to various law organizations and mental health professionals on conducting violent risk and threat assessment in adults and youth.



Associates

Reid Meloy, PhD, ABPP
[Click here for CV](#)

Dr. Reid Meloy is a diplomate in forensic psychology of the American Board of Professional Psychology. He was formerly Chief of the Forensic Mental Health Division for San Diego County, and now devotes his time to a private criminal forensic practice, research, writing, and teaching. He is a clinical professor of psychiatry at the University of California, San Diego, School of Medicine; an adjunct professor at the University of San Diego School of Law; and a faculty member of the San Diego Psychoanalytic Institute. He is a Fellow of the American Academy of Forensic Sciences, and is past President of the American Academy of Forensic Psychology. In 1992 he received the Distinguished Contribution to Psychology as a Profession Award from



the California Psychological Association; in 1998 he received the first National Achievement Award from the Association of Threat Assessment Professionals; and in 2000 his stalking book received honorable mention, the Manfred Guttmacher Award, American Psychiatric Association. He is also President of Forensis, Inc., a nonprofit, public benefit corporation which conducts forensic psychiatric and psychological research. Dr. Meloy has authored or co-authored over one hundred eighty papers published in peer-reviewed psychiatric and psychological journals, and has authored, co-authored, or edited ten books: *The Psychopathic Mind* (1988), *Clinical Guidelines for Involuntary Outpatient Treatment* (1990), *Violent Attachments* (1992), *Rorschach Assessment of Aggressive and Psychopathic Personalities* (1994), *Contemporary Rorschach Interpretation* (1997), *The Psychology of Stalking: Clinical and Forensic Perspectives* (1998), *Violence Risk and Threat Assessment* (2000), *The Mark of Cain* (2001), *The Scientific Pursuit of Stalking* (2006), and *Stalking, Threatening, and Attacking Public Figures* (2008). He is also the co-developer with Dr. Steve White of the WAVR-21 (www.wavr21.com), the first structured professional judgment instrument for the assessment of workplace violence risk. He is a sought after psychological expert on various criminal cases throughout the United States and Europe, and is currently a consultant to the counterintelligence division of the FBI. He is also a member of the Fixated Research Group for the United Kingdom's Home Office concerning threats to the Royal Family and other British political figures and is a consultant to Team Psychologie & Sicherheit based in Darmstadt, Germany.



Jim Van Allen **[Click here for CV](#)**

Jim Van Allen is the President of Behavioral Science Solutions Group Inc.

Jim has fifteen years of specialized experience as a Certified Profiler, and Threat Assessment Analyst. He is a graduate of the FBI National Academy in Quantico, Virginia, and is a member of the Canadian Association of Threat Assessment Professionals.

Jim has lectured at Universities and Colleges, conferences and symposiums on applied criminal psychology, assessment and intervention of workplace violence and the pathways to violence of dangerous individuals. He has lectured internationally in the United States, The Netherlands, and Belgium. He has presented across Canada to Judicial officials, Crown Attorneys, Probation Officers, and to psychologists and psychiatrists, law enforcement, and corporate managers. He has testified as an expert in the Ontario Court of Justice, and Coroner's inquests regarding threat assessment, workplace violence, personality disorders, Psychopathy, and sexual misconduct.



Experience:

Jim has assisted international agencies respond to workplace violence, stalking, domestic violence, extortion and product tampering, and other threats. Jim is also experienced in the assessment and prevention of school violence. He is recognized for his expertise in assessing risk and developing intervention strategies for dangerous people and situations and for designing successful personality based interview strategies.

Jim is also recognized for his analysis of anonymous threatening documents and electronic communications.

Stephen G. White, PhD **[Click here for CV](#)**

Dr. Stephen White is a psychologist and the President of Work Trauma Services Inc., a consulting group he founded in 1982 to assist employers with serious workplace crises. His extensive work in organizational trauma reduction led to his specializing, since 1989, in the assessment and management of workplace violence risk. Dr. White has consulted throughout the United States on over 4,000 threat cases for numerous Fortune 500 companies, private and public organizations, colleges and universities, and law enforcement agencies. He has designed and provided detailed employer threat management team training for responding to a wide range of potential risk scenarios. Dr. White has testified before the California State Legislature on behalf of workplace violence prevention legislation, and has published in the areas of workplace trauma management. He is the co-author of *Threat Management of Stalking Cases In The Psychology of Stalking: Clinical and Forensic Perspectives* (Academic Press, 1998). Dr. White, in collaboration with Dr. Reid Meloy, developed and published in 2007 *The WAVR-21*, the first scientifically based structured guide for assessing workplace violence risk. Dr. White was among invited experts of both the FBI's National Center for the Analysis of Violent Crime and the American Society of Industrial Security to participate in their development of online and published guidelines for the prevention of workplace



violence. More recently his consultation and training has expanded internationally to meet the growing global needs of clients. Since the events of September 11th, he has worked with corporate business continuity teams to integrate human resilience planning into disaster recovery efforts. Dr. White is an Associate Clinical Professor in the Department of Psychiatry at the University of California, San Francisco, where he currently co-facilitates a professional development group for medical students. He is a frequent guest lecturer at local, regional, and national forums for human resource, security, and line managers, law enforcement agencies, employment law attorneys, and employee assistance professionals.

Mary Ellen O'Toole, PhD

Mary Ellen O'Toole, PhD is recognized as one of the FBI's preeminent experts in the areas of criminal, violent and aberrant behavior. Dr. O'Toole's exemplary law enforcement career began in the San Francisco's District Attorney's Office as a Criminal Investigator and spans over 32 years. She was an FBI agent for 28 years, working more than half of her Bureau career in the organization's prestigious Behavioral Analysis Unit (BAU). As one of the senior and most accomplished agents in the Unit, Dr. O'Toole consulted on many of the FBI's most high profile and complex criminal cases, as well as white collar and political corruption cases. Dr O'Toole has consulted with law enforcement agencies throughout the world on crimes of violence and other criminal behavior. During her time in the unit, Dr O'Toole developed an expertise in Criminal Investigative Analysis (CIA) as well as offender behavior. She has provided assistance to law enforcement and prosecutors on a wide range of violent and criminal behavior including homicides, sexual assaults, kidnappings, product tampering, school shootings and extortions. She has a unique expertise in the areas of targeted school violence, workplace violence and threat assessment.



Dr O'Toole is recognized as the FBI's leading expert in the area of "psychopathy." Her work in psychopathy has put her on the forefront of mental health and law enforcement efforts to apply the concepts of this personality disorder to both violent and white collar offenders and their behavior and crime scenes. She lectures internationally on the application of the theory of psychopathy to real life situations. Dr. O'Toole is a much sought after speaker who has addressed multidisciplinary audiences from both the private and public sectors. She continues to lecture at the FBI Academy on psychopathy and interviewing. She has served as adjunct faculty to the FBI's Prestigious Leadership Development Institute (LDI) at the FBI Academy. While serving as an FBI Agent, Dr. O'Toole has been qualified as an expert witness for both the prosecution as well as defense counsel in high profile murder cases in the areas of crime scene assessment, criminal investigative analysis and offender behavior.

Dr. O'Toole is the FBI's primary researcher and author of *The School Shooter: A Threat Assessment Perspective* available @ www.fbi.gov. Her other publications and writings are in the areas of psychopathy, targeted school violence, threat assessment and stalking, serial murder, child abduction and CIA.

Dr. O'Toole represented the FBI in her media appearances on Larry King Live, Fox News, CNN, MSNBC, Discovery Channel, Forensic Files, Investigative Channel, Discovery Channel and National Public Radio. She is currently an analyst with MSNBC for the upcoming series "Criminal Mindscape" scheduled to air in the Fall, 2009.

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Jim Van Allen – Curriculum Vitae

Personal Profile

- President – Behavioral Science Solutions Group Inc., Orillia, Ontario, Canada
- Threat Assessment Analyst
Member of Canadian Association of Threat Assessment Professionals
- Certified Profiler – International Criminal Investigative Analysis Fellowship Inc.
- Behavioral investigative advisor to justice agencies across North America

Experience

- Has prepared threat assessments and intervention strategies for private and public sector incidents with a potential for violence
- Experienced in a broad range of cases involving: workplace violence, stalking, domestic violence, school violence, threats against public figures and politicians, sexual misconduct, abduction and extortion
- Developed successful personality based forensic interview strategies that helped to conclude many high profile and difficult investigations
- Experienced analyst of anonymous written and electronic communications
- Has testified as an expert at all levels of the Ontario Court of Justice on stalking, workplace violence, Psychopathy, crime reconstruction and sexual misconduct

Achievements

- Graduate – FBI National Academy, Quantico, Virginia
- Certification - International Criminal Investigative Analysis Fellowship
- Completed numerous senior and advanced courses in threat assessment, dynamics of crime, applied criminal psychology, crimes of interpersonal violence, and behavioral analysis at venues across North America
- Has trained and mentored twenty-four criminal profilers from Ontario, other Canadian provinces, Georgia, South Carolina, Virginia, Texas, Florida, California, and Australia
- Has lectured internationally in United States, The Netherlands, and Belgium on Threat Assessment, evaluation and intervention of workplace violence, and dangerous individuals and their pathways to violence
- Guest lecturer. University of Toronto, Laurentian University, Trent University
- Contributor to The Psychology of Criminal Investigations – The Search for the Truth
- Contributor to The Canadian Lawyer's Guide to The Law of Criminal Harassment and Stalking

Related Career History

October	2008 - President – Behavioral Science Solutions Group Inc.
June	1995 - Manager, Criminal Profiling Unit, Ontario Provincial Police
January	1992 - Criminal Investigative Supervisor – Ontario Provincial Police
September	1986 - Area Crime Supervisor – Ontario Provincial Police
May	1979 - Appointed – Ontario Provincial Police

426

Jim Van Allen – Curriculum Vitae

Contact Information

Jim Van Allen
President,

Behavioral Science Solutions Group Inc.
3-200 Memorial Avenue, Suite 292
Orillia, ON
L3V 5X6
Canada

Telephone 705-330-1997
Fax 705-325-0771

Email: jim.vanallen@sympatico.ca

This is Exhibit "41" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

PDF - Jim Van Allen CV.pdf

Create • Customize •

1 / 2 114% Tools Sign Comment

Jim Van Allen – Curriculum Vitae

Personal Profile

- President – Behavioral Science Solutions Group Inc., Orillia, Ontario, Canada
- Threat Assessment Analyst
Member of Canadian Association of Threat Assessment Professionals
- Certified Profiler – International Criminal Investigative Analysis Fellowship Inc.
- Behavioral investigative advisor to justice agencies across North America

Experience

- Has prepared threat assessments and intervention strategies for private and public sector incidents with a potential for violence
- Experienced in a broad range of cases involving: workplace violence, stalking, domestic violence, school violence, threats against public figures and politicians, sexual misconduct, abduction and extortion
- Developed successful personality based forensic interview strategies that helped to conclude many high profile and difficult investigations
- Experienced analyst of anonymous written and electronic communications
- Has testified as an expert at all levels of the Ontario Court of Justice on stalking, workplace violence, Psychopathy, crime reconstruction and sexual misconduct

Achievements

Description

Advanced

Advanced

PDF Properties (pdf, http://ns.adobe.com/pdf/1.3/)

pdf:CreationDate--Text: 2009/10/11 13:03

pdf:Producer: PaperPort 11.0

XMP Core Properties (xmp, http://ns.adobe.com/xap/1.0/)

xmp:CreatorTool: PaperPort 11.0

xmp:ModifyDate: 2009-10-11T13:03:19-05:00

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oral
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ustralia
Threat
individuals

This is Exhibit "42" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

430



The Alpha Group Center for Crime & Intelligence Analysis Training

HOME
About The Alpha Group
What Others Say

Who We Serve
Meet Our Instructors
Alpha Group Courses

Course Schedules
Order Books
Certification

Free Training
Funding Resources
Contact Us

Steven Gottlieb,
Executive Director

John Kaster

Tarveer Makhani

Jim Van Allen

Michael Ronczkowski

Warren Sweeney



Jim Van Allen: Criminal Investigative Analysis & Threat Assessment

Course Info Criminal Investigative Analysis AND Threat Analysis	What Others Say	Course Schedule Criminal Investigative Analysis AND Threat Analysis
---	-----------------	---

Jim Van Allen, is one of only 75 certified profilers in the world. He was certified by the International Criminal Investigative Analysis Fellowship sponsored by the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime. Mr. Van Allen's training consisted of a three-year program that included reviews of thousands of cases and specialized crime topics taught by nationally recognized experts in the field of violent crime and sexual deviancy research. specialized crime topics taught by nationally recognized experts in the field of violent crime and sexual deviancy research.

Prior Prior to his full-time teaching and consulting business, Jim served 31.5 years with the Ontario Provincial Police, and for 15 years was the Manager of the Criminal Profiling Unit and forensic behavioral consultant liaison to justice agencies across the United States and Canada. During his career Jim has assisted on an estimated 815 homicides and numerous serial sexual assault cases as well.

Jim is often consulted as an expert for both national and international media broadcasts concerning high profile crime cases. Among others, he has commented on the Internet Body Part Murder, the LAPD manhunt of Christopher Dorner, the Cleveland abductions of Ariel Castro, the Boston Marathon Bombing, NSA secrets leaked by Edward Snowden and numerous homicide cases where offender motivation has come into question.

Some of the more notable assignments of Mr. Van Allen's career involved the assistance he provided to the investigation of a series of abortion physician shootings, including the murder of Dr. Bernard Slepian in New York State as well as, numerous sexual serial homicide investigations and high profile child

abduction and murder cases. Jim has also prepared threat assessments and threat management strategies for domestic violence, stalking, school violence, workplace violence, extremism, extortion, high-risk sex offenders, the mentally ill, and threats towards justice officials, celebrities, public officials, private citizens and corporations. Further, Mr. Van Allen's cases have received national attention through television's *Discovery Channel*, *Exhibit A* and *72 Hours True Crime Series*.

Jim has also served as a media commentator in relation to several high profile cases including the Colorado Theatre Massacre, the Montreal Dismemberment YouTube Homicide, and a serial homicide in Winnipeg Manitoba. In recognition of his expertise, Mr. Van Allen was invited to participate in an extensive study on school violence sponsored by the US Department of Justice. He also joined with the FBI's Profiling Unit at the National Center for the Analysis of Violent Crime and collaborated with nationally recognized threat analysis experts to analyze 18 US fatal school shootings.

Jim Van Allen currently consults on criminal investigations and threat assessments and instructs on interviewing and forensic crime analysis to law enforcement officers and civilian personnel throughout the United States and Canada. He has also lectured in The Netherlands, Belgium and South Africa.

| For information regarding Courses, Books, or Training Materials, EMAIL Steven Gottlieb, Executive Director |
| Call: Steve - (909) 989-4366 OR Diana Olson - (909) 256-3157 | Fax: (909) 256-3512 |
| For questions or comments about the web site, EMAIL Tom Evans, Web Site Manager |
| Copyright © 2010, The Alpha Group Center for Crime & Intelligence Analysis Training |

This is Exhibit "43" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

A solid black rectangular box used to redact the signature of the Commissioner.

A Commissioner, etc.



**Florida Gulf Coast
University
Ft Myers, FL**

Criminal Investigative Analysis: Assessing Threats of Targeted Violence

March 17-21, 2014

Presented by

Jim Van Allen

Author of "Criminal Investigative Analysis: Assessing Threats of Targeted Violence"



The Alpha Group
Professional Speakers and Trainers
Serving the Criminal Justice Community
We Turn Theory Into Practice™

The Program

This program is a continuation of the initial Criminal Investigative Analysis Course and relates to many types of violent criminal behavior. **However, the initial course is NOT a prerequisite to this program.** Due to the many variables associated with violent offenders, this course covers critical areas of targeted violence, examines *WHY* people commit them and offers both methods and strategies that can be used to assess their potential for violence as well as manage and reduce the risks that they pose.

Following a violent incident, we too often learn that there were threats and/or behaviors that, had we been more attentive to them, would have signaled violent intentions. **"Why didn't we see it coming?" That is the question the media asks after every high profile violent event.** Within law enforcement there is a need to recognize and understand the indicators of imminent violence. And, just as important, are those skills one must possess if they are to intervene and diffuse violent situations successfully.

Unless they have had risk assessment training, there are risk factors of potential violence that even law enforcement personnel can easily overlook. Many times we hear comments such as, "He just snapped" or, "I thought he was joking." Behavioral cues and comments made **PRIOR** to a violent event prove that people don't "just snap." **Threats are often made by desperate people with a grievance. And these people—as well as the risk they pose to others—can often be evaluated and reduced IF you know what to look for.**

To accomplish this objective you will first become acquainted with the importance of identifying risk factors and the implementation of threat management strategies and safety plans to protect the public. You will then delve deeply into the minds of violent crime offenders to learn the difference between individuals who are merely venting and those who pose a bona fide threat. You will also be acquainted with—and then shown how to use—a variety of risk assessment instruments and processes that will help you differentiate one from the other.

The topics presented in this program will examine the observable behaviors that provide an opportunity to assess a person's commitment to harm another person or group in our schools, at work or in other public places. Additional segments will focus on stalking and domestic terrorism as it relates to the "lone wolf" personality.

This one week (36 hour) "hands-on" program will show you the importance of being proactive rather than reactive when dealing with potentially violent situations. You will learn the traits of offenders who resort to threatening, stalking and other violent behaviors and what to expect from the organized or disorganized personalities of these individuals.

This course will also provide you with the **behavioral characteristics** and **markers** of those individuals planning targeted violence, both inside and outside the workplace. These red flags will be beneficial in conducting risk assessments of potentially violent situations. Protective factors that inhibit violence will also be covered with risk assessment.

Regardless of your previous experience with targeted violence, this course is for you. You can always do your job better when you apply fresh ideas and techniques. We've made sure our seminars give you exactly what you need to put you at your peak!

This is an *Essential* Course for:

- Crime and Intelligence Analysts
- Violent Crime Investigators
- School Resource Officers
- Patrol Officers and Detectives
- Critical Incident and EMS Personnel
- Community Policing officers
- Law Enforcement Administrators and Managers
- School Administrators and Security Personnel
- Human Resource Personnel
- Hostage Negotiators

Here's What You Will Learn

This course will provide you with an introduction to a broad range of techniques you can use to recognize the signals of an impending act of targeted violence. We'll demystify essential professional skills involving:

Operational Issues

- Answering the Big Question: Do People Just Snap?
- What do Threats *Really* Say and Mean?
- Threat Assessment Tools and Methods
- Make it Stop! The Inhibitors to Violence
- Behavioral Red Flags—How to Recognize Important Behavioral Characteristics of Targeted Crime Offenders
- Personalities and the Links to Violence
- Delving into the World and Mind of the Psychopath
- Understanding Risk Factors Associated with Mental Illness and Violence
- Stalking and Personal Safety
- School Violence
- These Made Headline News! High-Profile School and University Shootings—*Can They be Prevented?*
- The Unique Dynamics and Characteristics of the "Lone Wolf"
- Workplace Violence and Domestic Violence in the Workplace
- Disgruntled Employees and the Risks They Pose
- When the Situation Becomes Critical! How to Terminate Employees and When and How to Do It!
- Diffusing Anger and Dealing with Difficult People—Understanding and Managing The Threats and Risks They Pose
- Written Threats—How to Evaluate Anonymous Letters and Emails
- Victims of Violence: The Loss of Control Over Their Lives
- Understanding Sexual Misconduct and Violence
- Evaluating the Dangerousness of Extremists
- Threat Management Teams and Violence Management Strategies
- *And much, much more!*

The Hands-On Assessment Process

This hands-on, learn-by-doing program will show you how to assess written and oral threats to individuals and groups. Through the use of lectures, video presentations and case studies you will learn effective methods of distinguishing between low and high-risk situations. Class exercises will give you the opportunity to analyze a variety of threats commonly seen within the workplace, schools and stalking incidents. This format of instruction will facilitate interactive participation and provide you a sense of confidence when evaluating violent threats.

About Our Assessing Threats of Targeted Violence Programs

Law enforcement officials send their sworn officers and civilian personnel to our courses because of our actual experience in evaluating risk and our proven ability to provide high-quality, performance-oriented training. Class exercises are based on real-world crime problems law enforcement personnel confront each day. As such, students return to their agencies with not only the knowledge of **what** they should do, but, more importantly, **how** they should do it. Skills are developed by instructors who are intimately familiar with the use of criminal investigative analysis and threat assessment techniques, and by the students' use of our **comprehensive, easy-to-understand course materials**.

These elements contribute to the continued popularity of our Criminal Investigative Analysis: Assessing Threats of Targeted Violence training programs. Our success, however, comes from our achievement of one important goal: *We turn Theory Into Practice.*™

What Others Say About Our Training

"An internationally experienced criminal investigator, Detective Sergeant Jim Van Allen's presentation style and ability to explain difficult concepts in a simple and familiar fashion are a perfect match for discussing such an imposing topic as Criminal Behavioral Profiling. I must confess, Jim Van Allen remains my personal favorite guest speaker bar none."

Dr. Dax Urbszat, B.Sc., LL.B., M.A., Ph.D.
Former Acting Director, Forensic Science Program
University of Toronto (UTM)

"Jim's forthright style of instruction distilled complex concepts into straightforward, common sense approaches that were easily understandable. His unique sense of humor lent to establishing a fun and collaborative working environment too."

Cpl. Kim Bruce
Royal Canadian Mounted Police

"Mr. Van Allen is one of only a handful of accredited Criminal Investigative Analysts in the world. He tailors his training to the needs of his students and, more importantly, is able to convey information in a way that is easily assimilated. I have no hesitation recommending Mr. Van Allen as a trainer."

Dr. Gerard Labuschagne
South African Police Service

About The Alpha Group

The Alpha Group is comprised of professional speakers, trainers, and researchers who provide their expertise and practical experience to criminal justice, public safety and victim service organizations. The organization is recognized internationally for its ability to provide training in crime and intelligence analysis, criminal investigative analysis, threats of violence, statement analysis, homeland security and terrorism analysis, and other such unique areas of law enforcement.

About Your Trainer

Jim Van Allen is one of only 75 certified police profilers in the world. His training consisted of an intensive three year program which included reviews of thousands of cases and over 60 specialized crime topics taught by internationally recognized

experts in the field of violent crime and sexual deviancy research.



Prior to his full-time teaching and consulting on active risk assessment cases, Jim served 31.5 years with The Ontario Provincial Police and for 15 years was the Manager of the Criminal Profiling Unit. During his career Jim has assisted on an estimated 815 homicide, stalking and serial arson investigations and numerous serial sexual assault cases as well.

Jim has prepared threat assessments and threat management strategies for domestic violence, stalking, school violence, workplace violence, extremism, extortion, high risk sex offenders, the mentally ill, and threats towards justice officials, celebrities, public officials, private citizens and corporations.

One of the more notable assignments of Mr. Van Allen's career involved the assistance he provided to the Canadian and US investigation of a series of abortion physician shootings, including the murder of Dr. Bernard Slepian in New York State.

Other notable assignments include numerous sexual serial homicide investigations and high profile child abduction and murder cases. Additionally, many of Mr. Van Allen's cases have received national attention through the broadcasts of the **Discovery Channel, Exhibit A, Forensic Factor and the 72 Hour: True Crime** television series. Jim has also served as a media commentator in relation to several high profile cases including the Colorado Theatre Massacre, the Montreal Dismemberment YouTube Homicide, and a serial homicide in Winnipeg Manitoba.

In recognition of his expertise, Mr. Van Allen was invited to participate in an extensive study on school violence sponsored by the US Dept. of Justice. He also joined with the FBI's Profiling Unit at the National Center for the Analysis of Violent Crime and collaborated with nationally recognized threat analysis experts to analyze 18 US fatal school shootings.

Jim Van Allen currently consults on criminal investigations and threat assessments and instructs on interviewing and forensic crime analysis to law enforcement officers and civilian personnel throughout the United States and Canada. He has also lectured in The Netherlands, Belgium and South Africa.

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Course Times

The course begins at 8:00 AM on Monday, March 17, 2014 and concludes at 12:00 Noon on Friday, March 21, 2014. Course hours are from 8:00 AM to 5:00 PM Monday through Thursday and from 8 AM to 12:00 Noon on Friday.

Tuition Information

Tuition is \$525 per person for the one-week (36 hour) program of instruction. It also includes:

- All in-class course materials.
- A copy of Jim Van Allen's *Criminal Investigative Analysis: Assessing Threats of Targeted Violence* workbook. This student workbook contains the course agenda, PowerPoint lectures and case analysis notetaking pages that will be used extensively throughout the class.
- A 4-hour training DVD produced by the California Department of Justice entitled "*Threat Assessment and Management: A New Way of Thinking*" that deals with all forms of interpersonal violence in both workplace and domestic situations. Among others, the DVD also covers incidents involving well-known celebrity cases.
- An impressive certificate of graduation which will be presented to you upon completion of the course.

These are more than reference materials...they're the "silent partners" you'll take back to your job to help you increase your knowledge and strengthen your skills.

PLEASE NOTE: Tuition does not include lodging, meals, transportation to and from the meeting site, parking, or items of a purely personal nature (pens, pencils, paper, etc.)

Is This Course Tax Deductible?

Skill-building and professional enhancement programs such as the Criminal Investigative Analysis: Assessing Threats of Targeted Violence training course are usually tax deductible. Check with your financial advisor to verify applicability of the tax law to your particular situation.

Registration Information

Reserve your seat now! Jim Van Allen's courses fill quickly and seating is limited. To register for the course, please contact the Alpha Group to request the registration form. Payment must be received no later than February 26, 2014. **Make Checks or money orders payable to The Alpha Group.** Please send the registration form and your remittance to: Diana, The Alpha Group, PO Box 8, Montclair, CA 91763. You may also register by phone by calling Diana at (909) 256-3157, by faxing your registration form to (909) 256-3512 or by emailing your registration form to her at: crimecrush@alphagroupcenter.com. For credit card payments, please call The Alpha Group at (909) 256-3157.

Substitutions And Cancellations

Anyone can substitute for you. If this becomes necessary, please call and let us know. If you need to cancel and you contact us no later than February 26, 2014, we'll refund your tuition, less a \$25.00 per person processing fee. The tuition is nonrefundable for any cancellations made after February 26, 2014. The Alpha Group reserves the right to substitute speakers should the featured presenter become incapacitated. In the unlikely event that the course is cancelled, the Alpha Group's liability shall be limited solely to refunding of tuition payments.

Course Location and Hotel Accommodation Information

Please contact the course host for course location and hotel accommodation information. The host is Florida Gulf Coast University, Lee Bushog, 10501 FGCU Pkwy South, Ft Myers, FL 3365. You may contact Lee by phone at (239) 590-7821 or by email at lbushong@fgcu.edu. Class Location: TBA

For Additional Information

If you have any questions or need additional information about the Criminal Investigative Analysis: Assessing Threats of Targeted Violence training course, please contact Steve Gottlieb, Executive Director of the Alpha Group, by telephone at (909) 989-4366, by email at crimecrush@alphagroupcenter.com, or via our website at www.alphagroupcenter.com.



The Alpha Group

Professional Speakers and Trainers

Serving the Criminal Justice Community

We Turn Theory Into Practice™

P.O. Box 8 • Montclair, California 91763 • Telephone: (909) 989-4366 • Fax: (909) 256-3512

Email: crimecrush@alphagroupcenter.com

Website: www.alphagroupcenter.com

This is Exhibit "44" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

438

FAX to: 613-825-0377 RCMP Commissioner fax

Commissioner Bob Paulson
RCMP National Headquarters
Headquarters Building
73 Leikin Drive
Ottawa ON K1A 0R2

From: Donald Best

December 10, 2012

Fax: [REDACTED]

Mobile: [REDACTED]

Mailing Address: [REDACTED]

RE: Unauthorized / illegal access to CPIC & internal police data

Dear Commissioner Paulson,

I am a former Toronto Police officer.

I wish to report illegal / unauthorized access to CPIC, Ontario Ministry of Transport and other internal police data.

The main suspect is a retired Ontario Provincial Police sergeant, and presumably still-serving OPP personnel who supplied him with the data. The retired OPP officer is working as a private investigator for a major Canadian law firm. (ie: large with hundreds of lawyers across Canada)

I have not contacted the OPP about this internal matter as the involved officer previously worked out of OPP HQ and is well known, etc.

Please have the appropriate investigators contact me, whether OPP or RCMP.

Yours truly,

[REDACTED]

Donald Best

This is Exhibit "45" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

440

FAX to: 613-825-0377 RCMP Commissioner fax

Commissioner Bob Paulson
RCMP National Headquarters
Headquarters Building
73 Leikin Drive
Ottawa ON K1A 0R2

From: Donald Best

January 16, 2013

Fax: [REDACTED]

Mobile: [REDACTED]

Mailing Address: [REDACTED]

RE: Unauthorized / illegal access to CPIC & internal police data

Dear Commissioner Paulson,

On December 10, 2012 I faxed a letter to you reporting illegal / unauthorized access to CPIC, Ontario Ministry of Transport and other internal police data. (Attached)

To date over a month later I have not been contacted by your officers.

As the RCMP must be interested in someone selling confidential information from police computers I can only presume that the report went astray during the Christmas season.

Yours truly,

Donald Best

441

FAX to: 613-825-0377 RCMP Commissioner fax

Commissioner Bob Paulson
RCMP National Headquarters
Headquarters Building
73 Leikin Drive
Ottawa ON K1A 0R2

From: Donald Best

December 10, 2012

Fax: [REDACTED]

Mobile: [REDACTED]

Mailing Address: [REDACTED]

RE: Unauthorized / illegal access to CPIC & internal police data

Dear Commissioner Paulson,

I am a former Toronto Police officer.

I wish to report illegal / unauthorized access to CPIC, Ontario Ministry of Transport and other internal police data.

The main suspect is a retired Ontario Provincial Police sergeant, and presumably still-serving OPP personnel who supplied him with the data. The retired OPP officer is working as a private investigator for a major Canadian law firm. (ie: large with hundreds of lawyers across Canada)

I have not contacted the OPP about this internal matter as the involved officer previously worked out of OPP HQ and is well known, etc.

Please have the appropriate investigators contact me, whether OPP or RCMP.

Yours truly,

[REDACTED]

Donald Best

This is Exhibit "46" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

A black rectangular box redacting the signature of the Commissioner.

A Commissioner, etc.



Royal Canadian Gendarmerie royale
Mounted Police du Canada

**FACSIMILE /MESSAGE
TRANSMITTAL**

**ENVOI D'UN MESSAGE
PAR TÉLÉCOPIEUR**

Security Classification/Designation
Classification/désignation

Protected A

Precedence - Priorité

Date

2013-01-17

Reference No. - N° de référence

Your File - Votre n° de dossier

Our File - Notre n° de dossier

12-005262

PIRS ORI

IND SRRJ

CPIC ORI

IND CIPC

OSR - RSO

Unit Coll. - Code d'interclass. de serv.

TO
À

Donald Best

FOR YOUR
INFO.
POUR VOTRE
INFORM.

FROM
DE

Name - Nom

K. Gravelle

Div.

HQ

Sub-Div. - S.-div.

Commr.'s Office

Branch - Service

Section

Unit - Unité

SENDER - EXPÉDITEUR

Fax No. - N° de téléc.

612-825-0377

Tel. No. - N° de tél.

RECIPIENT - DESTINATAIRE

Fax No. - N° de téléc.

Bus. Tel. No. - N° de tél. bur.

Rcs. Tel. No. - N° de tél. rés.

SUBJECT Your letters dated 2012-12-10 and 2013-01-16.
OBJET

Total number of pages including this one:

Nombre total de pages, y compris celle-ci : 5

COMMENTS

COMMENTAIRES

Mr. Best,

Please find attached, a response dated 2012-12-21 to your inquiry of 2012-12-10.

Thank you,

KG,

This message is intended for the use of the addressee. Disclosure of message content may breach one or more laws. If you have received this communication in error, notify the sender immediately by telephone.

Cette communication est exclusivement destinée à qui elle est adressée. La divulgation de son contenu peut constituer une infraction à une ou plusieurs lois. Si vous avez reçu cette communication par erreur, veuillez en aviser immédiatement l'expéditeur par téléphone.

Operator - Opérateur

K. Gravelle

Telephone No. - N° de téléphone

Daily No. - N° quotidien

TO BE DELIVERED BY
À LIVRER D'ICI LE

Date

Time - Heure

Authorizing Signature - Signature de l'approbateur

Date

2013-01-17

REPLY REQUIRED BY
RÉPONSE D'ICI LE

Time - Heure

**Canadian Police Information Centre**

1200 Vanier Parkway
Ottawa, Ontario
K1A0R2

Centre d'information de la police canadienne

1200, promenade Vanier
Ottawa (Ontario)
K1A0R2

OUR FILE - NOTRE RÉFÉRENCE

12-005262

YOUR FILE - VOTRE RÉFÉRENCE

Donald Best

**COPY**

December 21, 2012

Re: Unauthorized/ Illegal access to CPIC and internal police data

Dear Mr. Best,

Thank you for your letter with reference to the potential misuse of, and unauthorized access to the CPIC system.

As your allegation is within the jurisdiction of the Ontario Provincial Police (OPP), your letter has been forwarded to their Communication Technology Support Bureau, under which the administration of the CPIC system within the OPP falls.

I trust that you will soon be contacted by a Team Leader from this area.

Kind regards,



P. M. Dionne, C/Superintendent
Director General, CPI Centre

Cc: K. Lohnes,
OPP CPIC Audit



JAN. 17. 2013 9:57AM

RCMP/GRC 613 825-0377

NO. 0639 P. 3

COMMISSIONER'S
OFFICE

JAN 16 2013

12-005262
BUREAU DU
COMMISSAIRE

FAX to: 613-825-0377 RCMP Commissioner fax

Commissioner Bob Paulson
RCMP National Headquarters
Headquarters Building
73 Leikin Drive
Ottawa ON K1A 0R2

From: Donald Best

January 16, 2013

Fax: [REDACTED]

Mobile: [REDACTED]

Mailing Address: [REDACTED]

RE: Unauthorized / illegal access to CPIC & internal police data

Dear Commissioner Paulson,

On December 10, 2012 I faxed a letter to you reporting illegal / unauthorized access to CPIC, Ontario Ministry of Transport and other internal police data. (Attached)

To date over a month later I have not been contacted by your officers.

As the RCMP must be interested in someone selling confidential information from police computers I can only presume that the report went astray during the Christmas season.

Yours truly,

Donald Best

446

FAX to: 613-825-0377 RCMP Commissioner fax

Commissioner Bob Paulson
RCMP National Headquarters
Headquarters Building
73 Leikin Drive
Ottawa ON K1A 0R2

From: Donald Best

December 10, 2012

Fax: [REDACTED]

Mobile: [REDACTED]

Mailing Address: [REDACTED]

RE: Unauthorized / illegal access to CPIC & internal police data

Dear Commissioner Paulson,

I am a former Toronto Police officer.

I wish to report illegal / unauthorized access to CPIC, Ontario Ministry of Transport and other internal police data.

The main suspect is a retired Ontario Provincial Police sergeant, and presumably still-serving OPP personnel who supplied him with the data. The retired OPP officer is working as a private investigator for a major Canadian law firm. (ie: large with hundreds of lawyers across Canada)

I have not contacted the OPP about this internal matter as the involved officer previously worked out of OPP HQ and is well known, etc.

Please have the appropriate investigators contact me, whether OPP or RCMP.

Yours truly,

[REDACTED]

Donald Best



447

FAX to: 613-825-0377 RCMP Commissioner fax

Commissioner Bob Paulson

RCMP National Headquarters Headquarters Building
73 Leikin Drive
Ottawa ON K1A0R2

From: Donald Best

January 16, 2013

Fax: [REDACTED]

Mobile: [REDACTED]

Mailing Address: [REDACTED]

RE: Unauthorized / illegal access to CPIC & internal police data

Dear Commissioner Paulson,

I just received a voice mail from the OPP Professional Standards, Inspector Kearns, so please disregard my fax earlier today.

Yours truly,

Donald Best

448

This is Exhibit "47" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

449

Date: Thu, 17 Jan 2013 10:00:35 -0500
To: "Inspector Marty Kearns" <marty.kearns@ontario.ca>, "Sgt. Major Jeff Vibert" <jeff.vibert@ontario.ca>
Subject: Donald Best
From: [REDACTED]
X-hush-end-of-body-position: 76
Content-Type: multipart/mixed;
boundary="=_8b4d35a3c24d78cd4574a034918e18af"

Dear Inspector Kearns & Sgt. Major Vibert

Attached please find:

- 1/ Affidavit of Jim Van Allen, as sworn October 21, 2009
- 2/ Two invoices from Behavioural Science Solutions Group Inc. to Fasken Martineau DuMoulin LLP lawyers. (Note the redactions performed presumably by the law firm)
- 3/ Order of Justice Shaughnessy dated October 12, 2012, staying the execution of an arrest warrant for Donald Best until a date set for the hearing of the application. (The hearing date has not yet been set)

Regarding my information:

[REDACTED]
(Dr's licence used to say "[REDACTED]" or "[REDACTED]" at various times. I think it said "[REDACTED]" Best" in October of 2009)
dob: [REDACTED]

Address on Driver's License when Jim Van Allen did the checks on me in October of 2009:

[REDACTED]

You will see my Driver's Licence number listed in the Van Allen affidavit, along with other addresses he obtained from various sources.

You can probably be assured that any CIPC, MTO, or internal OPP records checks performed on me especially from August 2009 to January 15, 2010 were probably commissioned by the law firm or Jim Van Allen no matter who's badge number appears. Although Van Allen was formally retained by the law firm about October 7, 2009 according to his affidavit, I understand that some other investigator was retained prior to that.

Please don't hesitate to contact me for any reason.

Donald Best

cell: [REDACTED]

fax: [REDACTED]

email: [REDACTED]

This is Exhibit "48" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

451

Date: Wed, 06 Feb 2013 20:51:16 -0500
To: gdmmytruk@drps.ca
Cc: "Sgt. Major Jeff Vibert" <jeff.vibert@ontario.ca>
Subject: Donald Best, CPIC check December 2009
From: [REDACTED]
X-hush-end-of-body-position: 378
Content-Type: multipart/mixed;
boundary="=_1281bdb0aec8922690e3733bc5fa9fc7"

Inspector George Dmytruk
Durham Regional Police
Professional Standards

Dear Inspector Dmytruk

Thanks for taking the time to speak with me on Monday. Here is my information and a summary of the situation, along with some exhibits.

My information:

Donald [REDACTED] BEST
(Dr's licence used to say [REDACTED] " or [REDACTED] " at various times. I think it said [REDACTED]
[REDACTED] in October of 2009 [REDACTED]
[REDACTED]

dob: June [REDACTED], Ontario

Ontario Driver's License: B2 [REDACTED] 5 [REDACTED]

Address on Driver's License in October of 2009:

[REDACTED]
[REDACTED]
[REDACTED]

Toronto Police 1975 - 1990. Sergeant # [REDACTED] (Detective). Extensive background in deep cover operations against organized crime, both as a police officer and after leaving the police service in 1990.

Background:

In 2007, my Ontario-registered corporation 'Nelson Barbados Group Ltd.' launched a civil lawsuit in Barrie, Ontario against various corporations and individuals from Ontario and the country of Barbados. Nelson Barbados Group Ltd. is a one-man operation with me as the only executive etc.

The name of the civil lawsuit is:

'Nelson Barbados Group Ltd. vs Richard Ivan Cox et al'
Superior Court of Justice (Ontario Central East Region)

Court file No. 141-07

The case was originally heard before Justice J. B. Shaughnessy in Barrie, Ontario, but then followed him to Whitby and then to the new court house in Oshawa where it is currently being heard in 2013.

The lawsuit name is sometimes shortened to 'Nelson Barbados Group Ltd. v Cox' or 'Nelson Barbados v Cox' and many other variations. The Court File number is the one constant.

This was and is a civil lawsuit before the courts in Ontario, like thousands of other civil lawsuits before the courts. The stakes were high with the amount being contested at over 100 million dollars, but it was like any other civil lawsuit in that the police do not generally take an interest in civil cases unless requested due to some unusual circumstance.

On January 15, 2010, I (Donald Best) was convicted in absentia of Contempt of Civil Court by Justice Shaughnessy and sentenced to 3 months in prison, a fine and various costs to be paid to the defendants. An arrest warrant was issued for me in the form of a Warrant of Committal. I was in the Southwest Pacific at the time and I understand that the warrant was placed upon CPIC by Peel Regional Police with a 50km return radius: presumably because I might be arrested at the airport. This is only a guess on my part as to why Peel Regional Police became involved in January of 2010.

On August 9, 2012 after some two years of various legal activity, Justice Shaughnessy set aside the warrant for my arrest, and allowed me a new hearing, based upon evidence presented to the court that the original evidence the court used to convict me was false and deliberately fabricated. With immunity from arrest I returned to Canada in early September 2012 and have been involved in court hearings and cross-examinations since then. The date for my new hearing has been set as April 30, 2013 before Justice Shaughnessy at the Oshawa court house.

Durham Regional Police CPIC Checks in December 2009

I understand that a Durham Regional Police Special Constable made two CPIC checks on me in December 2009 (I think December 17, 2009 or thereabouts).

In December 2009 the defendants in 'Nelson Barbados Group Ltd. vs Richard Ivan Cox et al' were attempting to locate me purportedly to serve legal documents upon me, but there was no warrant for my arrest, nor had Justice Shaughnessy found me guilty of contempt as he did a month later on January 15, 2010.

In all of the circumstances I can see no valid or authorized reason why a Durham Regional Police Special Constable would have conducted CPIC and other background checks into me in December of 2009. Perhaps there is something I am unaware of, but for the present I believe that any such CPIC check was probably initiated at the request of someone outside the police, for reasons of assisting the defendants and their lawyers to pursue their interests in the Nelson Barbados civil lawsuit.

There is precedent for my belief because as you will see in the following section of my email, the defendants and their lawyers had in October 2009 hired a former OPP Detective Sergeant to track me down. This person, Jim Van Allen, improperly accessed confidential

Toronto Police information and Ministry of Transport information about me. Mr. Van Allen was foolish enough to document his illegal activities in an affidavit that was distributed to the public and later published on the internet. (attached as exhibit) There were also rumours in the police community that Mr. Van Allen had performed various internal police records checks on me and my family members and businesses.

It is possible that Mr. Van Allen was the person who caused the Durham Regional Police Special Constable to perform CPIC checks upon my name; or it could have been someone else.

Notwithstanding my speculation as to the reason behind the CPIC checks performed in December 2009 by the Durham Regional Police member, certain questions appear to be relevant when the Professional Standards officers interview the Special Constable who made the checks:

- 1/ What caused the officer to run a CPIC check on Donald Best? Who asked the officer to run a CPIC check on Best?
- 2/ What information was given to the officer to facilitate the check? (Best's name, dob, dr's lic etc)
- 3/ Who gave Donald Best's name and date of birth (and perhaps driver's license number) to the officer to facilitate the check?
- 4/ What information was learned by the officer? What were the results of the check upon Donald Best?
- 5/ What information was relayed to the person requesting the check on Donald Best?
- 6/ Was the officer aware that Mr. Best was involved in a civil case before the Ontario Courts?
- 7/ Was some cover story given to the officer to induce him or her to perform the CPIC check upon Best?

Events prior to October 30, 2009

My witnesses in the Nelson Barbados Group Ltd. lawsuit have been targets of a well-documented campaign of harassment, intimidation and criminal acts that began in the 1990's in Barbados, and spread to the USA, Canada and other countries. I provide this information only as background for the current situation, but if the assigned Durham Regional Police investigators are interested in looking at the source materials, there are several thousand pages of sworn affidavits over the years that document the campaign against my witnesses: including firebombing of homes, kidnapping and beating of a witness at gunpoint, mail tampering, death threats, threats to rape witnesses wife, home invasion, identity theft, mischief to autos (loosening wheel nuts, shooting of vehicle) and many other crimes. As I discovered much to my horror; when there is \$100 million dollars at stake and many of the litigants come from a Caribbean society where violence against witnesses is not uncommon, becoming involved in a civil lawsuit even in Canada can have serious implications for personal and family safety and well-being.

Attached to this email is the October 21, 2009 affidavit of ex-OPP officer Jim Van Allen, who (according to the affidavit itself) was hired on October 7, 2009 by lawyer Gerry Ranking. Mr. Van Allen was tasked with finding my home address. At paragraphs 7 through 10, Mr. Van Allen repeats my Ontario Driver's license number, date of birth, address history and name in violation of many laws and protocols including the MTO Identity Information protocols,

454

Court Protocols for placing Identity Information into public court documents, and the relevant sections of the Criminal Code that deal with the reckless distribution of Identity Information.

In paragraph 12, Mr. Van Allen explains how he contacted the Toronto Police Association and was provided with my former address in Hamilton, that is in fact the address of my parents. After reading information from Mr. Van Allen's affidavit that was published on the internet, I called the legal director of the Toronto Police Association who confirmed to me that Mr. Van Allen apparently obtained my information from the TPA in an illegal manner that was probably criminal. Further, some of the members' address information from the TPA is sourced from the Toronto Police Service, which adds another layer of concern: Mr. Van Allen was apparently provided with my address information that was sourced from the official records of the Toronto Police Service.

Mr. Van Allen's reports and affidavit were distributed to members of the public and was published on the internet on October 30, 2009, along with calls for persons I had previously arrested and testified against to hunt down my family and me. There were also online calls to harm my witnesses and me. I can provide copies of these internet publications if you desire to see them.

Subsequent to my personal information being published on the internet, during the week of November 1, 2009, one of my children was approached and threatened because they were my child. On November 5, 2009 I was ambushed and physically assaulted on the street. I immediately made plans to leave Canada with my family and I did so on November 11, 2009.

There were many other incidents directed at my witnesses, my family and me, but the above summary sets the context of the circumstances in December of 2009 when your Durham Regional Police Special Constable engaged in CPIC searches of me and (probably) relayed the results to person(s) outside of the police force.

Please don't hesitate to contact me for any reason.

Donald Best

cell:

fax:

email:

Attached please find:

1/ Affidavit of Jim Van Allen, as sworn October 21, 2009

2/ Two invoices from Behavioural Science Solutions Group Inc. to Fasken Martineau DuMoulin LLP lawyers. (Note the redactions performed presumably by the law firm)

3/ Order of Justice Shaughnessy dated October 12, 2012, staying the execution of an arrest warrant for Donald Best until a date set for the hearing of the application. (The hearing date has not yet been set)

455

This is Exhibit "49" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.



A Commissioner, etc.

456

On 7 February, 2013 at 7:57 AM, "George DMYTRUK" <GDMYTRUK@drps.ca> wrote:

Good morning Mr. Best,

Thank you for your information.

I will assign an investigator to review your concern of a CPIC violation. You will be contacted in the near future by the assigned officer.

Please contact me if you have any other questions.

George

Inspector George Dmytruk # 155

Professional Standards Unit

SIU Liaison Officer

Durham Regional Police Service

Police Headquarters, 605 Rossland Road East

Box 911 Whitby, Ontario L1N 0B8

905-579-1520 Ext. 4304

Cell 905-261-4162

gdmytruk@drps.ca

457

This is Exhibit "50" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

458

MIME-Version: 1.0
Date: Fri, 15 Feb 2013 14:21:39 -0500
To: "George DMYTRUK" <gdmytruk@drps.ca>
Subject: RE: Donald Best, CPIC check December 2009
From: [REDACTED]
In-Reply-To:
<31B31C5B9E232B4BB38BD954D949ED8819652A7B3D@MAIL2K8.primary.os
hawa>
References: <20130207015118.488726F446@smtp.hushmail.com>
<31B31C5B9E232B4BB38BD954D949ED8819652A7B3D@MAIL2K8.primary.os
hawa>
X-hush-end-of-body-position: 121
Content-Type: multipart/alternative;
boundary="=_7f1c7be8055e35cc46290649baaaaf38"

Dear Inspector Dmytruk,

I haven't yet heard from your investigator so I'm just touching base.

This email address ([REDACTED]) is probably the best way for your officer to make initial contact with me, as the cell phone signal is weak near my home.

Yours truly,

Donald Best

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This is Exhibit "51" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.



A Commissioner, etc.

460

MIME-Version: 1.0
Date: Tue, 19 Feb 2013 15:50:19 -0500
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Subject: Re: Complaint
From: [REDACTED]
In-Reply-To:
<2AC885DB1E07E54CA5292656F215A53F2E0D429D10@MAIL2K8.primary.oshawa>
X-hush-end-of-body-position: 128
Content-Type: multipart/alternative;
boundary="=_034bc6ab1352ae4a319c21e834fd5460"

Hello Sgt. Rushbrook,

Thanks for letting me know you are on the case. I presume you have a copy of my February 6, 2013 email to Inspector George Dmytruk that lays out a summary.

Please don't hesitate to contact me for any reason.

Yours truly,

Donald Best

Sent using Hushmail

On 19 February, 2013 at 2:47 PM, "Laurie RUSHBROOK" wrote:

Mr. Best,

I am writing to advise I have been assigned to take carriage of the investigation into the complaint you have filed with the Durham Regional Police Service - Professional Standards Branch. I am in the initial stages of the investigation and will be gathering information over the next couple of weeks.

If you have any questions or concerns, please contact me. My information is provided below.

Regards,

Laurie Rushbrook

Sergeant Laurie Rushbrook #915

Durham Regional Police Service - Professional Standards Unit

605 Rossland Rd. E.

Whitby, ON L1N0B7

905-579-1520 X 4329

(c) 905-261-4019

This is Exhibit "52" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

462

Date: Wed, 13 Mar 2013 13:08:32 -0400
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Subject: Donald Best transcript: January 15, 2010
From: [REDACTED]
X-hush-end-of-body-position: 27
Content-Type: multipart/mixed;
boundary="=_0a146422ef896ceea71f7a50e30befc7"

Dear Sgt. Rushbrook
Attached is the January 15, 2010 transcript in the Nelson Barbados
Group Ltd. case.
Yours truly,
Donald Best

Date: Wed, 13 Mar 2013 13:06:21 -0400
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Subject: Donald Best transcript: December 2, 2009
From: [REDACTED]
X-hush-end-of-body-position: 27
Content-Type: multipart/mixed;
boundary="=_638bc42342772a3c9af139f03fc010d7"

Dear Sgt. Rushbrook
Attached is the December 2, 2009 transcript in the Nelson Barbados
Group Ltd. case.
Yours truly,
Donald Best

Date: Wed, 13 Mar 2013 13:04:38 -0400
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Subject: Donald Best transcript: November 2, 2009
From: [REDACTED]
X-hush-end-of-body-position: 23
Content-Type: multipart/mixed;
boundary="=_44d76fe0370278b2967d7f59094a2e7e"

Dear Sgt. Rushbrook
Attached is the November 2, 2009 transcript in the Nelson Barbados
Group Ltd. case.
Yours truly,
Donald Best

MIME-Version: 1.0
Date: Wed, 13 Mar 2013 13:02:11 -0400
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Subject: Donald Best transcripts
From: [REDACTED]

463

X-hush-end-of-body-position: 35
Content-Type: multipart/alternative;
boundary="=_5ee0ee017cbf6190b9ec746dffad4f42"

Dear Sgt. Rushbrook,

It was a pleasure talking with you today.

I am about to send you (in separate emails) three transcripts of court dates in the Nelson Barbados Group Ltd. case:

November 2, 2009

December 2, 2009

January 15, 2010

I am sending them in three separate emails as they are about 3mb each and I don't know the limits of your email system. Please let me know that you received each of the transcripts and if it doesn't work out I'll upload them to one of the file sharing services for you to download them through your browser.

Yours truly,

Donald Best

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This is Exhibit "53" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

465

Date: Thu, 21 Mar 2013 08:53:01 -0400
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Cc: "Todd WILSON" <twilson@drps.ca>
Subject: Re: Transcripts
From: [REDACTED]
In-Reply-To:
<2AC885DB1E07E54CA5292656F215A53F2E0D5ECA80@MAIL2K8.primary.oshawa>
X-hush-end-of-body-position: 97
Content-Type: multipart/alternative;
boundary="=_83ca324f84bb4723a76b2d05ec4f4bc1"

Dear Sgt. Rushbrook,
Thanks for the update.
Donald Best
Sent using Hushmail
On 20 March, 2013 at 7:50 AM, "Laurie RUSHBROOK" wrote:

Mr. Best,
Thank you for the transcripts. As I mentioned to you, I am in court this week, but will do my best to read through the information you provided. I have confirmed you were run by a Special Constable - he is no longer with our Service as he is now retired, but I will continue to look into this matter on your behalf and hopefully touch base with you some time toward the end of next week.

Laurie Rushbrook
Sergeant Laurie Rushbrook #915

Durham Regional Police Service - Professional Standards Unit

605 Rossland Rd. E.

Whitby, ON L1N0B7

905-579-1520 X 4329

(c) 905-261-4019

466

This is Exhibit "54" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

467

Date: Wed, 27 Mar 2013 16:38:53 -0400
To: "Laurie RUSHBROOK" <lrushbrook@drps.ca>
Subject: Donald Best - CPIC checks
From: [REDACTED]
X-hush-end-of-body-position: 536
Content-Type: multipart/mixed;
boundary="=_ecca09914beb349c9a51862751aa8807"

Dear Sgt. Rushbrook,

It was nice talking with you today.

As per your request, attached is a PFD copy of the October 30, 2009 article culled from 'The Barbados Underground', an anonymous website that was heavily involved with a campaign of threats, intimidation and criminal acts against my witnesses, myself and our families. The article is one of many at this website that contained threats etc. and published my and other peoples' Identity Information contrary to the Criminal Code and in violation of other laws, rules and protocols. You'll see my information starting at page 3 and then my Identify Information as per Criminal Code 402.2 etc., reckless distribution of Identity Information.

For further background, although it is not an object of your current focus there is serious forensic and other evidence indicating the involvement of personnel from three Toronto law firms in the publication of information on the Barbados Underground website. If you wanted to have a closer look at evidence I could provide, you would find that the evidence is take-to-the-bank quality and an excellent prima facie case. But once again, I'm not asking you to go outside your focus area re the CPIC checks by the Durham Regional court constable, only offering this as available background.

If you are going to the Barbados Underground website yourself, I advise you to use a proxy and perhaps gets some advice from your IT guys. We know from our investigations that Barbados Underground monitors traffic closely and will try to penetrate your machine if you look interesting at all.

Questions about the CPIC Checks by the Special Constable at the Courthouse

As we discussed today, the questions I have about the CPIC checks as performed by the Durham Court Constable in December of 2009 are about the legitimacy of the checks, the reasons for the checks and the subsequent distribution of information.

I had the Barrie courthouse registrar spend two days examining the actual court file (every box!) and he made many copies of documents that I would be pleased to share if you desire. I have copies of all court orders on file and also all Judge's Endorsements handwritten during each hearing day. Nowhere in those court records, or in the court transcripts, does the judge authorize or request any police involvement, investigations or CPIC checks. Police involvement in an ongoing civil case would be a rarity indeed. I've never seen it in the 38 years I've been in public and private law enforcement but I suppose there's always a first time.

My thoughts remain as I told you, that it was probably somebody at the courthouse who requested your constable to run me on CPIC, or perhaps just requested a police check and

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your man ran me not only on CPIC but also your internal records and MTO.

The lawyer Mr. Ranking originally hired the Private Investigator Jim Van Allen who illegally accessed the Toronto Police records, so I suppose Ranking or Van Allen could have made the request to your court constable or maybe even made the request through the judge, but it seems to me that either the lawyers Mr. Ranking or Mr. Silver approached the constable or perhaps the judge made the inquiry with your officer.

Anyway, my concern remains the who, why and who received what information from your man, even if it was only a negative report. It would be nice to know that the information didn't go from your officer to some nefarious person or criminal organization.

Thanks for your hard work,

Donald Best

Below is my original email to Inspector Dmytruk with my suggested questions to ask your (now retired) Special Constable at the Durham Regional Courthouse.

COPY:

Inspector George Dmytruk
Durham Regional Police
Professional Standards

Dear Inspector Dmytruk

Thanks for taking the time to speak with me on Monday. Here is my information and a summary of the situation, along with some exhibits.

My information:

[REDACTED]
(Dr's licence used to say [REDACTED] at various times. I think it said "[REDACTED]"
[REDACTED]
[REDACTED]

dob: [REDACTED], Ontario

Ontario Driver's License: [REDACTED]

Address on Driver's License in October of 2009:

[REDACTED]

Toronto Police 1975 - 1990. Sergeant [REDACTED] (Detective). Extensive background in deep cover operations against organized crime, both as a police officer and after leaving the police service in 1990.

469

Background:

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The name of the civil lawsuit is:

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Court file No. 141-07

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Durham Regional Police CPIC Checks in December 2009

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did a month later on January 15, 2010.

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There is precedent for my belief because as you will see in the following section of my email, the defendants and their lawyers had in October 2009 hired a former OPP Detective Sergeant to track me down. This person, Jim Van Allen, improperly accessed confidential Toronto Police information and Ministry of Transport information about me. Mr. Van Allen was foolish enough to document his illegal activities in an affidavit that was distributed to the public and later published on the internet. (attached as exhibit) There were also rumours in the police community that Mr. Van Allen had performed various internal police records checks on me and my family members and businesses.

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Notwithstanding my speculation as to the reason behind the CPIC checks performed in December 2009 by the Durham Regional Police member, certain questions appear to be relevant when the Professional Standards officers interview the Special Constable who made the checks:

- 1/ What caused the officer to run a CPIC check on Donald Best? Who asked the officer to run a CPIC check on Best?
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There were many other incidents directed at my witnesses, my family and me, but the above summary sets the context of the circumstances in December of 2009 when your Durham Regional Police Special Constable engaged in CPIC searches of me and (probably) relayed the results to person(s) outside of the police force.

Please don't hesitate to contact me for any reason.

Donald Best

cell:

fax:

email:

Attached please find:

- 1/ Affidavit of Jim Van Allen, as sworn October 21, 2009
- 2/ Two invoices from Behavioural Science Solutions Group Inc. to Fasken Martineau DuMoulin LLP lawyers. (Note the redactions performed presumably by the law firm)
- 3/ Order of Justice Shaughnessy dated October 12, 2012, staying the execution of an arrest warrant for Donald Best until a date set for the hearing of the application. (The hearing date has not yet been set)

This is Exhibit "55" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

[REDACTED]

A Commissioner, etc.

474

Read: Jim Van Allen
From: Jim Van Allen <behaviouralsolutions@gmail.com>
To: orilliaservice <orilliaservice@hushmail.com>
Sent: Saturday, February 8, 2014 at 12:36 PM

Your message

To: behaviouralsolutions@gmail.com
Subject: Jim Van Allen
Sent: 08/02/2014 7:53 AM

was read on 08/02/2014 9:35 AM.

Jim Van Allen
From: orilliaservice <orilliaservice@hushmail.com>
To: behaviouralsolutions <behaviouralsolutions@gmail.com>
Sent: Saturday, February 8, 2014 at 10:53 AM

Jim Van Allen
Director,
Behavioural Science Solutions Group Inc.

Dear Mr. Van Allen,

Attached please find a Summons To Witness for you as issued by the Court of Appeal for Ontario.

YOU ARE REQUIRED TO ATTEND, on Wednesday, February 19th, 2014 at 2:30pm, at the office of Simcoe Court Reporting 134 Collier Street, Barrie, ON L4M 1H4, for Examination out of court as witness before hearing

YOU ARE REQUIRED TO BRING WITH YOU and produce at the examination the documents and things as indicated in the summons.

IF YOU FAIL TO ATTEND OR REMAIN UNTIL THE END OF THIS EXAMINATION, YOU MAY BE COMPELLED TO ATTEND AT YOUR OWN EXPENSE AND YOU MAY BE FOUND IN CONTEMPT OF COURT.

This summons was issued at the request of, and inquires may be directed to:

Paul Slansky - Barrister and Solicitor

1062 College Street Lower Level
Toronto, Ontario M6H 1A9
Tel: (416) 536-1220
Fax: (416) 536-8842

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**Behavioural Science Solutions Group Inc.***A Behavioural Analysis & Threat Management Company*PO Box 3101, Stn LCD, Langley, BC V3A 4R3
Telephone (604) 626 - 9572 Fax: (604) 371-1649**Fax**

To: Mr. Paul Slansky – Barrister & Solicitor	From: Jim Van Allen
Fax: 416-536-8842	Pages: 2
Phone: 416-536-1220	Date: 8 Feb 2014
Re: ONT Court of Appeal – D. Best	CC:

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Dear Sir

Further to our telephone conversation of 8 February 2014, please review the attached memo requesting alternative arrangements for my examination due to my relocation to British Columbia.

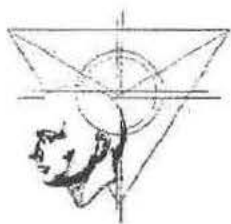
My contact information is included to assist further discussions on this matter.

Please contact me as required.

Thank You



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**Behavioural Science Solutions Group Inc.***A Behavioural Analysis & Threat Management Company*

P.O. Box 3101, Stn LCD, Langley, BC, V3A 4R3
Telephone (604) 626-9572 Fax (604) 371-1649

8 February 2014

**Paul Slansky – Barrister and Solicitor
1062 College Street Lower Level
Toronto, Ontario
M6H 1A9**

RE: Summons to Witness – Jim Van Allen

Att: Mr. Paul Slansky

Dear Sir:

Further to our telephone conversation on 8 February 2014, pleased by advised that I relocated to Langley, British Columbia in May of 2011.

Physical appearance at the Barrie Court (as specified in the Summons) would require considerable travel and related expenses. I request your consideration of other options to complete this examination.

Please be advised that I can be contacted at telephone # 604-626-9572, or be email address: behaviouralsolutions@gmail.com

I will not be able to produce a copy of my Corporate Minute Book that is currently in the possession of my lawyer pending a government application process.

Sincerely,

Jim Van Allen

This is Exhibit "**57**" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.



A Commissioner, etc.

47A



Van Allen (Director) - BSSG

Jim Van Allen <behaviouralsolutions@gmail.com>

Mon, Feb 10, 2014 at 10:09 AM

To: che claire <che@checlairelaw.com>

Good Morning Mr. Clair

Deliveries can be sent to:

Behavioural Science Solutions Group Inc.

C/O Magellan Law

225 – 20316 56 Ave.,

Langley, BC

V3A 3Y7

Att: Mr. Steve Fruitman

Telephone: 778-726-0175

Sincerely,

Jim Van Allen

604-626-9572

From: che claire [mailto:che@checlairelaw.com]

Sent: February-09-14 3:58 PM

To: behaviouralsolutions@gmail.com

Subject: Van Allen (Director) - BSSG

Dear Mr. Van Allen,

I am a lawyer working in association with Mr. Slansky.

Thank you for calling yesterday, Saturday February 8, 2014 and confirming that you received a

copy via email of the Summons to Witness to James Arthur (Jim) Van Allen, Director, Behavioural Science Solutions Group Inc.. (Attached also to this email)

We appreciate your willingness to testify and as per your request are making arrangements for you to appear via video conferencing from British Columbia. We will be contacting you with further information about your requested method of testimony.

Please reply to this email and tell us which address you wish any further documentation be couriered to.

Yours truly,

—
Mr. Che Claire BA LLB

Barrister and Solicitor

Che Claire Law Professional Corporation

p:647-719-4LAW (4529)

f:1.877.974.4LAW

@ www.checlairelaw.com

This e-mail is privileged and/or confidential, and the sender does not waive any related rights and obligations. Any distribution, use or copying of this e-mail or the information it contains by other than an intended recipient is unauthorized. If you received this e-mail in error, please delete it and advise che@checlairelaw.com immediately.

481

This is Exhibit "58" referred to in
the affidavit of **Che Claire**
sworn before me, this 11th day
of February, 2014.

A black rectangular redaction box covering the signature of the Commissioner.

A Commissioner, etc.

EXHIBIT 58

SEE ATTACHED CD

Donald Best (Appellant) v. Richard Ivan Cox, et al. (Kingsland
Estates Ltd, PricewaterhouseCoopers East Caribbean Firm
(Respondents)

Court File No. C57123

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED IN BARRIE

AFFIDAVIT OF CHE CLAIRE

Paul Slansky
Barrister and Solicitor
1062 College Street, Lower Level
Toronto, Ontario
M6H 1A9

Tel: (416) 536-1220
Fax (416) 536-8842
LSUC #25998I

Counsel for the Applicant/Appellant

483

Donald Best (Appellant) v. Richard Ivan Cox, et al. (Kingsland
Estates Ltd, PricewaterhouseCoopers East Caribbean Firm
(Respondents)

Court File No. C57123

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED IN BARRIE

MOTION RECORD

Paul Slansky
Barrister and Solicitor
1062 College Street, Lower Level
Toronto, Ontario
M6H 1A9

Tel: (416) 536-1220
Fax (416) 536-8842
LSUC #25998I

Counsel for the Applicant/Appellant