

PEEL REGIONAL POLICE SERVICE DISCIPLINARY HEARING

**IN THE MATTER OF ONTARIO REGULATION 268/10 MADE UNDER THE POLICE SERVICES ACT,
RSO 1990, AND AMENDMENTS THERETO.**

AND IN THE MATTER OF

POLICE CONSTABLE ANTHONY GANGADEEN #3746

AND THE PEEL REGIONAL POLICE SERVICE

CHARGES:

- 1. DISCREDITABLE CONDUCT X10**
- 2. NEGLIGENCE OF DUTY X 2**
- 3. INSUBORDINATION X 1**

HEARING DECISION

BEFORE: SUPERINTENDENT (RETIRED) DEBRA PRESTON

APPEARANCES:

COUNSEL FOR THE PROSECUTION: MS. JOVANA ORABOVIC, MS. SHARON WILMOT

COUNSEL FOR THE DEFENCE: MR. HARRY BLACK

HEARING DATES: JULY 6-8, 2021 & JULY 27, 2021

DECISION

CONSTABLE ANTHONY GANGADEEN #3746

DATE: September 30, 2021

Superintendent (Ret'd) Preston: Before rendering my decision in this matter, I would like to thank Ms. Jovana Orabovic and Ms. Sharon Wilmot, counsel and Service prosecutors, and Mr. Harry Black, defence counsel, for your submissions and exhibits tendered, all of which have assisted me in reaching my decision.

On July 6, 2021, Constable Anthony Gangadeen (3746) pled guilty to two counts of Discreditable Conduct and not guilty to eight counts of discreditable conduct, two counts of Neglect of Duty and one count of Insubordination contrary to the *Police Services Act*.

Summary

The facts are summarized from the Notice of Hearing and Statement of Particulars as follows:

Background:

1. Constable Anthony Gangadeen #3746 was hired as a Cadet on December 20, 2011, and was sworn in as a Constable on September 9, 2014 and assigned to 21 Division. At all material times he was assigned to 21 Division 'C' Platoon.
2. On January 12, 2017, Constable David Petrucci #3137 of the Peel Regional Police Street Crime Gang Unit was notified of a silent observation query on CPIC that an individual he was monitoring was queried by Constable Gangadeen. On December 30, 2016, Constable Gangadeen had queried an individual who was aco-accused with Constable Gangadeen's brother in a Halton Regional Police robbery investigation. The investigation was part of a joint project with Peel Regional Police involving a series of robbery investigations entitled "Project Interlock". Project Interlock involved 19 incidents between December 25, 2015, and February 14, 2016.

3. There were ten individuals identified in Project Interlock, including several youth.
The individuals are listed as follows:
AA
Ashton Gangadeen
BB
Muhammad Asif
Nicholas Armstrong
CC
DD
EE
FF
GG
4. Constable Gangadeen was not involved in Project Interlock in any capacity nor was there any reason for him to query any of the involved individuals.
5. As a result of the query, an internal investigation was commenced with respect to Constable Gangadeen's use of CPIC and Records Management systems specifically as it related to Project Interlock.

Notice of Hearing dated December 17, 2017

Count one—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that between December 4, 2015 and January 15, 2017 you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline, Discreditable Conduct, as prescribed in section s. 2(1)(a)(xi) of the Code of Conduct, Regulation 268/10, as amended

Statement of Particulars

1. Muhammad Asif was an individual involved in Project Interlock. Constable Petrucci of the Peel Street Crime Gang Unit had submitted a request to place Mr. Asif on a surveillance category on CPIC on December 19, 2016. Officers who queried Mr. Asif were to obtain particulars and contact the Street Crime Gang Unit.
2. On December 29, 2015, a number of individuals in Project Interlock were arrested, including Ashton Gangadeen, Constable Gangadeen's brother. Ashton Gangadeen was arrested by Halton Regional Police Service.
3. On December 30, 2016 at 10:15am and 10:17am, Constable Gangadeen conducted a query of Mr. Asif and a silent response notified Constable Petrucci that the query had been conducted. Constable Gangadeen did not contact the Street Crime Gang Unit as he was required to do.
4. On January 15, 2017, Constable Petrucci emailed Constable Gangadeen with the CPIC results embedded and requested details on his query of December 20, 2016.
5. Constable Gangadeen responded via email stating: "Ran for information follow ups to known associate FF". Asif is currently i/c at the hurst".
6. Constable Gangadeen had no notes with respect to this query and no operational reason to conduct the query of Mr. Asif. At this time, Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.
7. Constable Gangadeen conducted PQT/Niche queries on Muhammad Asif on the following dates:
 - February 10, 2016 at 8:15 am
 - March 2, 2016 at 1:40pm
 - March 4, 2016 at 10:15am
 - September 10, 2016 at 7:45am
 - September 19, 2016 at 10:15pm
 - October 11, 2016 at 2:23pm
 - November 5, 2016 at 7:19am

- November 22, 2016 at 10:43pm
- November 23, 2016 at 12:08pm
- November 28, 2016 at 2:10pm
- December 2, 2016 at 2:22pm
- **December 30, 2016 at 3:05pm** (after arrests were made)
- **January 15, 2017 at 6:53pm** (query undertaken after contacted by Street Crime Unit)

Constable Gangadeen had no notes or any operational reasons to conduct the above queries of Mr. Asif. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

8. BB was another individual involved in Project Interlock. Constable Gangadeen conducted CPIC queries of BB on the following dates:

- December 4, 2015 at 8:32am
- February 1, 2016 at 3:30am
- April 2, 2016 at 10:28am
- September 13, 2016 at 9:13am
- November 12, 2016 at 2:49pm

Constable Gangadeen had no notes or operational reasons to conduct the above queries of BB. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

Constable Gangadeen conducted PQT/Niche queries on BB on the following dates:

- December 4, 2015 at 8:32am
- February 1, 2016 at 8:30am
- March 26, 2016 at 1:47pm
- April 2, 2016 at 2:24pm
- June 1, 2016 at 5:14am
- August 16, 2016 at 7:24pm
- September 13, 2016 at 6:19am

- September 18, 2016 at 6:18pm
- October 12, 2016 at 2:54pm
- October 14, 2016 at 2:24pm
- November 12, 2016 at 11:21am
- November 22, 2016 at 10:32pm
- November 23, 2016 at 4:00am
- November 28, 2016 at 11:44am

Constable Gangadeen had no notes or any operational reasons to conduct the above queries of BB. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

9. CC is an individual involved in Project Interlock. Constable Gangadeen queried CC on CPIC on November 12, 2016 at 2:41pm. Constable Gangadeen had no notes of this query. Constable Gangadeen conducted the following PQT/Niche queries on CC on the following dates:

- February 7, 2016 at 8:15pm
- October 11, 2016 at 2:16am
- November 5, 2016 at 7:14pm
- November 12, 2016 at 11:21am
- November 22, 2016 at 11:15pm

Constable Gangadeen had no notes or operational reasons to conduct the above queries of CC. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

10. Nicholas Armstrong is an individual involved in Project Interlock. Constable Gangadeen conducted the following CPIC queries on Nicholas Armstrong on the following dates:

- November 22, 2016 at 10:25pm
- November 22, 2016 at 10:26pm

Constable Gangadeen conducted PQT/Niche queries on Nicholas Armstrong on the following dates:

- November 22, 2016 at 10:43pm
- November 23, 2016 at 12:08am

Constable Gangadeen had no notes in relation to the queries. He did not have any operational reasons to conduct the above queries of Nicholas Armstrong. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

11. AA is an individual involved in Project Interlock. Constable Gangadeen conducted PQT/Niche queries on AA on the following dates:

- June 1, 2016 at 5:14am
- September 10, 2016 at 7:45pm
- November 12, 2016 at 7:50pm

Constable Gangadeen had no notes in relation to the queries. He did not have any operational reasons to conduct the above queries of AA. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brothers.

12. FF is an individual involved in Project Interlock but not charged with any criminal offence. Constable Gangadeen conducted CPIC queries on FF on the following dates:

- February 8, 2016 at 8:55pm
- February 8, 2016 at 10:56pm
- October 10, 2016 at 10:14am
- October 11, 2016 at 10:15am
- November 5, 2016 at 3:12pm
- November 5, 2016 at 3:13pm
- November 6, 2016 at 7:15pm
- November 12, 2016 at 7:26am
- November 22, 2016 at 6:13pm
- November 28, 2016 at 5:35am
- November 28, 2016 at 5:37am

- November 29, 2016 at 5:58am

Constable Gangadeen had no notes in relation to the queries. He did not have any operational reasons to conduct the above queries of FF. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

Constable Gangadeen conducted PQT/Niche queries on FF on the following dates:

- February 1, 2016 at 8:35am
- February 9, 2016 at 1:15am
- March 26, 2016 at 1:47pm
- August 16, 2016 at 7:24pm
- September 9, 2016 at 6:18pm
- September 29, 2016 at 5:39am
- October 11, 2016 at 11:11am
- October 12, 2016 at 2:54pm
- October 14, 2016 at 2:24am
- November 5, 2016 at 6:33pm
- November 12, 2016 at 11:21am
- November 22, 2016 at 10:32pm
- November 23, 2016 at 3:18am
- November 28, 2016 at 10:35am
- November 29, 2016 at 10:58am

Constable Gangadeen had no notes in relation to the queries. He did not have any operational reasons to conduct the above queries of FF. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

13. GG was an individual involved in Project Interlock. Constable Gangadeen conducted a PQT/Niche query on GG on December 9, 2016 at 3:58am.

Constable Gangadeen did not make notes on this query. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

14. EE was an individual involved in Project Interlock. Constable Gangadeen conducted PQT/Niche queries on EE on the following dates:

- November 4, 2016 at 2:20pm
- November 23, 2016 at 7:19am
- December 9, 2016 at 3:58pm

Constable Gangadeen had no notes in relation to the queries. He did not have any operational reasons to conduct the above queries of EE. Constable Gangadeen was in a conflict of interest in relation to any criminal associates of his brother.

The above actions of Constable Gangadeen constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Two-Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that between December 6, 2015 and December 1, 2016 you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline, Discreditable Conduct, as prescribed in section s. 2(1)(a)(xi) of the Code of Conduct, Regulation 268/10, as amended.

Statement of Particulars

Constable Gangadeen's brother, Ashton Gangadeen, was arrested on December 29, 2015 as part of Project Interlock. Constable Gangadeen undertook unauthorized and unlawful queries of his brother both before and after his arrest.

1. Constable Gangadeen queries his brother on CPIC on two occasions: (1) December 6, 2015 at 7:54pm (before his brother's arrest) and (2) September 26, 2016 at 3:44pm.

2. Constable Gangadeen performed PQT/Niche queries on Ashton Gangadeen on the following dates:

- June 1, 2016 at 1:08am
- June 14, 2016 at 12:51pm
- July 2, 2016 at 4:40am
- August 17, 2016 at 9:18am
- September 10, 2016 at 3:44pm
- September 13, 2016 at 12:08am
- October 13, 2016 at 7:24pm
- November 12, 2016 at 2:57pm
- December 1, 2016 at 5:00am

Constable Gangadeen had no notes in relation to the queries. He did not have any operational reasons to conduct the above queries of his brother. Constable Gangadeen was in a conflict of interest.

The above-described actions of Constable Gangadeen constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Three—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that between February 10, 2016 and December 30, 2016 you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline. Discreditable Conduct, as prescribed in section s. 2(1)(a)(xi) of the Code of Conduct, Regulation 269/10 as amended.

Statement of Particulars

Constable Gangadeen accessed various Peel Regional Police occurrence reports associated to Project Interlock after his brother's arrest. Constable Gangadeen was in a conflict of interest in relation to Project Interlock and had no operational reason to undertake these queries. None of the queries were recorded in his notebook. The following is a summary of the occurrences reviewed by Constable Gangadeen:

PR150500640 (Motor Vehicle theft on December 26, 2015) reviewed on June 1, 2016; September 10, 2016, and November 12, 2016.

PR150502653 (Convenience store robbery on December 27, 2015) reviewed on February 10, 2016; March 4, 2016; November 22, 2016; and December 30, 2016.

PR150505001 (Convenience store robbery on December 29, 2015) reviewed on April 2, 2016, June 1, 2016, July 2, 2016, August 17, 2016, September 13, 2016, October 13, 2016, and November 12, 2016.

PR150505022 (Gas station robbery on December 29, 2015) reviewed on April 2, 2016, June 1, 2016, August 17, 2016, and September 10, 2016, September 13, 2016, and November 12, 2016.

PR150505061 (Carjacking on December 30, 2015) reviewed on April 2, 2016, June 1, 2016, July 2, 2016, August 17, 2016, September 10, 2016, September 13, 2016, October 13, 2016, and November 12, 2016.

PR150505063 (Carjacking on December 30, 2015) reviewed on April 2, 2016, June 1, 2016, July 2, 2016, August 17, 2016, September 10, 2016, September 13, 2016, October 13, 2016, and November 12, 2016.

PR160020001 (Convenience Store robbery on January 15, 2016) reviewed on February 10, 2016, March 2, 2016, March 4, 2016, November 12, 2016, and December 30, 2016.

PR160020018 (Gas station robbery on January 15, 2016) reviewed on February 10, 2016, March 2, 2016, March 4, 2016, November 12, 2016, November 22, 2016, and December 30, 2016.

PR160023754 (Gas station robbery on January 18, 2016) reviewed on November 12, 2016, and November 22, 2016

PR160023791 (Motor vehicle theft on January 18, 2016) reviewed on November 22, 2016

PR160039203 (Motor vehicle theft on January 29, 2016) reviewed November 22, 2016

PR160041796 (Gas station robbery on January 31, 2016) reviewed on November 22, 2016

PR160041835 (Gas station robbery on January 31, 2016) reviewed on November 22, 2016

PR160041844 (Gas station robbery on January 31, 2016) reviewed on November 22, 2016

PR16001484 (Motor vehicle theft on February 14, 2016) reviewed on September 10, 2016, September 29, 2016, October 11, 2016, November 5, 2016, November 22, 2016, November 28, 2016, and November 29, 2016.

Constable Gangadeen accessed the above-listed occurrence reports, all of which were connected to Project Interlock, without lawful authority. Constable Gangadeen was in a position of conflict in relation to Project Interlock. Constable Gangadeen made no notes in relation to the search of the listed occurrence reports.

The above actions of Constable Gangadeen constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Four—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that between June 1, 2016 and November 12, 2016 you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police

constituting an offence against discipline, Discreditable Conduct, as prescribed in section s. 2 (1)(a)(xi) of the Code of Conduct, Regulation 268/10, as amended.

Statement of Particulars

Constable Gangadeen undertook vehicle queries through PQT or the Niche system on vehicles associated to Project Interlock. He had no role in this project and was in a position of conflict of interest. The following vehicles were queried:

- Ontario Licence BVFB384 was queried three times: June 1, 2016, September 10, 2016, November 12, 2016
- Ontario Licence BVRB073 queries twice: June 1, 2016 and November 12, 2016

Constable Gangadeen had made no duty notes in relation to these queries

The above-described actions of Constable Gangadeen constitute Discreditable Conduct in accordance with section 2 (1)(a)(xi) of the prescribed Code of Conduct.

Count Five—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that between January 13, 2016, and January 15, 2017, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline, Discreditable Conduct, as prescribed in section s. 2(1)(a)(xi) of the Code of Conduct, Regulation 268/10, as amended.

Statement of Particulars

Constable Gangadeen queried his father Anthony Gangadeen on both PQT (two queries) and CPIC (eight queries) for no operational purpose. The CPIC queries occurred on: January 13, 2016, March 11, 2016, March 25, 2016, July 2, 2016, July 19, 2016, January 10, 2017, January 11, 2017, and January 15, 2017. The PQT queries occurred on June 1, 2016, and July 2, 2016.

Constable Gangadeen had no notes to justify the above queries on his father and was in a position of conflict.

Constable Gangadeen queried his mother, Lynn Gangadeen, on both PQT (four queries) and CPIC (eight queries) for no operational purpose. The CPIC queries occurred on January 13, 2016, March 11, 2016, March 25, 2016, July 2, 2016, July 19, 2016, January 10, 2017, January 11, 2017, and January 15, 2017. The PQT queries occurred on June 1, 2016, July 2, 2016, September 10, 2016, and November 12, 2016.

Constable Gangadeen had no notes to justify the above queries on his mother and was in a position of conflict.

The above-described actions of Constable Gangadeen constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Six—Neglect of Duty

You are alleged to have committed Neglect of Duty in that between September 23, 2016 and December 6, 2016 you without lawful excuse, neglects, or omits promptly and diligently to perform a duty as a member of the Peel Regional Police constituting an offence against discipline, Neglect of Duty, as prescribed in section 2(1)(c)(i)(A) of the Code of Conduct, Regulation 268/10, as amended.

Statement of Particulars

Constable Gangadeen failed to complete any notes from September 23, 2016 until December 6, 2016. Constable Gangadeen provided investigators with a notebook which was completed up to September 23, 2016 with no entries beyond that time frame. A new notebook was provided which began on December 6, 2016.

The failure of Constable Gangadeen to keep duty notes constitutes Neglect of Duty in accordance with section 2(1)(c)(i)(a) of the prescribed Code of Conduct.

NOTICE OF HEARING DATED APRIL 8, 2020

Background

Constable Anthony Gangadeen #3746 has been a member of Peel Regional Police (PRP) since September 2014. Constable Gangadeen was transferred to 11 Division “B” Platoon on January 29, 2018 and was subsequently suspended with pay on April 20, 2018.

Count One—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that on September 24, 2017, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. On September 24, 2017, at approximately 2:45am, 21 Division PRP Uniform officers and Criminal Investigation Bureau investigators were dispatched to the residence at 89 Abitibi Lake Drive in Brampton after a dangerous weapons call for service was received from complainant M.A.
2. M.A., an Uber driver, alleged that he dropped several parties off at the location and that one of the male passengers was in possession of a handgun. After all passengers exited his vehicle, M.A. drove a short distance away and called 911 to report what he witnesses. M.A. was directed by PRP to attend at a nearby school while he waited for PRP to arrive.
3. Following receipt of the complaint, Constable Gangadeen was assigned to a traffic point at Abitibi Lake Drive, Brampton. Constable Gangadeen arrived at the staging area at the nearby school and spoke with the complainant M.A. M.A. provided a detailed account of what he observed to Constable Gangadeen, and subsequently he left the area.
4. Following his conversation with M.A., Constable Gangadeen ran queries of the address “89 Abitibi Lake Drive, Brampton”, as well as “Mohamed Khan (1993-09-07).

5. In the meantime, PRP Constables Angevine #3700, Meyer #2133 and Joshua Dykxhoorn #3992 were at the front of the residence at 89 Abitibi Lake Drive with a male person of interest, Mr. Mohammed Sameer Khan ("Mr. Khan"). Mr. Khan asked the officers if they knew his friends, Constable Gangadeen and his brother Ashton Gangadeen. The officers were concerned about this comment.
6. A review of occurrence PR17-0358031 indicated that the following were parties of interest:
 - Mr. Mohamed Sameer Khan
 - Ms. Alicia Persaud
 - Mr. Jayson Panday
 - Mr. Ajay Panday
7. Both Ajay and Jayson Panday have criminal records, of which Constable Gangadeen is aware. Constable Gangadeen acknowledged to having Mr. Ajay Panday's contact information in his cell phone.
8. On September 24, 2017, at 5:25am., Constable Gangadeen's cell phone received a text message from Ms. Somie Narine's phone. Subsequently, at 5:26a.m., Ms. Narine's phone placed a three-minute call to Constable Gangadeen's cell phone number. At this time, Constable Gangadeen was on duty. No records of the call and messages were made in Constable Gangadeen's notebooks.
9. On September 24, 2017 at 6:09pm, Constable Gangadeen received a 79 second call from Ms. Narine's phone. Constable Gangadeen was off duty at this time.
10. An open-source Facebook query confirms that Constable Gangadeen is 'Friends' with Ms. Somie Narine. Ms. Narine is the girlfriend of Mr. Ajay Panday and is also an associate of Mr. Jayson Panday and Mr. Mohamed Sameer Khan. All of these individuals were parties of interest in PR17-0358031. Constable Gangadeen did not notify any supervisor or investigator that he had contact with a person of interest in a firearms investigation on the same day the investigation commenced.

11. Constable Gangadeen has demonstrated an association with these parties, who are known to be involved in criminal activity, and has not been forthright about the association.
12. Constable Gangadeen's actions constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Two—Neglect of Duty

You are alleged to have committed Neglect of Duty in that on September 24, 2017, you failed to report a matter that is your duty to report constituting an offence against discipline as prescribed in section 2 (1)(c)(vi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. On September 24, 2017, 21 Division PRP Uniform officers and Criminal Investigation Bureau investigators attended the residence 89 Abitibi Lake Drive in Brampton after a dangerous weapons call for service was received by PRP.
2. Constable Gangadeen was assigned to a traffic point at Abitibi Lake Drive, Brampton at 2:52 a.m. Upon arriving at the staging area, Constable Gangadeen spoke with the complainant, M.A., who provided him with a description and details of the suspects.
3. Following his conversation with M.A., Constable (Gangadeen) ran queries of the address 89 Abitibi Lake Drive, Brampton, as well as Mohamed Khan (1993-09-07).
4. Constable Gangadeen neglected to record his interaction with M.A. the description of the culprit, phone interaction with persons-of-interest and his database queries in his notebook; instead, he elected to only record that he was on a traffic point at Fairservice Road and Abitibi Lake Drive, Brampton.
5. Constable Gangadeen's actions constitute Neglect of Duty in accordance with section 2(1)(c)(i) of the prescribed Code of Conduct.

Count Three—Discreditable Conduct---Withdrawn as requested

Count Four—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that on July 29, 2016, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. On July 29, 2016, Constable Gangadeen attended “Jab-Jab”, an outdoor concert at Parkshore Golf Club in Brampton, Ontario. He was off duty at the time.
2. Constable Sherri-Lynn Brown #2042 and Constable Aaron Cook #3793 worked a modified shift that night and were tasked with preventing people from entering the concert by climbing the fence in order to gain access to the controlled access area without proper ticketing.
3. At approximately 1:30 a.m., Constable Brown observed three South Asian males attempting to climb over the fence. Constable Brown and Cook ran over and told the males to get off the fence and move along.
4. Constable Cook recognized Constable Gangadeen as a fellow PRP officer who worked at 21 Division.
5. Two of the three males were compliant and followed their commands. Constable Gangadeen did not comply and kept his back to the officers. Constable Brown asked Constable Gangadeen to remove his hands from his pockets, and Constable Gangadeen began “kissing his teeth”, swearing under his breath and being disrespectful. The two other males were apologetic and pleasant. Constable Gangadeen was so rude and disrespectful towards Constable Brown and Constable Cook to the point where Constable Brown unclipped the holster offer Conducted Energy Weapon (CEW) out of concern the interaction would escalate.

6. Constable Gangadeen was belligerent, did not listen to officer commands, and directed profanities at Constables Brown and Cook. Eventually, he was pulled away by his friends while continuing to swear, saying “fuck these guys”
7. Constable Gangadeen’s actions constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Five-Neglect of Duty—Withdrawn as requested

Count Six—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that between September 27, 2017 and April 20, 2018, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. A police database audit was conducted on Constable Gangadeen between September 27, 2017 and April 20, 2018 to identify and discrepancies or database breaches relating to the on-going investigations being conducted by the PRP Internal Affairs Bureau.
2. The audit revealed that Constable Gangadeen queried a number of PRP members without any reasonable law enforcement purpose.
3. The audit revealed that Constable Gangadeen queried Peel Regional Police Association (“PRPA”) President Adrian Woolley’s licence plate on CPIC on November 8, 2017 while on patrol at 21 Division. Constable Gangadeen failed to make any notes explaining the purpose of the query.
4. The audit revealed that Constable Gangadeen queried Constable Sybblis and his licence plate on CPIC on March 14, 2018 while on patrol in 11 Division. Constable Gangadeen failed to make any notes explaining the purpose of the query.
5. The audit revealed that Constable Gangadeen queried Constable Kudzma and his licence plate on CPIC on February 13, 2018 while on patrol in 11 Division.

Constable Gangadeen failed to make any notes explaining the purpose of the query.

6. Constable Gangadeen's actions constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Seven—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that in between September 27, 2017 and April 20, 2018, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. A police database audit was conducted on Constable Gangadeen between September 27, 2017 and April 20, 2018 to identify any discrepancies or database breaches relating to the on-going investigations being conducted by the PRP Internal Affairs Bureau.
2. The audit revealed that Constable Gangadeen queried a number of family members and person associates without any reasonable law enforcement purpose.
3. The audit revealed that Constable Gangadeen queried Mr. Ajay Panday on CPIC and PQT on December 17, 2017 while working at 11 Division. Mr. Panday is an associate of Constable Gangadeen's, and is a known criminal associate to his brother, Mr. Ashton Gangadeen. Constable Gangadeen had no reasonable law enforcement purpose for the query. Constable Gangadeen failed to make any notes explaining the purpose of the query.
4. The audit revealed that on February 3, 2018, Constable Gangadeen conducted a CPIC query on his parents, Mr. Anthony Gangadeen and Ms. Lynn Gangadeen, without any reasonable law enforcement purpose. Constable Gangadeen failed to make any notes explaining the purpose of the queries.

5. The audit revealed that Constable Gangadeen queried Simon Brar on January 20, 2018 on CPIC and PQT while working at 21 Division. Mr. Brar was a co-accused in a series of robberies, along with Mr. Muhammad Asif and BB. Mr. Asif and BB were previously charged with Mr. Ashton Gangadeen, Constable Gangadeen's brother, as part of a series of robberies in December 2015. Constable Gangadeen had no reasonable law enforcement purpose for the query. Constable Gangadeen failed to make any notes explaining the purpose of the query.
6. Constable Gangadeen's actions constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Eight—Discreditable Conduct

You are alleged to have committed Discreditable Conduct in that in between September 27, 2017 and April 20, 2018, you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police constituting an offence against discipline as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. A police database audit was conducted on Constable Gangadeen between September 27, 2017 and April 20, 2018 to identify any discrepancies or database breaches relating to the on-going investigations being conducted by the PRP Internal Affairs Bureau.
2. The audit revealed that Constable Gangadeen used PRP databases to conduct a number of queries on his own person information without any reasonable law enforcement purpose.
3. The audit revealed that Constable Gangadeen conducted PQT queries on himself on two occasions as follows:
 - 10/14/2017 --15:07:56
 - 10/22/2017 --09:26:57

Constable Gangadeen did not offer a reasonable explanation for these queries. Constable Gangadeen failed to make any notes explaining the purpose of the queries.

4. On February 3, 2018, Constable Gangadeen conducted a CPIC query of his personal licence plate. Constable Gangadeen had no reasonable law enforcement purpose for the query. Constable Gangadeen failed to make any notes explaining the purpose of the query.
5. Constable Gangadeen conducted a Ministry of Transportation query on himself on February 21, 2018 where he viewed his driver's licence history, photograph and convictions. Constable Gangadeen was unable to provide a reasonable justification for the queries.
6. Constable Gangadeen's actions constitute Discreditable Conduct in accordance with section 2(1)(a)(xi) of the prescribed Code of Conduct.

Count Nine—Insubordination

You are alleged to have committed insubordination in that on May 8, 2019 you without lawful excuse, disobeyed, omitted and neglected to carry out a lawful order constituting an offence against discipline as prescribed in section 2(1)(b)(i) of the Code of Conduct, Ontario Regulation 268/10, as amended.

Statement of Particulars

1. Constable Gangadeen attended for a compelled interview on May 8, 2019. During his interview, Constable Gangadeen presented himself in an unprofessional manner throughout the duration of the lengthy interview.
2. When ordered to answer questions by Detectives from the Internal Affairs Unit, Constable Gangadeen was insubordinate by words and demeanour.
3. Constable Gangadeen refused to answer certain questions he deemed irrelevant, called the detectives annoying and agitating, referred to the Internal Affairs investigative process as "slimy" and presented in an unprofessional and insolent manner throughout the interview process.

4. Constable Gangadeen's actions as described above constitute as Insubordination under section 2(1)(b)(i) of the prescribed Code of Conduct.

EVIDENCE OF: Staff Sergeant Ian Harloff #2383

S/Sgt Harloff was a member of Internal Affairs from February 2018 until March 2020. He reviewed documents, the investigation chronology, unit history, interviews, GPS data from Constable Gangadeen's cruiser, background information, and occurrence reports. The original mandate was to investigate allegations of misconduct that occurred at 89 Abitibi Lake Drive.

S/Sgt Harloff reviewed the occurrence for 89 Abitibi Lake from September 24, 2017, at 0246 hrs. The 'persons of interest' were Mr. Ahmed, Mohamed Sameer Khan, Alicia Persaud, Jayson Panday, Ajay Panday (variant Dymain Panday) and 'other'—later identified as Somie Narine (Exhibit 16, Tab B). Constable Gangadeen was dispatched to Louise Arbour School where entered a description of the suspect with the gun directly into the CAD system, and a minute later noted there were three males and two females in total. Constable Gangadeen queried 89 Abitibi Lake through PQT and Niche. At 3:02:57 he was assigned a static point at Fairservice Drive and Abitibi Lake. At 3:07:01 hrs., Constable Gangadeen conducted a CPIC/CNI/Paris/Niche search of Mohamed Sameer KHAN (1993-09-07). At 4:06:46 hrs., he changed his location to 21 Division.

S/Sgt Harloff reviewed Constable Gangadeen's notebook which showed "req'd point @ Fairservice/Abitibi Lake" followed by 10-8 'no longer required' at 4:47am. There were no queries made or suspect description in his notebook (Exhibit 17, Tab 11). He did not attend the 89 Abitibi Lake address (Exhibit 17, Tab 9).

The Production Order showed text and communication for a 24-hour period from midnight September 24-25, 2017 (Exhibit 17, Tab 13). A phone registered to Somie Narine sent a text message to Constable Gangadeen's cell phone at 05:25:37 on September 24, 2017 while he was on-duty. The same phone made a call to Constable Gangadeen's cell phone at 05:26:18 on September 24, 2017, which lasted 180

seconds. Constable Gangadeen was still on-duty. The same phone made another call to Constable Gangadeen's cell phone at 18:09:42 hrs on September 24, 2017, which lasted 79 seconds when he was off duty. The registered owners address was identified as 1566 Trossacks Ave Apr 506 in London, Ontario. Constable Gangadeen did not make any notes of these calls/text and he did not notify a supervisor. The Production Order was considered an investigative strategy as part of a criminal investigation to determine if Constable Gangadeen contacted any criminal/gang associates pre-or post incident. The purpose of the Production Order was to look at it through the lens of a criminal investigation, and to rule out any obstruct or if he was a party to a firearms offence that night. It was a tool to help determine if they had reasonable and probable grounds.

Database queries showed Ms. Narine was the girlfriend of Ajay Panday and an associate of Jayson Panday and Mohammed Sameer Khan. Ms. Narine's address in London was the same address for Ajay Panday (Exhibit 17, Tab 16). A social media query located Constable Gangadeen's Facebook account, listed as "Anthony Gangs" on July 17, 2019. He was friends with Somie Narine. Her profile picture was a photograph of Ms. Narine with Ajay Panday and her page showed she was in a relationship with Ajay Panday (Exhibit 17, Tab 15). His MTO driver information identified him as Ajay Dymain Panday (Exhibit 17, Tab 16).

Mohamed Sameer Khan was a 'person of interest' from the 89 Abitibi Lake call. He made some indications to Constable Angevine and another officer that he was friends with Constable Gangadeen. S/Sgt Harloff attended the address and spoke with his brother, Mohammed Saleel Khan. Mohamed Saleel Khan knew what gun was used and produced a black 'bb' style replica handgun which Mohamed Saleel Khan believed they were playing with that night. Mohamed Saleel Khan knew Constable Gangadeen as his brother Mohamed Sameer Khan's friend, but he did not know Constable Gangadeen himself.

Ashton Gangadeen is Constable Gangadeen's brother. Ashton Gangadeen was incarcerated from December 30, 2015 to April 25, 2018.

Ajay Panday was a 'person of interest'. In the compelled interview, Constable Gangadeen was aware of Jayson and Ajay Panday's criminal background. They were Ashton's friends, and he would see them in passing. He cited a brief passing in a park. Ajay or Jayson worked on his family home, and Ajay's personal cell phone was listed in his Constable Gangadeen's contacts. He deleted Ajay's phone number by the interview. Ajay and Jayson were at his parent's home as recently as 2017 on more than one occasion. This stood out as Constable Gangadeen did not try to distance himself from any association. Ashton Gangadeen was in custody at that time. Constable Gangadeen's information from the interview was they were visiting his brother.

Constable Gangadeen was given a Notice of Investigation (NOI) dated December 5, 2017 (Exhibit 22) which he signed on December 11, 2017. Constable Gangadeen submitted an Intelligence Report on December 17, 2017 that provided information about 89 Abitibi Lake and identified Dymain (Ajay) Panday as an active member of the SPG and North Side Gang (NSG) (Exhibit 21). Constable Gangadeen conducted a CPIC check on Ajay Panday on December 17, 2017. A review of Constable Gangadeen's memo books from Sept. 25, 2017 to April 10, 2018 showed he did not note information from the Uber driver, any culprit information, any interaction with any person of interest (POI) or personal relationships with the parties

The Production Order was used to look for linkages. A connection was made between Simon BRAR, Muhammad ASIF and BB who were arrested with Ashton Gangadeen during Interlock. BRAR was connected to ASIF and BB for a series of robberies. These names were available to PRPS members to review through the Majors. Constable Gangadeen queried Mr. Brar on January 20, 2018 on CPIC and PQT while working.

During his interview on May 8, 2019, Constable Gangadeen stated he understood Insubordination. Peel Regional Police Directive "Code of Ethics" (Exhibit 17, Tab 3) and the Conduct Requirements, Appendix 'C', Terms and Conditions of Service, 1-5 (Exhibit 17, Tab 3) were highlighted. S/Sgt Harloff believed these directives were binding.

Constable Gangadeen did not respond to all questions asked, was unprofessional, confrontational, refused to answer certain questions and was argumentative. The

interview was the most difficult this witness has conducted in Internal Affairs. Constable Gangadeen stated some questions were irrelevant, told the investigators to come up with better examples, stated the investigators were annoying him and he did not care they were detectives. Members of the PRPS are required to read all available directives and accept them electronically prior to their annual evaluation.

Cross Examination

Constable Gangadeen lived with his parents and has two brothers. He did not know when he moved out. Ashton Gangadeen lived at his parent's home prior to his arrest. The officer returned to work from suspension in August 2017. He worked in 21 Division then 11 Division when he was suspended in April 2018, and he remains on suspension. S/Sgt Harloff did not examine his workload compared to other officers.

The first compelled interview was June 10, 2017 and S/Sgt Harloff was not part of this interview. He could not speak to the truth of the information provided as he did not conduct the interview. Constable Gangadeen knew ASIF, helped others on calls involving ASIF, was involved in a domestic-related investigation and a mischief, was given ASIF's name by a complainant, and queried ASIF's name multiple times. He looked for warrants, when he was last arrested and address changes but never for personal reasons.

Constable Gangadeen agreed that Ashton Gangadeen was his brother, and he was incarcerated between December 1, 2015 and January 31, 2017. He was not directly involved in a lawful investigation of his brother but knew people who arrested him and investigations he was involved in. He queried Ashton on a police computer for personal reasons to see if he was arrested, charged, why he was arrested and to read the report.

Constable Gangadeen knew Nicholas ARMSTRONG and that he was associated to ASIF through CPIC. He was involved in an investigation of ARMSTRONG due to robberies that occurred in his patrol zone. ARMSTRONG and FF were associates of ASIF. He ran ARMSTRONG through CPIC to look at his PQT mugshot in case he ran into him or FF. He wanted to be familiar with ARMSTRONG. He never ran him for personal reasons.

Constable Gangadeen knew FF as he arrested him a few times—for mischief and for a street fight. He ran FF on the computer system to keep current with him as he was always up to something. S/Sgt Harloff agreed that it would be reasonable if someone in his patrol area was up to criminal conduct to periodically check for arrests, bail, and address changes to assist his police work and to make notes about the police check.

Constable Gangadeen knew AA as he was an associate of FF and possibly ASIF. He was never involved in a lawful investigation of AA. He ran him on the police computer to familiarize himself with AA as he was one of the associates.

Constable Gangadeen knew CC as an associate of FF. He was never involved in a lawful investigation of CC. He ran him on the police computer to see if he was an associate. S/Sgt Harloff agreed that it would be reasonable for an officer to check for information on this gang of people involved in criminal conduct and to make notes of the checks.

Constable Gangadeen knew and queried BB. BB was arrested in a street fight and was a suspect in a mischief. Constable Gangadeen queried his parents for personal reasons.

Constable Gangadeen knew AA and queried him on June 1, 2016 at 0514 hrs while he was on lunch. He also queried AA on September 10, 2016 at 1945 hrs and November 12, 2016 at 7:50 while on station duty. The station duty checks were done because he was not on the road and wanted to stay current.

An associate of FF from CPIC was Dymain “Ajay” Panday. Constable Gangadeen knew PANDAY personally, so he called him twice to see if he knew where FF was while helping with a fraud investigation. PANDAY could get FF to come into the station.

Constable Gangadeen returned to work in August 2017 after his first compelled interview. The Abitibi Lake incident occurred in September 2017. S/Sgt Harloff had no knowledge of Constable Gangadeen’s work performance between August 2017 and April 2018.

S/Sgt Harloff conducted a compelled interview with Constable Gangadeen on May 8, 2019. Constable Gangadeen remembered the gun call but did not recognize the address of 89 Abitibi Lake Drive. He was dispatched to the call and met at the staging area as directed by A/Sgt. Meyer. He was assigned a traffic point at Fairservice Road and Abitibi Lake Drive. He sat there for the purpose of not allowing any pedestrian traffic to enter the street. The complainant was an Uber driver and Constable Gangadeen typed the suspect description directly into CAD. This information was not reflected in his notes. At 0304 hrs, he queried 89 Abitibi Lake Drive on PQT. At 0307hrs., he queried Mohamed Sameer Khan (1993 Sept 7). He queried the address to look for people attached with criminal backgrounds. He runs the addresses for the majority of calls he attends to see if police were there previously, to look for names and FPS numbers. S/Sgt Harloff found nothing wrong with his explanation.

Constable Gangadeen did not speak to anyone at the address and did not recognize the name Mohamed Sameer Khan. He never attended 89 Abitibi Lake Drive on-or off-duty. S/Sgt Harloff believed that Constable Gangadeen knew Mohamed Sameer Khan based on a complaint from officers and his own interaction with Mohamed Saleel Khan. On Sept. 6, 2018, Mohamed Saleel Khan stated he knew the name Anthony Gangadeen as his brother's friend, but he did not know Constable Gangadeen himself. The officer believed Mohamed Saleel Khan told the truth as he produced a replica handgun and was forthcoming.

S/Sgt Harloff was referred to the occurrence report for 89 Abitibi Lake Drive (Exhibit 16, Tab B) prepared by Constable Angevine #3700. Mr. Black read through a list of involved persons. S/Sgt Harloff used the phrase 'persons of interest' to refer to individuals not charged in the Abitibi Lake investigation.

In the May 2019 interview, Constable Gangadeen recalled running the licence plate of PRP member Adrian Woolley. He did not make notes for any licence plates that he ran unless part of a specific call. He typed 'on patrol' or 'mobile' meaning that he was driving around running plates. He was never trained to make notes for this circumstance. He did not make a note about Adrian Woolley as he did not know it was him at the time. Constable Gangadeen believed he had to make notes on calls when he queried names

or involved in an investigation. He was never told to make notes on every licence plate he ran. S/Sgt Harloff agreed it was reasonable to note where he was and what he was doing. Running the PRPA president was a unique situation where you would make a note. S/Sgt Harloff agreed that the Directive does not indicate that you must record every plate you run but you must for a legitimate investigative purpose, and it is common practice for unique circumstances.

Constable Gangadeen ran the licence plate of Constable Sybblis on March 14, 2018, and he failed to make notes. He was on patrol, ran a licence plate and it belonged to Constable Sybblis. He did not make notes. S/Sgt Harloff believed this was a unique circumstance as it involved a police officer and common practice was to make a note in your memo book. It was an investigative query, and he took the time to read the report.

Constable Gangadeen queried Constable Kudzma's plate on February 13, 2018 while on patrol. Constable Gangadeen was on a traffic stop and Constable Kudzma sped by him. Constable Gangadeen caught up to him, ran the plate, saw the name, and let him go. S/Sgt Harloff felt he should have made notes as it was another police officer involved.

The audit revealed that Constable Gangadeen queried Ajay Panday on CPIC and PQT on December 17, 2017 which was the date of the Intelligence report. S/Sgt Harloff agreed that conducting these queries would be legitimate for that specific purpose.

Ajay and Jayson Panday were friends of Ashton. He met Ajay a handful of times, always at the house. Ashton Gangadeen was incarcerated from December 30, 2015 until 2018. The last time Constable Gangadeen saw the Panday brothers was at some point in 2017. He has never socialized with Ajay informally. He knew Ajay Panday had a criminal record for robbery and break and enter as he was arrested with Ashton. Constable Gangadeen had Ajay Panday's phone number in his personal cell phone but has since deleted it.

Constable Gangadeen did not make notes about querying the Abitibi address or Mr. Khan as it was not his common practice. It was already in the unit history with his ID attached. S/Sgt Harloff suggested he should have also entered it in his memo book for

court. The witness did not agree that it was individual judgement given the physical descriptors and information from a witness. S/Sgt Harloff reviewed the Notebook Directive (Exhibit 17, Tab 5) wherein it notes, "During the tour of duty all information pertaining to their duties, including but not limited to, offenses, investigations and incidents, including relevant sketches, statements, notes or documents". When asked in his compelled interview about not being required to make notes in a memo book if the information was in the call history, Constable Gangadeen replied, "I wouldn't say not required because that Code of Conduct—That directive is going to say I'm most likely required".

When asked about his association with the Panday brothers, Constable Gangadeen replied they were not friends, he did not hang out with them or go places with them, he did not drive around with them. He has seen them at his house. Constable Gangadeen asserted that there was no conflict of interest as he was not associated to Ajay Panday. In his interview dated June 10, 2017 Constable Gangadeen stated he knew Ajay personally and called him to ask about associate FF. S/Sgt Harloff asserted that he was an associate of Constable Gangadeen's as the officer had his personal cell number, he was doing work at Constable Gangadeen's parent's home and their relationship was more than a casual meeting in the park. He signed the Notice of Hearing on December 12, 2017, and he submitted the Intelligence Report on December 17, 2017 for information he knew prior to that date. S/Sgt Harloff believed Constable Gangadeen was trying to distance himself from any association and the timing of the report was suspicious.

In 2017, Constable Gangadeen queried himself for his yearly evaluation. S/Sgt Harloff believed this query was reasonable. On February 3, 2018, Constable Gangadeen queried his own licence plate on MTO and viewed his driver's licence history, photograph, and convictions. He rode with a cadet and showed him how to use the systems. He queried himself on MTO and showed the cadet how to use PQT, run plates and read PARIS returns. He thought it was okay to run himself on CPIC for that purpose. He did make a note about running an Ontario driver's licence for training purposes. Constable Gangadeen queried another party one minute before he ran

himself but would not show this information to the cadet. All of this occurred in the report room. He closed out his notes but went back in to make the notation about running himself.

On February 3, 2018, he queried his licence plate as other officers harassed him. A cruiser came up behind him, put his lights on, turned them off and left. Constable Gangadeen ran his plate to see who checked his plate and to inform his superiors. S/Sgt Harloff felt this was unreasonable and he should have taken his concerns to a supervisor.

The Internal Affairs Unit was comprised of two teams of six detectives, with a Detective Sergeant and an Inspector. He was assigned to the investigation of Constable Gangadeen upon arrival. He reviewed the case file, the investigative documents, briefed about the file, and the background on Ashton Gangadeen. On February 7, 2017, he reviewed the statements of Constables Brown & Dykxhoorn and Detective Sergeant McLeod. He listened to the radio transmission for the Abitibi Lake incident and the CAD history. He was part of an investigative strategy meeting establish a task list. On December 5, 2017, Constable Gangadeen was served with a NOI pertaining to Discreditable Conduct relating to Abitibi Lake, with reference to the *PSA*.

Constable Gangadeen was suspended in February 2017. The first compelled interview was June 10, 2017. Constable Gangadeen had been served two separate NOI—one for *PSA* matters and one for criminal matters. In the June 2017 interview, Constable Gangadeen was told that the criminal notice was withdrawn, which was a separate investigation than the one that S/Sgt Harloff conducted. S/Sgt Harloff was not aware of any criminal notice to Constable Gangadeen after the June 2017 interview or specific to the Abitibi Lake incident. In December 2017, Constable Gangadeen was served notice about a *PSA* investigation specific to Abitibi Lake. On April 4, 2018, Constable Gangadeen was serviced notice about a *PSA* investigation involving Discreditable Conduct, Breach of Confidence, Misuse of Police Databases and CPIC. He was served a *PSA* notice on April 19, 2018 relating to the Jab-Jab incident. From December 5, 2017 onward, Constable Gangadeen was served six different notices under the *PSA*

On February 8, 2018, S/Sgt Harloff made note of Constable Gangadeen being a POI. He prepared a surveillance sheet with Constable Gangadeen's photo, associates, and addresses. He was part of an investigative briefing about the Gangadeen matter. The discussions included any criminal or gang association while off duty, and a cell phone Production Order to determine if any contact was made with criminal or gang associations pre- or post incident. Detective Stone prepared the Production Order and received the information that contained the text message and two phone calls. The Production Order was only for a 24-hour period specific to the Abitibi Lake incident. S/Sgt Harloff reviewed the names on the Production Order to see if any association with other POI. He found out that Somie Narine contacted Constable Gangadeen and subsequently that she was associated to Ajay Panday. The information from the Production Order was used to clear him from any criminal contact with the named parties.

S/Sgt Harloff's references to any criminal matters includes his notation of 'investigative strategy meeting' and on February 9\10, 2018 during the investigative briefing where they tried to determine any criminal/gang association and a reference to 'lifestyle MSS' where Mobile Support conducted surveillance. Detective Stone's Production Order was to determine any criminal or gang association pre-post the Abitibi Lake incident. The team used covert tactics including MSS surveillance and other checks for the criminal aspect of the investigation. This was a covert investigation, and no notice was served. The team was looking at Constable Gangadeen for Obstruct—did he have contact with persons, criminals, or gang associates at the Abitibi Lake incident, or after, any relationship or association with the involved parties and did he interfere with that investigation. On February 22, 2018, S/Sgt Harloff had a notation of a conversation about the observations made by the MSS team which resulted in a criminal investigation. On September 5, 2018, S/Sgt Harloff was unable to establish any overt criminal association with the named parties. S/Sgt Harloff asserted that there was an ongoing criminal investigation between February 8, 2018 and September 5, 2018. The Production Order was just a small part of the total investigation.

REPLY

S/Sgt Harloff believed that Constable Gangadeen resided at 61 Maynard Cres. in Brampton at the time of the investigation. This address was on his driver's licence and in his personnel file. In his first compelled interview, Constable Gangadeen indicated that he arrested BB and FF at some point. The witness was not aware of any reports submitted in relation to the queries. S/Sgt Harloff was not aware of any reports submitted by the officer about his queries of the individuals involved in Project Interlock.

EVIDENCE OF: Constable Cole Angevine #3700

Constable Angevine worked the 1900 to 0700 hr shift from September 23 and September 24, 2017. He was dispatched to 89 Abitibi Lake at 0246 hrs. The officer spoke with the complainant at the Louise Arbour School staging area. Constables Gangadeen and Khadri were assigned to a traffic point. Constable Angevine attended the address with A/Sgt. Meyer, Constable Dyxkshoorn, and CIB officers. Mohamed Sameer Khan was at the front door with Constable Angevine and A/Sgt. Meyer. He went into the basement with his girlfriend and did not know where the other parties went. He was with his girlfriend Alicia Persaud, and friends Jayson and Dymain/Ajay Panday. Ajay's girlfriend was present, but he did not know her name. After providing this information, he asked if they knew his friend Anthony. Constable Angevine responded no. Mohamed Sameer Khan replied, Anthony Gangadeen and his brother. Constable Angevine stated he did not know them, and the subject changed. Constable Angevine did a general occurrence report and would have queried Mohamed Sameer Khan and other parties to see if they were wanted.

Constable Angevine discussed the utterances with A/Sgt Meyer as he had concerns about the nature of the question. He later reported his concerns to Sgt. McLeod. He was Constable Gangadeen's co-worker, on the same platoon, and he was aware of Ashton's background. At the end of his notes there is a late entry (Exhibit 17, Tab 7) which was made shortly after the incident but prior to the end of this shift. He wanted to separate it from the actual call as he wasn't sure what he was planning on doing at the time.

Cross Examination

Constable Angevine asserted that he made the late entry between 0639 when he logged off for shift and 0700 when he reported off duty on the same day. Constable Angevine was concerned about what happened given the nature of the call and wanted to report it to a supervisor. He approached Sgt. McLeod three weeks later. He agreed that Mohamed Sameer Khan asked if he knew his friend Anthony, and the witness asked, 'Anthony who', to which Mohamed Sameer Khan replied "Anthony Gangadeen". A/Sgt. Meyer stood with him, and his notes show that he didn't think anyone mentioned the surname.

On September 24, 2017, the officer was on the same shift as Constable Gangadeen. He was not jealous of Constable Gangadeen's arrests, or level of drug enforcement. The witness disagreed with several statements he was supposed to have made about Constable Gangadeen and his brother. He did not remember being called in an Inspector and told to stop speaking about Constable Gangadeen. The witness did not exaggerate his involvement with Mohamed Sameer Khan as he did not like Constable Gangadeen.

EVIDENCE OF: Detective Constable Blake Meyer #3507

DC Meyer was the a/supervisor, was responsible for the response to 89 Abitibi Lake Drive and attended the door knock. While on the front porch with Constable Angevine, he had a discussion with Mohamed Sameer Khan. He made general conversation while trying to gather information on what occurred. Mohamed Sameer asked if they knew an Officer Anthony. DC Meyer did not respond. He further stated, "Anthony Gangadeen" and proceeded to say he knew him and his brother. The officers did not respond or acknowledge his question.

Cross Examination

DC Meyer was interviewed on January 10, 2018 and stated that he was asked if he knew an officer 'Anthony' and he didn't think anyone mentioned the surname. Mohamed Sameer Khan was fumbling around and said I think his name was Gangadeen. In his interview, DC Meyer agreed people ask if he knew other officers.

EVIDENCE OF: Constable Sherri-Lynn Brown #2042

Constable Brown has been a member of the PRPS for 23 years. On July 29, 2016, she worked the night shift, 1500-0300 hrs. She was assigned security at the 'Jab-Jab' event. She did not make notes of the incident. One fence was 12-14 ft. fences and a secondary fence about 16 ft. high. People tried to climb the fence and she continually walked back and forth and told them to purchase tickets. Constable Brown was in full uniform and partnered with Constable Cook. It was dark with artificial lighting. Her primary task was to make sure that people did not enter without purchasing tickets.

Constable Brown observed three males on the fence about three feet off the ground at 0130 hrs. She and her partner were about 50-60 ft away when she first observed them. She jogged over and yelled at the males to get off the fence. The two on the outside jumped off and turned to face the officers. The male in the middle stayed on the fence. She made the command to the third male to get off the fence. She was 10-12 feet away, he was still on the fence, and she could hear him muttering under his breath, 'fuck this'. Her partner veered off about eight feet, came back and said the male on the fence was with PRPS. He had jumped down at this point. Constable Brown kept her focus on the male and asked him to take his hands out of his pocket for officer safety reasons. He responded by 'kissing his teeth' and he made utterances under his breath. She couldn't hear them all but heard the work 'fuck'. The act of 'kissing your teeth' is a sign of disrespect. After two more commands, he removed his hands from his pocket.

Constable Gangadeen's friends apologized for being on the fence, grabbed his arms and walked away. He walked away slowly, made utterances under this breath and she heard the work 'fuck'. Several months later an officer mentioned, 'there goes Gangadeen'. She saw his face and the top of his head and recognized him from this event.

Cross Examination

The speakers for the event faced inward. She spoke with her partner and others, and they were able to hear her. This incident happened on July 29, 2016 and she was interviewed on January 12, 2018. She did not make notes just because someone said something disrespectful. She used her judgement for not making notes and was not counselled or disciplined for not doing so.

There were two perimeter fences set 10-12 feet apart. She confirmed that she was 50-60 feet away and the males were 2-3 feet off the ground on the fence. When challenged compared to Constable Cook's notes that the males were just rocking the fence, Constable Brown stuck to her recollection that the males were on the fence itself.

Constable Brown admitted she was 'pretty worked up' dealing with this incident as Constable Gangadeen was quite rude. Constable Cook was initially beside her then veered off about eight feet. Defence counsel noted that Constable Cook did not mention hearing the word 'fuck' in his notes.

EVIDENCE OF: Detective Sergeant Michael Stone #2159

D/Sgt Stone was temporarily assigned to Internal Affairs from February 1, 2018 to the end of April 2018. He was involved in the criminal investigation of Constable Gangadeen for the Abitibi Lake call and was the affiant for a Production Order. The two criminal offences they were looking into were 'party to the offence' and Obstruct Police. He was not involved in the PSA investigation. D/Sgt Stone described the Abitibi Lake call and the fact that, despite having a perimeter, three people fled the area and the gun was not found. Constable Gangadeen was first on scene, queried the residence and Mohamed Sameer Khan. Mohamed Sameer Khan, a POI, was friends with Ashton Gangadeen and the Panday brothers who were involved in robberies and break and enters.

Constable Angevine was at the house when Mohamed Sameer Khan asked if he knew his friends, Ashton and Anthony Gangadeen. Constable Angevine spoke to his

supervisor which started the investigation. The witness believed that even though there was a perimeter established and three people fled the area within a short response time by PRPS, that Constable Gangadeen communicated with one or more parties involved. D/Sgt Stone was seized with obtaining cell phone records through a Production Order for a 24-hour period. He also sought a sealing order in case it became known so the officer could not destroy the cell phone and evidence would be lost. The witness stated that the investigative steps were covert.

Cross Examination

D/Sgt Stone was briefed by Det. Gray, and she said specifically that they were conducting a criminal investigation. In his notes, he made remarks about “regarding investigation of PC Gangadeen” and “outlined...association and known criminals” and “influencing criminal investigation”. When asked if this would fall under Discreditable Conduct under the *PSA*, the witness stated that he did not know the *PSA*. He did not have a specific notation they were conducting a criminal investigation (Exhibit 27). D/Sgt Stone was aware you could not write a Production Order for a *PSA* offence. He was there for a criminal investigation for the two offences that underscored the Production Order.

D/Sgt Stone was adamant that he did not misrepresent the facts to the Justice of the Peace to obtain a Criminal Code Production Order for a *PSA* offence. This was not a *PSA* investigation for D/Sgt Stone. He was assigned to a weapons call investigation. D/Sgt Stone was clear that his mandate was a criminal investigation. His experience dealt with criminal investigations and not *PSA* matters. The Production Order listed the offence of ‘parties’ and ‘obstruct police’ and Mr. Black asserted there was no offence of ‘parties’ under s. 21 of the *Criminal Code*.

D/Sgt Stone has experienced ‘name dropping’ such as Mohamed Sameer Khan dropping the names of Anthony and Ashton Gangadeen. Even though the allegation is Constable Gangadeen assisted others to escape with a gun, it made sense to name drop to brag.

D/Sgt Stone wrote the Production Order based on having reasonable grounds of suspicion. S/Sgt Stone had in his Production Order that there was a perimeter established but this was not in his notes. His reasonable grounds to suspect included that the officer was first on scene, he queried the residence, he had association to these parties, he used his cellphone to alert these parties and allowed them to flee. D/Sgt Stone had no notes about his belief that Constable Gangadeen assisted others to escape or evade the police.

Re-Examination

D/Sgt Stone was directed to his notes of March 20, 2018 wherein the crime analyst discussed the results of the Production Order, and he analyzed the results.

EVIDENCE OF: Constable Gangadeen #3746

Constable Gangadeen grew up, lived, and worked in 21 Division, other than a short time in 11 Division. PRPS would be aware that he lived and worked in the same division.

Notice of Hearing #1

Defence counsel highlighted the following persons:

A.A.
Ashton Gangadeen
B.B.
Muhammad Asif
Nicholas Armstrong
C.C.
D.D.
E.E.
F.F.
G.G.

While on-duty in 21 Division, he knew these individuals as criminals. All individuals were associated with the NSG. There was no association with the NSG and the offences his brother was charged with. When not engaged in a radio call, he queried licence plates and individuals he knew were criminals travelling to addresses and streets with high crime rates to make his presence known and deter or catch criminal activity. His supervisors at 21 Division were aware of how he worked, saw his unit history, and the

number of plates and people he queried and where he travelled. He conducted random plate checks.

If he saw ASIF on the street, Constable Gangadeen queried his name as he was a criminal associate involved in specific criminal activities. He looked to see if ASIF was on charges, bail, or parole, for any release or warrants. If ASIF was in violation, he arrested him. Constable Gangadeen described his levels of arrest far above those of his peers.

Constable Gangadeen queried the ten people noted many times, in addition to other groups of people. The ten people noted were involved in organized crime. There were hundreds of other names that he queried on a repeated basis separate from the ten listed as they are involved in criminal activity. He did not make notes as he queried while he drove his vehicle and it was not practical. He did not believe it was common practice for other officers to make such notations and he was never challenged by a supervisor. When he queried a person, such as ASIF, and there was no action taken he did not make notes. If the query ended with an arrest, he would make notes. He was never told by his two coach officers to stop and make notes pursuant to a query. The witness described police databases for querying as many people and plates as you need while on duty. There was a board in the parade room of 21 Division with information on known criminals. This was information for officers should they find the persons while on patrol. He was encouraged to use police databases and never told not to access them or write down why they were accessed. In the PQT application, there is a comment section for remarks. He typed in 'mobile' so all the plates he ran were tracked under his ID for that reason with no need for a memo book note.

Constable Gangadeen did not know what Project Interlock was until he received the Notice of Hearing. When he became a police officer in 2014, he lived in 21 Division with his parents and two brothers. His brother was arrested on December 30, 2015 and Constable Gangadeen had no knowledge his brother was involved in criminal activity or with the parties involved. At some point Constable Gangadeen moved out as his brother faced serious charges and he was a police officer. He still resided within 21 Division.

Constable Gangadeen queried ASIF for the operational reason to keep current on any court releases, charges, changes of address, investigation, and any reports. He did not make notes as it was not practical. There was no conflict of interest as his only interest was arresting criminals who engaged in criminal activity in his community. The same reasons applied to the 13 times he queried ASIF between Feb 10, 2016 and Jan 15, 2017, when his brother was incarcerated. He knew ASIF was a criminal involved in robberies and break and enters. He did not run ASIF because of any association with his brother.

BB was a criminal known to be involved in break and enters and robberies. Constable Gangadeen ran into him in his patrol area and queried him to keep up to date on his charges. He did not know these individuals growing up but some of them lived in his neighbourhood. Ashton did not factor into the witness' decision to query BB in 2016.

CC was a member of the NSG and part of the ten individuals who commit break and enter and robberies. His queries of CC had nothing to do with his brother. He identified ARMSTRONG as a member of the NSG and the situation is the same as the other identified parties. He queried FF for the same reasons and Constable Gangadeen arrested FF on two occasions so there would be an occurrence report and notes with his rights to counsel. There were fewer queries on EE as he moved out of his patrol area.

Constable Gangadeen did not know Ashton was part of an investigation. He found out about his arrest through a phone call. He was distraught and his request to speak with his divisional commander was not actioned. He need closure so he queried his brother. He did not recall why he queried Ashton on Dec 6, 2015 prior to his arrest. He queried his brother nine times between June and Dec to see what was going on with his charges.

Count #3

Constable Gangadeen was able to access Project Interlock occurrences through PQT when he queried the named individuals. He clicked on the occurrences to find out how the crimes were committed. His queries had nothing to do with his brother.

Count #4

The licence plates he queried were attached to one of the occurrences. The query dates of the occurrences will match the queries for the licence plates.

Count #5

Constable Gangadeen plead guilty to querying his mother and father. He did so to see if anything else was going on, such as open investigations.

Count #6

From Sept 23, 2016 to Dec 6, 2016, Constable Gangadeen worked station duty. He did not keep a memo book as he did not actively investigate anyone or anything. There were three officers on duty, and his duties were to assist the public with walk-in complaints/issues. He would write a report if required. One officer was the cell officer. Booking notes were electronic, so he did not use a memo book. Station duty officers did not routinely make notes while at the front desk. No supervisor told him to keep notes and they are required to review his books.

Notice of Hearing #2

When Ashton Gangadeen was arrested, Constable Gangadeen felt neglected and not taken care of by the Service. When the silent hit occurred on Dec 30, 2016, he was contacted by Det Petrucci on Jan 12, 2017, suspended in Feb 2017, and his first interview was June 10, 2017. He was given a NOI on Jan 25, 2017 about Discreditable Conduct and Breach of Confidence. He never disclosed police information, was never told not to do the queries, and was very effective with a high number of arrests. Prior to his suspension, there was animosity between himself and Constable Angevine.

He returned to work in Aug 2017 and had a point to prove. He worked hard as his reputation was tainted. He doubled his arrest count, worked CIs, and received positive attention from high-level bureaus. He was given a covert cell phone from Intelligence and a separate database with a personal login. Constable Angevine stated he didn't

deserve to be a police officer, made comments about his brother, that he received information from his brother's friends and some of his arrests were not lawful.

Constable Gangadeen did not know Mohamed Sameer or Mohamed Saleel Khan. He had never queried them or been to the house. It was common practice for him to query an involved address for background information or persons associated to that address for officer safety. The person associated was to the address was Mohamed Sameer Khan. He clicked on his name to see what his criminal charges or convictions were.

Constable Gangadeen was served a NOI on December 5, 2017. He did not know the notice referred to the Abitibi Lake call as he had to look up the occurrence referenced. In Jan 2018, Constable Gangadeen was transferred to 11 Division and was suspended in April 2018. He attended a compelled interview on May 8, 2019. He did not know he was investigated for assisting Mohamed Sameer Khan and the Panday brothers through cell phone communication, allowing them to evade the police and subsequent charges related to firearms offences. He found out through disclosure.

Notice of Hearing #2Count #1

Constable Gangadeen did not know and has never been associated with Mohamed Sameer Khan or Alicia Persaud. Constable Gangadeen stated he knew of the Panday brothers, has met them and seen them at the family home. He spoke to Ajay Panday about the renovation job at his parents' home. He had Ajay Panday's phone number but has never disclosed any confidential information to the Panday's. He has never associated with them and is aware they have criminal records.

After he left the Abitibi Lake call, Somie Narine called his cell phone. He knew her before he became a police officer as she grew up in his neighbourhood and was family friends. Constable Gangadeen did not remember what the text message said but he remembered her saying the police were at her friend's house and wanted to know what was going on. Constable Gangadeen replied that he could not tell her, and they continued with general conversation. He did not know that Somie Narine was Ajay

Panday's girlfriend. He did not disclose any information to her. He did not have contact with any other person of interest. He did not make a note as it was just a regular phone call from a friend. He had no association with any of the named parties.

Count #2

Constable Gangadeen directly entered the information from the Uber driver into CAD, so no duplicate entry was required. The information was in the computer system, contained in the call history, available for everyone to view and entered in real time. He did not make a notation about querying 89 Abitibi Lake or Mohammed Sameer Khan.

Count #3—withdrawn

Count #4

Constable Gangadeen and two friends stood at the fence listening to the music at the Jab-Jab event. He recognized Constable Cook and had a brief discussion. Constable Brown ran towards him yelling 'get off the fence'. He was not on the fence. She told him to take his hands out of his pockets and that she would trespass him if he climbed the fence. He walked away with his friends. He was not rude, disrespectful, did not 'suck his teeth' or use profanity. The interaction took 5-6 minutes. It was a high fence with no place to put your feet so no physical way to climb the fence.

Count #5—withdrawn

Count #6
Constable Gangadeen was on general patrol when he observed a vehicle go through an amber light. He queried the licence plate while he considered an *HTA* stop. The name Adrian Woolley came up. He knew Woolley, so he did not stop the vehicle or activate his lights. He exercised his discretion and there was no reason to make a note in his book. He ran Constable Sybblis' plate on general patrol, and he did not know Sybblis. Constable Kudzma worked on the same shift as Constable Gangadeen. Constable Gangadeen conducted a traffic stop when Kudzma 'blew by him'. He finished his traffic stop and caught up with the vehicle. He ran the licence plate to conduct a traffic stop

and Kudzma's name came up. He did not conduct a traffic stop and there was no reason to enter the information in his book.

Count #7

He ran Ajay Panday on Dec 17, 2017 to submit an Intelligence Report (Exhibit 21). He ran his own licence plate which was registered to his parents. He wanted to see what was going on with his licence plate as officers harassed him, pulled him over, played tricks on him and created a poor work environment after Ashton's arrest. He wanted to see who tried to pull him over so he could escalate the matter. He could be the only car on the road and a scout car activated their lights, and Constable Gangadeen pulled over. The driver took off and drove past him. He wanted to make a formal harassment complaint.

Constable Gangadeen did not know BRAR and would remember him if he was in a gang.

Count #8

Constable Gangadeen conducted PQT queries on himself on October 14, 2017 and October 22, 2017. The first query was for his annual evaluation where he had to print his CPIC and CNI information the second was an MTO check for Paris (licence history).

On February 3, 2018, Constable Gangadeen queried his personal licence plate on CPIC as he wanted to see if any officers were investigating him as he felt he was being harassed. On February 21, 2018, he queried himself on MTO as he was training a cadet. No one showed him how to use the MTO as it was rarely used by officers. He would not disclose information on another person whom he stopped minutes before.

Count #9

Constable Gangadeen did refer to a part of his interview as being irrelevant. He challenged the investigator on what investigative reason he would have for knowing when the officer broke up with his girlfriend. He also told the investigators that he found

them annoying and agitating. He also referred to a failure to provide timely notice as 'slimy'. He regrets making those remarks, but this was a six-hour interview and he let his frustrations get the better of him. This was a small room, the second compelled interview, his second suspension, there was a lot of repetition, and it wore on his emotions as his brother was brought up several times. He was frustrated, it wasn't a good time in his life, he did not see the relevance, so he challenged the investigators.

In May 2019, Constable Gangadeen was suspended for two years, and he was on WSIB for a clinical diagnosis of a medical condition. He convinced his treating physician to clear him medically for the interview. He regrets saying what he did as he must conduct himself in a professional manner. What is reflected in the insubordination charge is not his character on a regular basis. He respects rank and understands why it is important.

On January 21, 2017, Constable Gangadeen was served notice of a criminal investigation pertaining to a Breach of Trust investigation. In his interview dated June 10, 2017, he was told that the criminal notice and criminal investigation was withdrawn by his office. Constable Gangadeen received a subsequent notice dated January 4, 2018 (Exhibit 26) which was 1.5 months before the Production Order issue arose. The notice informed Constable Gangadeen that a criminal investigation took place, and he was not notified as it might have prejudiced the investigation. The notice stated that the allegation was not substantiated, and the matter was closed.

In Feb 2018, Detective Sergeant Stone applied for a Production Order for the offence of 'parties and obstruct police'. Constable Gangadeen never received any NOI since Feb 2018 that he was under criminal investigation, overt or covert, and that the matter was unsubstantiated or closed. In the grounds for the Production Order, it noted that "Anthony may have assisted Mohammed Sameer Khan and the Panday's through cellphone communication enabling them to evade police and subsequent arrest". Constable Gangadeen was not asked about this issue during his second compelled interview. Constable Gangadeen was not first on scene at the Abitibi Lake call. He never attended the residence.

Cross Examination

Constable Gangadeen was aware of the ten named parties based on his job and where he grew up. They were all NSG members. He conducted proactive policing of this group which included his brother. He was familiar with AA from encounters while on patrol and he queried him for proactive police work. In his interview he stated that he ran AA for curiosity purposes. He clarified 'curiosity' to mean that he was curious to see if they had been arrested, when, or if they had updated charges so he could stay current. He did not make notes and did not agree that running someone on CPIC and PQT was an investigative action as he was not interacting with them. If he acted based on valuable information, he made notes. If no information stemmed from the interaction, he did not make notes. Constable Gangadeen made the determination if something was of value. If something became valuable later, he made notes of his investigative steps.

Constable Gangadeen was familiar with BB as he was one of the ten named individuals. He was a member of the NSG and was arrested with FF during a street fight. He made notes of that arrest and queried BB many times for personal knowledge and information. Constable Gangadeen read several occurrences pertaining to BB prior to his interview in June 2017. In many occurrences, BB was co-accused with Ashton Gangadeen. He did not tell the investigator that he was co-accused as he did not pay attention to this part, and he did not read all the occurrences. He agreed that he read the reports to familiarize himself with people he regularly monitored in the community. He skimmed through some of the reports and read the narratives in other reports. He did not pay attention to the actual parties. He had access to the report but did not know that BB was co-accused with his brother on four occasions.

Constable Gangadeen queried FF 15 times on PQT, 12 times on CPIC, and assisted in his arrest. He did not make notes unless something concrete resulted from his investigation. If he assisted with an investigation, his degree of involvement dictated whether he made notes. He arrested FF many times and he made notes. When he made the call to help locate FF, he did not put this in his notes as he told the requesting officer to do so. He called Ajay PANDAY to locate FF but viewed it as a simple phone call.

Constable Gangadeen outlined the two ways to view occurrence reports and agreed that he read reports specific to Project Interlock. At the time he read the reports, Constable Gangadeen was aware of the ten individuals and their alleged criminality. He noticed that some of the individuals were co-accused with his brother and others he did not. He was not looking for this correlation; he was looking at the individuals for their information only. His brother was not on his mind when he was looking at separate individuals who he knew to be criminals in the community. He had no knowledge, half of the time, that they were related to his brother. At this time, Constable Gangadeen lived in the family home and was close with his parents and brother but had no knowledge of his criminal activity.

Constable Gangadeen would see members of the NSG who were part of ProjectInterlock in his neighbourhood. He was embedded in his neighbourhood, both personally and professionally. He has only seen the Panday brothers with Ashton.

Constable Gangadeen agreed that running his own and his parents licence plates was not a random check. He understood the difference between personal and professional access of police databases. The difference between querying himself and his family members and his brother's associates is his family members are related to him and it was not for any investigative purpose. Criminal associates are queried for operational reasons. The fact that they are co-accused with his brother made no difference.

His two coach officers did not teach him to make notes of every query he conducted. He was trained on the importance of notetaking, and he agreed notes were crucial for court and they helped refresh your memory. He had an independent recollection and remembered most people he queried within a reasonable time frame. His memory gave him an advantage. If he required proof, he would rely on the electronic record. When asked about disclosure for court, Constable Gangadeen replied, "no investigative steps, no arrest, no notes, no court, no charge'. If an issue became important years later, his electronic record could be reviewed.

Constable Gangadeen did not make notes while working station duty as there was no investigative action taken. If the report was a criminal complaint, an officer would come

in to investigate. He did not make notes to show how the complaint started. During the five months he worked station duty, he never received a criminal complaint. He also worked as the cells officer. He did not make any notes as it was electronic.

He was not aware of his brother's criminal behaviour. When he was informed of the arrest, he went home after night shift but did not inform his parents. His information about Ashton's arrest came through disclosure that his lawyer disclosed to his parents.

Constable Gangadeen strongly believed that Constable Angevine made the complaint as he was jealous of Gangadeen's high statistics. The first time Constable Gangadeen queried Mohamed Sameer Khan was the night of the Abitibi Lake call. He did not know him. It was not uncommon for people who are in trouble to name drop in an attempt for leniency. He knew Mohamed Sameer Khan was a friend of his brothers. Mohamed Saleel Khan lied to the investigator.

Constable Gangadeen knew of Ajay Panday from his family home and as a friend of his brothers. He saw him at the home a few times before he moved out and when Ajay did the renovation. He knew Ajay had a criminal record and has seen him at 21 Division. The first time he called Ajay Panday to help locate FF, he took Panday's phone number from the police database. He did not think that he had Ajay's phone number in his own cell phone. The second time he called from his personal cellphone during a renovation. His parents had their own cell phones, but they missed calls. He conducted CPIC and PQT queries on Ajay Panday prior to Ashton's arrest for investigative purposes and when he prepared the Intelligence Report. Ajay Panday was someone whose phone number Constable Gangadeen had, who associated with his brother and his parents, who the officer has spoken to, was conducting criminal investigations into, and has submitted an Intelligence Report but he did not make any notebook entry. He submitted the Intelligence Report on Ajay Panday on Dec 17, 2017 and Constable Gangadeen investigated Panday the same day while doing follow-ups for the Abitibi Lake call as he knew some parties were outstanding and he had information that other officers may not have access to. He gathered the information and submitted the report five days after he signed his NOI into allegations of misconduct at the same address. At the time of the Abitibi Lake call on September 24, 2017, he conducted all his queries in the week after

his NOI was signed. He took the time to cultivate and corroborate the information he received and confirmed it with different sources.

He did not make any notes about the text or phone calls from Somie Narine as people ask for help all the time. He did not submit a report as Somie Narine was not listed as a POI and he did not know she was being investigated. He did not think there was value in notifying CIB or entering this in his notebook.

Constable Gangadeen had no idea why Constable Brown and Constable Cook both said that he 'kissed his teeth' at the Jab Jab concert. He did not act in a belligerent manner or curse. He did not try to enter the concert and his feet were not on the fence.

He did not make a note or stop Adrian Woolley's vehicle as he was a colleague. He would not investigate another police officer or make notes if he didn't take any action. This included Constables Kudzma and Sybblis. He ran his own licence plate which was registered to his parents as he wanted to complain about harassment but wanted all the information available first. He agreed that it was not an appropriate use of PQT to determine if he was under investigation.

Constable Gangadeen did not know BRAR who was co-accused with ASIF, BB and Ashton Gangadeen and had no idea why he queried him. He conducted an MTO query on himself and showed the results to a cadet. The cadet was an employee of PRP, although not a sworn member, but passed a background check and had access to several police systems. Confidentiality was an issue because they are not allowed to use any of the databases; they are only allowed to assist members of the public. If he showed information other than his own, he was unable to provide that person's consent. This was not a law enforcement purpose; it was a training purpose.

Constable Gangadeen told S/Sgt Harloff that questions about a break up with his girlfriend were not relevant as this was not mentioned in the investigation. This was private and personal information, and he was within his rights to state the question was not relevant so the investigators could explain why it was. The prosecutor asserted it was not his right to determine what was relevant or not. The officer agreed that he called the investigators annoying and agitating and the failure to give notice 'slimy'. He

did not believe his overall demeanour was insubordinate, but those specific incidents were insubordinate.

Prosecutor Submissions

These are all serious charges that go to the heart of the integrity required of police officers and the actions established a course of conduct that brings the reputation of the Service into disrepute. I am also tasked with assessing credibility as noted in Faryna and Chorny BCCOA, 1951 (Exhibit.29, Tab 9).

NOTICE OF HEARING #1

Count #1

Constable Gangadeen queried individuals listed in the ASF. His testimony that PRPS randomly selected ten people was an attempt to distance himself from this group where his brother was a primary member. This pattern continued when he stated that BB was another member of the ten people who engaged in robberies, and he queried BB to keep up to date on charges. He knew this group of people and came across them as criminals while on duty. They were associates of the NSG and that group included his brother.

Constable Gangadeen denied any knowledge of Project Interlock, but this was implausible given the volume of searches and connections established between Constable Gangadeen and the ten members. Constable Gangadeen acknowledged the criminal activity of the group of ten, he acknowledged his brother's criminal activity, and he was aware of this collective criminal activity as a member of 21 Division. Constable Gangadeen acknowledged that CC, Armstrong, and FF were members of the NSG which included his brother. Gangs interested him, but his explanation of who he chose to query and their connection to his brother did not make sense. These individuals engaged in 'break and enters' with Ashton, spent time with him, and were known in the community. Constable Gangadeen engaged in proactive policing on everyone except his brother. He lived with his family before the arrest but could not recall the year or month he moved out.

Constable Gangadeen conducted 13 queries and one CPIC check of ASIF between Feb 10, 2016 and Jan 2017. ASIF was co-accused with Ashton Gangadeen in occurrence PR16002001. Constable Gangadeen stated that he never ran ASIF for personal reasons but did query him as he assisted on calls where ASIF was a suspect and he had seen ASIF around. He did not make notes of these queries despite the Service directives put to him about notetaking. He questioned the need for notes in all circumstances and did not accept a potential conflict of interest existed. Officer Petrucci had to reach out to Constable Gangadeen about the query. These random queries were 'community policing 101' which is a blanket explanation. Constable Gangadeen was aware of ASIF's association with his brother due to the occurrences. He was aware of ASIF's association with FF, ARMSTRONG, and AA, but was not aware his brother was an associate of ASIF.

Constable Gangadeen queried BB five times on CPIC and 14 times on PQT/NICHE. BB was associated with Ashton Gangadeen on four occurrences. This ties into count #3 and the conflict of interest. Constable Gangadeen admitted to queries on BB without notes. He queried BB for knowledge and information. He was unaware that BB was associated to Ashton Gangadeen after he accessed occurrences as he did not fully read the reports. He read the occurrences to familiarize himself with people engaged in criminality in the community. He skimmed through the occurrences, read the narratives on some but did not pay attention to the parties listed.

Constable Gangadeen queried CC once on CPIC, five times on NICHE and in the reviewed occurrences. He queried ARMSTRONG twice on CPIC, once on PQT and accessed eight occurrences which involved ARMSTRONG with no notes. ARMSTRONG and CC were NSG members. AA is co-accused with Ashton Gangadeen in four occurrences reviewed, is an NSG member and Constable Gangadeen did not know that he was co-accused with Ashton Gangadeen. FF was queried 12 times on CPIC and 15 times on PQT/NICHE. Constable Gangadeen stated that he assisted in a few investigations which involved FF, he attempted to contact FF, and had no notes.

Constable Gangadeen ran GG when he worked in the cells, but he did not investigate him. He was a member of the ten individuals he conducted queries on. This group of ten involved Ashton Gangadeen. EE was another individual involved in Project Interlock.

In Coon and Toronto Police Service, OCPC, 2003, (Exhibit 29, Tab 2), the Commission noted that misuse of CPIC is major misconduct. This sentiment is re-iterated in Hampel and Toronto Police Service, OCCPS, 2008, (Exhibit 29, Tab 3). Constable Gangadeen was bound by Service policies and procedures for CPIC and other systems for official police business only. He had knowledge of, and was bound by, the Code of Conduct.

Constable Gangadeen conducted numerous CPIC and PQT/NICHE queries on his brother and his criminal associates. His explanation for the lack of memo book notes established that these queries were not done for police business. Each individual check can stand on its own to make out the charge. Constable Gangadeen was not involved in Project Interlock, yet he conducted 75 queries of individuals from the NSG or Project Interlock. He resided with Ashton Gangadeen at the time of Ashton's arrest, and he was under obligation as per the Peel Regional Police Directive--CPIC manual as read (Exhibit 17, Tabs 1 & 2). If a CPIC query was required for operational reasons which went beyond an officer's assigned duties, it triggered a duty to seek approval from a supervisor, make a note in his memo book and/or take these steps shortly thereafter.

All sworn members must exercise good judgement, exercise self-discipline, maintain confidentiality of official information and ensure good faith in their actions. Officers shall not create doubt as to their ability to fulfill their Oath of Office by living or associating with persons involved in criminal activity if such associates will discredit the reputation of the Service. The Prosecutor addressed the security of computer systems and the Notetaking Directive. This is made clear to officers through case law, training, and the directive.

The measure for discreditable conduct is based on the reasonable expectations of the community and the extent of potential damage to the reputation and image of the Service if the information became public knowledge as noted in Saxon and Amherstburg Police Service, OCPC, 2010 (Exhibit 29, Tab 4). The question is whether

the conduct is objectively discreditable. Constable Gangadeen had simple explanations for all the queries. If there was no requirement given his workload and the volume of queries, there was no need to make a notation. It is irrelevant how many queries he made, and the fact that many were unscrupulously made, shows a problem following PRP procedures. What is relevant is who he queried, how often, and when.

Count #2

Constable Gangadeen plead guilty to querying his brother on CPIC and 9 times on PQT.

Count #3

Constable Gangadeen queried occurrences related to Project Interlock 60 times. He ran the names and read the reports to get the narrative on how the crimes were committed to familiarize himself with the offences as a community police officer. Project Interlock involved his brother. When confronted that many individuals were co-accused with his brother and associated to the NSG, he stated that he did not read the occurrences in full, the names of the accused person did not register with him, and these excuses were untruthful and lacked credibility. There is clear and convincing evidence that Discreditable Conduct is substantiated. Constable Gangadeen is not permitted to query occurrences and specifically when they pertain to family members and his associates.

Count #4

Constable Gangadeen queried vehicles through PQT and NICHE that were involved in Project Interlock. The onus was on Constable Gangadeen and why he conducted the queries and did not make notes. He stated it was not practical to note every plate he conducted as he drove around. He stated it was not necessary to make a simple notation such as 'running plates for a specific time'. He queried individuals but did not explain why he queried the vehicles involved in Project Interlock and why they were relevant to him. Constable Gangadeen noted this was an issue of supervision. He was never told not to spend time running plates without notes. It is expected that officers are

aware to take notes and not put their impartiality into question. A supervisor cannot be expected to run such a tight observation. It is important what plates he queried and when as they are licence plates his brother and associates stole. His explanation was his badge number was already in the system so no other note was required. If the Service needed his notes for an investigation, they would have to pull several reports rather than just reviewing his notes. Constable Gangadeen had no operational reason to conduct the queries.

Count #5

Constable Gangadeen plead guilty to querying his parents.

Count #6

Constable Gangadeen failed to keep notes from Sept 23, 2016 to Dec 6, 2016. He conducted active police duties through queries of the police system which included 40 queries of persons associated to his brother or his family. Constable Gangadeen was on station duty at the front desk during this period and felt he was exempt from note taking. The failure to take notes at the front desk was either wilful ignorance or a convenient explanation. He was never taught to make notes at the front desk, even though the duty to make notes is clear. A member of the front desk is involved in booking prisoners, assisting community walk-ins, and arranging reports. He testified that he did not receive one criminal complaint at the busiest station and justified these actions with being in the cells. He did not make notes of his interaction with prisoners as that information was captured in the prisoner management application. This explanation is not plausible as an officer is expected to make notes of the basics of their duties even if not involved in criminal investigations, which Constable Gangadeen clearly did, as he made queries on members involved in Project Interlock yet failed to make a single note.

To meet the test of Neglect of Duty, there was to be a degree of wilfulness or degree of neglect, so it is not just a training issue. Once the neglect is identified, the onus is on the

officer to show why they did not fulfil their duty as noted in Kelly and Durham Regional Police, OCCPS, 2003, (Exhibit 29, Tab 5). A hearing officer must look at the standard of a reasonable police officer when considering neglect of duty. The purpose of an officer's notebook is to provide a clear and credible record of observations and vital information used to refresh one's memory as set out in Lloyd and London PoliceService, OCP, 1998 (Exhibit 29, Tab 7). The prosecutor questioned how Constable Gangadeen could be an effective and useful police officer if he had no notes, yet he engaged with the public on a regular basis. This is very serious and challenges Constable Gangadeen's credibility if called to attend or testify in court

NOTICE OF HEARING #2

Count #1

It is alleged that Constable Gangadeen committed serious misconduct by demonstrating an association with persons of interest from 89 Abitibi Lake. Constable Gangadeen spoke with the complainant, obtained his observations and description, and failed to make any notes in his memo book. The only record is in the unit history. He queried 89 Abitibi Lake Dr. Officers attended the residence and were asked if they knew Constable Anthony Gangadeen. Mohamed Sameer Khan asked if the officers knew his friend 'Anthony' and further, 'Anthony Gangadeen'. Khan stated he knew him and his brother. Another officer stated Mohamed Sameer Khan asked if they knew Officer Anthony, clarified he meant Anthony Gangadeen and that he knew him and his brother. Constable Gangadeen first stated he did not know who Mohamed Sameer Khan was, but when confronted with the statements given to other officers, he stated that Mohamed Sameer Khan was his brother's friend and only found this out after speaking to his brother about the incident.

The Panday brothers have criminal records and are known to Constable Gangadeen. He saw them at his parent's residence in 2017, when his brother was in custody. He had Ajay Panday's phone number in his cellphone and Ajay did construction work for his parents. Ajay could have contacted his parents' directly. Constable Gangadeen

admitted that he met Ajay a couple of times, knew he had a criminal background and had been arrested with Ashton Gangadeen. Constable Gangadeen submitted a basic Intelligence Report on December 17, 2017, a few days after receiving his NOI about the Abitibi Lake incident.

Constable Gangadeen received a text message from Somie Narine at 05:25 hrs on September 24, 2017. At 05:26hrs., Somie Narine's phone placed a three-minute phone call to Constable Gangadeen. These were made while he was on-duty, and he made no notes. Somie Narine was Ajay Panday's girlfriend and the final POI for Abitibi Lake Drive. Constable Gangadeen admitted to receiving a phone call from Somie Narine. They knew each other before he became a police officer. She called that very night and said the police were at her friend's door and did he know what was going on. This was a call she was also involved in and one where Ajay Panday was a POI. Constable Gangadeen was friends with Somie Narine on Facebook, and she was in a relationship with Ajay Panday. Constable Gangadeen stated it was not necessary to make notes about requests for assistance of the PRP even if the request came from a known individual as people ask for favours all the time. This incident involved a weapon and was unresolved that evening. Constable Gangadeen did not disclose that he received this phone call.

Production Order

Defence counsel's submission that a police officer has the right to notice of a criminal investigation is incorrect at law. The *PSA* speaks to notice under Part V/Section 76. Whether it involved a *PSA* or criminal investigation, a notice may be withheld. Constable Gangadeen was always aware of any *PSA* investigation. S/Sgt Stone and S/Sgt Harloff's testimony clearly established this was a criminal investigation. This investigation was assigned to Internal Affairs which conducts criminal and *PSA* investigations.

Constable Gangadeen was deemed a POI pursuant to the Abitibi Lake incident. A surveillance sheet was prepared, and dates established with the goal of determining any criminal or gang associations off-duty. Mobile surveillance was planned, and a

Production Order was drafted. S/Sgt Harloff received the results and established that Somie Narine was the 5th POI. S/Sgt Harloff was clear that the purpose of the Production Order was to clear Constable Gangadeen from criminal contact with any party from the Abitibi Lake incident. It was essential that Constable Gangadeen not be aware due to the surveillance conducted. The evidence is clear that this was a covert criminal investigation. An officer would not be served notice as it would be counterproductive.

S/Sgt Stone's evidence was clear that this was a criminal investigation. He was brought into Internal Affairs on Feb 1st for the sole purpose of the criminal investigation of Constable Gangadeen. His specific mandate was to investigate any criminal offence from Abitibi Lake. He was the affiant for the Production Order for the offences of Obstruct Police and party to the offence, s. 129 and s. 21(1) of the Criminal Code. The police suspected that Constable Gangadeen assisted the parties to the offence, including Mohamed Sameer Khan, to evade police, any arrest, or related charges to this serious weapons call. The basis for the 'reasonable grounds to suspect' was that Constable Gangadeen was a party to the offence of weapons dangerous or other related charges. This was an ongoing investigation so the Production Order could assist with the criminal investigation of Constable Gangadeen and the weapons call at 89 Abitibi Lake Dr.

The standard to obtain a Production Order is 'reasonable grounds to suspect'. This is not a high threshold. S/Sgt Stone also sought a sealing order in case Constable Gangadeen discovered a Production Order was granted, the cell phone used to send the messages could be destroyed and evidence lost. It was clear that this was a criminal investigation and Constable Gangadeen was not served notice for a reason.

Defence counsel asserted that you cannot use a Production Order obtained pursuant to a criminal investigation in a *PSA* proceeding. This is not correct at law. There is a body of law that suggests regulatory or professional standards investigators cannot criminally investigate someone and use their compelled statement in a criminal investigation as this would breach their Charter rights. This was not a compelled *PSA* statement used for a criminal investigation. Routinely information from criminal investigations is shared

and used in civil proceedings. This Production Order was obtained under the Criminal Code pursuant to a criminal investigation. Constable Gangadeen did not have the right to understand the criminal jeopardy he faced due to the covert nature. While the Production Order did assist investigators in ruling out any criminal connection, it did assist in finding that Constable Gangadeen was in touch with a person of interest from Abitibi Lake Drive that same night. There were no reasons for officers to ignore this evidence as it was not obtained in violation of the Charter, the officer had the opportunity to respond and there were no fairness concerns. This principle is outlined in Jacques and Irving Oil, SCC, 2014 (Exhibit 30). This case demonstrates that criminal evidence can be submitted in civil proceeding if it is relevant. The admissibility of documents in a *PSA* hearing are governed by the *SPPA* s15. At the end of a covert criminal investigation, there was no legislative requirement to serve the officer notice. The evidence on the first count established Discreditable Conduct based on clear and convincing grounds. If the public knew that officers attended calls that involved persons or associates involved in criminality or were alleged to have been involved in criminal activity and were not honest about it, these actions would bring serious discredit to the Service. This is serious misconduct.

Count #2

It is undisputed that Constable Gangadeen failed to make any notes of a detailed account of the complainant's observation at 89 Abitibi Lake. He failed to make notes of suspect descriptions, the queries of Mr. Khan and the address, and his conversation with Somie Narine. Constable Gangadeen testified that he did not have to make notes if the relevant information was in the call history contrary to the Notebook directive. This is a clear duty that Constable Gangadeen attempted to obfuscate as not required because it was in another police system. He stated this was a supervision issue and had never been told to make notes. Making notes is a rudimentary police function. It is egregious as he was charged with the same issue in the first Notice of Hearing, and it happened a second time.

Count #3: Withdrawn

Count #4

Constables Brown and Cook worked nights at the Jab Jab concert and were tasked with preventing people from entering without tickets. Constable Gangadeen interacted with both officers when he tried to climb the fence. His disrespectful behaviour included swearing and kissing his teeth. Constable Brown is an experienced officer who was credible and forthright. She was fully uniformed. At 0130 hrs., the officers encountered three men with their feet off the ground. Two men cooperated and one stayed on the fence. She made the command to get off the fence from 10-12 feet away. She heard, 'fuck this'. Her partner veered to the side and told her he was a PRP officer. She told him to take his hands out of his pocket and he was belligerent. He kissed his teeth and after one more command, he removed his hands as directed. As he walked away, Constable Brown heard the word 'fuck' several times. Constable Brown recognized Constable Gangadeen by name only and did not know him personally.

Months later she saw Constable Gangadeen at 21 Division after he was pointed out. She recognized him from the concert. The Jab Jab concert was an off-duty event, and the *PSA* is clear that no officer shall be found guilty of misconduct if there was no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police service. This is an objective test as noted in Stock v. Windsor Police Service, OCPC, 2014, (Exhibit 29, Tab 11). This misconduct was likely to diminish the reputation of the Service in the eyes of the officers who were present, the individuals who were present and may have encountered this individual, and the two men he was with. Constable Brown was highly alarmed by Constable Gangadeen's behaviour. Police officers are held to a higher standard than the public while on-and off-duty.

I will have to conduct a credibility assessment as to who was more credible. Constable Gangadeen denied any sort of discreditable conduct. Constable Brown had no reason to fabricate evidence. The two did not know each other before or after this incident. There were no allegations of animosity. She did not falter, hesitate and although she had no notes, she was able to answer all questions.

Count #5--Withdrawn Count #6

Constable Gangadeen conducted licence plate queries on Constables Woolley, Sybblis and Kudzma with no law enforcement purpose and he failed to make notes. These queries and lack of notes occurred after he received the first Notice of hearing. He stated in his compelled interview that he did not record plates or make notes as there was no obligation to do so. He did not feel the need to make a notation after running the licence plate of colleagues and he used his discretion. Some type of notation about running these plates was required. This was alarming behaviour as Constable Gangadeen was suspended and investigated for similar behaviour and he was the subject of an ongoing *PSA* investigation at this time pertaining to queries of personal associates and family members. It is not the expectation of PRP employees that they will be queried by fellow members. There are significant privacy considerations without an investigative reason.

Count #7

Constable Gangadeen conducted queries on family members and personal associates with no lawful reason and absent any notes. He queried Ajay Panday, Anthony Gangadeen (father), Lynn Gangadeen (mother) and Simon BRAR. Constable Gangadeen knew Ajay Panday through his parents and his brother. He had no operational reason to query Panday. Constable Gangadeen stated this was due to the Intelligence Report he submitted but the prosecutor stated the report was an attempt to cover his tracks as he became aware of another *PSA* investigation.

Constable Gangadeen queried BRAR. He did not know who he was and did not recall the query. BRAR was associated with ASIF and BB who were associates of Ashton Gangadeen. He queried his parents through a licence plate check on February 3, 2018. He ran his own licence plate due to internal harassment issues. This query was also of each parent, not just the plate. This was a personal use of a police database. He was aware of the CPIC protocol at this stage of his career and from previous investigations with Internal Affairs and failed to notify a supervisor after these queries.

Count #8

Constable Gangadeen queried himself on CPIC and MTO. He stated he taught a cadet how to look up MTO queries. He had no one else to run even though one minute prior he ran another individual. He did not show the cadet this information due to privacy concerns. Cadets are employees and subject to strict background checks and the Code of Conduct. There was no reason why he could not have divulged this earlier information to the cadet. It was a routine part of a cadet's duties to be privy to such information in training.

He ran his plate on February 3, 2018 due to harassment issues. He wanted to determine if anyone else had run his plate to take his complaint up the chain. This was not the responsibility of this officer. A supervisor would make any queries once he/she received the information. The remainder of the queries were for evaluation purposes and the second was for MTO purposes, but he made no notes. All of this occurred while Constable Gangadeen faced *PSA* charges for misuse of police databases. PRP employees cannot use police databases for curiosity purposes.

Count #9

Case law makes clear that profanity alone does not constitute Insubordination. Misconduct can be found where the hearing officer is satisfied that the tone of the conversation when addressing a higher rank is insolent and done in a rebellious manner as noted in Booth and Metropolitan Toronto Police, OCPC, 1983 (Exhibit 29, Tab 8).

The chain of how the complaint was laid with respect to 89 Abitibi Lake was explained to Constable Gangadeen. He responded, 'Oh, that's slimy'. When asked about his association to Ajay Panday, Constable Gangadeen became agitated and stated, "then pick a better reference because you guys are really annoying now, and you are really starting to agitate me". Constable Gangadeen stated to S/Sgt Harloff, "It doesn't matter if you are a detective, and you are trying to pin something on me that's not relevant" (Exhibit 19).

S/Sgt Harloff stated that Constable Gangadeen's demeanour was confrontational, he refused to answer certain questions, he was argumentative over certain points and Mr. Black had to interject and calm him down. S/Sgt Harloff found the interview to be among the most difficult he had conducted. Constable Gangadeen testified that he regretted saying some of those things but was under considerable stress at the time. There is clear and convincing evidence that Constable Gangadeen was insubordinate by word or demeanour.

Defence Counsel Submissions

Defence counsel referred to the case of Shockness and Peel Regional Police Force, Board of Inquiry, 1993, wherein the court noted,

“...there must be some element of subjective misconduct by an officer before making a finding against that officer. A technical breach of the law in good faith would not be found by any reasonable person in the community to bring discredit upon that officer's police force...confusion on the part of an officer is a relevant factor”
(Exhibit 31, Tab 4)

The note making directives are not clear and do not require an officer to make a note of anything. It does not state when to make a note and officer's use their discretion and judgement on when a note is important.

In Monaghan v. Toronto (City) Police Service, O.J., 2005 (Exhibit 31, Tab 5), the court made it clear that the test for discreditable conduct is, is it “likely to bring discredit”. In McCoy, Commission, 1969, an officer investigated his own accident and was charged with discreditable conduct. The Commission noted,

“Perhaps the wiser course would have been for him to call the station and ask that some other police officer be sent to investigate. With the wisdom of his actions we are not here concerned but only whether they constituted an offence against the Code. We, therefore, cannot see our way clear to uphold the conviction on this charge”.
(Exhibit 31, Tab 6),

An action can be unwise, but not constitute discreditable conduct. In Rose and Toronto Police Service, OCPC, 2017 (Exhibit 31, Tab 7), the Commission noted, “A technical breach of the law made in good faith would not be found by any reasonable person in the community to bring discredit upon that officer’s police force”.

With respect to the charge of Neglect of Duty, the court in Ontario Provincial Police v. Ontario Independent Police Review Director, O.J. 2016, noted,

“There can be no neglect of duty unless there is first a duty. The duty of the deponent of an ITO is to provide full, fair, and frank disclosure of all relevant information. The failure of an officer to include in an ITO information about a suspect that was both irrelevant and potentially incriminating is the opposite of misconduct...How much tangential or background information to include in an ITO is a matter of judgment for an officer to exercise.
(Exhibit 31, Tab 8).

There was no clear duty for an officer to make notes about running plates or querying CPIC for someone you have seen on the street.

The court, in *OPP*, further noted,

“To constitute neglect of duty, the impugned conduct must include an element of willfulness in the police officer’s neglect or there must be a degree of neglect which would make the matter cross the line from a mere job performance issue to a matter of misconduct”. (Exhibit 31, Tab 8).

Constable Gangadeen stated he was never trained to make notes for these reasons. When he performed station duty, he was not expected to make notes, and no one told him to make notes. The directive on notetaking states that the supervisor must look at officer’s notebooks. For Constable Gangadeen’s five months as a station duty officer, he wasn’t expected to take notes as the supervisor realized there was an electronic record.

In Hewitt and Devine, Police Commission, 1999 (Exhibit 31, Tab 9), the Commission noted, “However, there does not appear to be a rule or directive requiring officers in Toronto to advise their dispatcher of the results of their investigation of every call. That suggests that some reasonable exercise of judgment or discretion is anticipated”.

In Murray and Metropolitan Toronto Police Force, Commission, 1984, the Commission noted,

“To constitute insubordination, an order must be clear and unequivocal. No clear order was produced as to how the transportation should be handled in the circumstances confronting the officers. Their conduct would appear to be reasonable in view of the circumstances...the written procedures appear to be silent on how to handle the situation of one complainant, one prisoner and two police officers in a police vehicle without screen...to constitute Insubordination, it seems to me that an order must be clear and unequivocal...This would appear to be reasonable conduct in view of the fact that there was no clear administrative procedure to cover the facts of the situation presented to them”. (Exhibit 31, Tab 10)

In P.G. and Attorney General of Ontario and PCC, OCJ, 1995 (Exhibit 31, Tab 11), the Board exceeded its jurisdiction by making new rules, setting new standards, and putting into effect things that clearly were not in existence at the time.

In Rowe and Sault Ste. Marie Police, OCCPS, 2003 (Exhibit 31, Tab 12), the Commission, referencing the case of Blowes-Aybar noted, “a lawful excuse is a defence to a charge of insubordination”.

In Byrne and Ontario Provincial Police, OCCPS, 2007, the Commission noted,

“However, during the presentation of her case she tabled the OPP policy on secondary employment. That policy contained the relevant provision of the Act dealing with secondary employment... Unfortunately, this was the extent of the evidence offered by the Prosecutor concerning this allegation. A policy is not proof that a disciplinary offence has taken place and neither is a general opinion expressed by the investigator on whether allegations were substantiated” (Exhibit 31, Tab 13).

The issues with Constable Gangadeen began with the arrest of his brother and the belief of investigators that ‘the apple does not fall far from the tree’. Ashton Gangadeen was arrested on Dec 29, 2015. The queries in count #1 were not done to help Ashton as he was incarcerated, and Constable Gangadeen moved out shortly after. The silent hit was on Jan 12, 2017, two NOI were served Jan 25, 2017 and the officer was suspended in February 2017 as the subject of a criminal investigation. He was told before his interview in June 2017 that the criminal notice was withdrawn. Constable Gangadeen took a proactive approach to his duties. He ran criminals in different gangs.

The Service has created this case by stating that his attention to this specific group was significant as his brother was part of it. They built a case around this group.

The charges in the first Notice of Hearing were not going to be proceeded with. S/Sgt Harloff repeatedly stated that he had no evidence that the statements in compelled interview #1 were untrue. Constable Gangadeen returned to work in August 2017. You do not return an officer to work if he engaged in 150 CPIC checks connected to his brother or give him a covert phone or transfer him from his home division.

Constable Angevine misrepresented what Mohamed Sameer Khan said as he was jealous of Constable Gangadeen. He waited three weeks to speak to his supervisor. On December 5, 2017, Constable Gangadeen was service a NOI under the *PSA* re Abitibi Lake. He was issued the first Notice of Hearing on December 17, 2017. The Service allowed more than six months to pass as did not intend to charge him. There was a new view about Abitibi Lake and Constable Gangadeen was not to be trusted.

There is an obligation to give notice to an officer that they were the subject of a criminal investigation if not notified at the onset. Exhibit 26 recognizes this obligation. It was questioned how the Service can criminally investigate an officer, exonerate/not substantiate the allegation, and never tell him. The NOI dated Jan 4, 2018 (Exhibit 26) noted that he interfered with a criminal investigation. This could only be Abitibi Lake so how can investigators be conducting a criminal investigation on Feb 8, 2018. They resorted to a ruse using a Criminal Code Production Order to help the *PSA* investigation. He had been exonerated on Jan 4, 2018 and there were no other criminal investigations.

A/Sgt Meyer did not refer to the word friends after speaking with Mohamed Sameer Khan.

Constable Gangadeen was transferred to 11 Division in April 2018 and the second Notice of Hearing was issued about his alleged misuse of databases and CPIC information, long after they applied for the Production Order. On April 19, 2018 he was notified about the Jab Jab investigation, and he was suspended a second time in April 2018. His second compelled interview was in May 2019. The proven facts and

chronology show there was no intention to proceed with the first Notice of Hearing and there was no criminal investigation of Constable Gangadeen in February 2018.

Constable Gangadeen arrived at the Abitibi Lake call at 02:52:40 and cleared at 04:06hrs. The text messages from Somie Narine were sent at 05:25 and 05:26 hrs. He had long departed the call when he received the text messages.

S/Sgt Harloff joined the investigation on February 6, 2018 and made it clear it was a *PSA* investigation that he joined. S/Sgt Harloff noted that Mohamed Sameer Khan indicated that he was friends with Constable Gangadeen, but he did not reference the evidence of A/Sgt Meyer. Constable Gangadeen was sent to a location pursuant to the Abitibi Lake call as a traffic point. He received a description of the suspect from the Uber driver and transmitted it so it could be viewed by all PRP members. Constable Gangadeen did not make a note as he put it over the radio. This was not misconduct but was a judgment call.

Constable Gangadeen did not know the people at 89 Abitibi Lake Drive. Somie Narine did not say she was present during her phone call. He stopped her question and told her he could not talk about it. This was not a criminal investigation as noted by S/Sgt Harloff, who kept saying this was about associations. They were looking at whether he associated with people with criminal records while off-duty which is discreditable conduct.

Constable Gangadeen ran hundreds of people randomly and does not remember who BRAR was. He has admitted running people who were arrested with his brother but did not remember BRAR. S/Sgt Harloff agreed that it would be reasonable to periodically query FF. Regarding AA, Ajay PANDAY and BB, S/Sgt Harloff stated he had no information that anything he said was untrue. He felt the queries on CC were reasonable.

Constable Gangadeen accessed six occurrences related to Project Interlock before his brother's arrest and nine occurrences after the arrest so his brother could not have been involved. Every query he conducted was while his brother was incarcerated. These queries were not designed to assist his brother. When asked about querying Mohamed

Sameer Khan and his address, he stated that he looked up people's criminal history and to see if police previously attended. With respect to Mohamed Saleel Khan, he never used the word 'friends' as per A/Sergeant Meyer. S/Sgt Harloff did not ask Mohamed Saleel Khan the source of his belief.

Constable Gangadeen ran Adrian Woolley's plate as he ran an amber light. When he noted the owner, he did not stop the car and he did not make a notation as it was not a specific call. When asked if he understood it was his responsibility to take notes, Constable Gangadeen stated he did not know about this type of scenario as he was never trained. He understood that you take notes on calls when you query names or when you are investigating something. The notebook directive is a guideline; it does not say when an officer is required to make notes.

When he ran Constable Sybblis' plate, he saw it was registered to a police officer. Staff Sergeant Harloff asserted he should have made a note, but this was not his training and not what the directive states. Constable Kudzma played a joke on Constable Gangadeen when he sped past him as the former was doing radar. He ran the plate, realized it belonged to a police officer and did not pursue the matter.

On December 17, 2017, Constable Gangadeen ran Ajay Panday for the Intelligence Report. S/Sgt Harloff stated this was a reasonable law enforcement query. S/Sgt Harloff felt it looked suspicious given the timing of the Notice of Hearing and the report.

S/Sgt Harloff was part of a team of three investigators. There was a meeting with himself, Cloutier, Grey and Stone to determine if there was any criminal or gang association while off-duty. S/Sgt Stone's Production Order determined the connection with Somie Narine. Defence counsel asserted that they were not involved in a criminal investigation as that ended on January 4, 2018. S/Sgt Harloff stated they were looking to determine if there was any overt criminal action, namely obstruction, and did he have any contact with criminal persons or gang associations. S/Sgt Harloff was unable to establish any overt criminal association. He tried to establish if there was any ongoing contact with criminal associates and if he interfered or obstructed, but those words were

not in S/Sgt Harloff's notes. There was nothing in his notes about this being a criminal investigation.

There was a degree of animus between Constables Angevine and Gangadeen and the former was told by an Inspector to stop talking about Constable Gangadeen. Constable Angevine testified, 'I cannot confirm that did not happen' and he could not recall the conversation with the Inspector.

Constable Brown had no notes about her involvement with Constable Gangadeen at the Jab Jab concert. The incident happened on July 29, 2016 and she was interviewed 1.5 years later. The Service tried to build a case against Constable Gangadeen. They waited more than six months to lay a charge and 1.5 years to investigate the Jab-Jab incident. Constable Cook's evidence about the distance between the officers and being on the fence differed from Constable Brown. This is not clear and convincing evidence.

Production Order

A *PSA* offence is not an offence within the meaning of the Provincial Offences Act (POA). Investigative powers provided under the *POA* are not available in the investigations of complaints of misconduct under the *PSA*. Neither the *POA* nor the *PSA* provide for Production Orders. Production orders are mandated under s. 487.016 of the Criminal Code. Defence counsel outlined the content of section 487.016 of the Criminal Code.

The prosecution seeks to rely on the text message and phone call from Somie Narine to Constable Gangadeen both of which were provided pursuant to the Criminal Code Production Order. Three reasons why this information should not be received in evidence include:

1. Investigators cannot apply for a Production Order to assist an investigation of alleged misconduct under the *PSA*; the investigators were not involved in a criminal investigation

2. Even if Detective Sergeant Harloff, Detectives Gray and Stone were conducting a criminal investigation, the sworn information provided to the Justice contained a serious misrepresentation of facts; and
3. Even if the officers were engaged in a criminal investigation and even if there had been no misrepresentation of facts, the transmission data could only be used in the investigation of the criminal offence being investigated. The PRP could not use the information for an unauthorized purpose never disclosed to the justice.

There is a heightened duty on an affiant to be full, frank, and fair in the affidavit due to the ex parte nature of the application. The potential for abuse is high where there is only one party to the proceeding present and the party who is present asks the Justice of the Peace to accept their unchallenged representations. The failure to provide full and frank disclosure brings the reputation of the administration of justice into disrepute, it compromises a *PSA* hearing, and the Tribunal should disassociate itself from this course of conduct and grant a stay of proceedings. These submissions were supported by R. v. Morelli, SCC, 2010 (Exhibit 40) R. v. N.N.M., OJ, 2007 (Exhibit 39) and Power v. London Police Service, OCPC, 2013 (Exhibits 39, 40 and Exhibit 31, Tab 17).

Constable Gangadeen was never given notice by the Chief of any alleged criminal complaint being investigated in February 2018. Such notice was required under section 76(2) of the *PSA* unless the Chief felt it might prejudice the investigation. The record in this case shows it is the practice of PRP to comply with this section as it did in two Notices of Investigation dated January 25, 2017 and other NOIs.

Two NOI were issued on January 25, 2017. The criminal notice referred to an alleged Breach of Trust and the *PSA* notice alleged Discreditable Conduct and Breach of Confidence allegations. No such notices were served in relation to the matters referred to by Detective Stone in his sworn information to a Justice of the Peace. The evidence before this Tribunal does not indicate that the Chief felt such notice of a criminal investigation should be withheld. If so, it was incumbent on the prosecutor to elicit this evidence instead of having S/Sgt Harloff provide his opinion. Notice is required as outlined in Gage v. Ontario (Attorney General), OJ, 1992 (Exhibit 38).

The PRP complied with section 76(2) in one case and Constable Gangadeen was given notice on Jan 4, 2018 that an investigation had taken place. Detective Stone was involved in the investigation of Constable Gangadeen in Feb 2018. In the last 3 ½ years, the prosecutor has not provided any information that there was a second criminal investigation where it was determined that notice was prejudicial. There was no such criminal investigation and statements to the contrary are false.

In cross examination, S/Sgt Harloff testified that Detective Stone's Production Order was to determine if there had been any contact with any criminal or gang associates, that having such associates could constitute Discreditable Conduct and the investigative strategy was to determine if Constable Gangadeen had any criminal or gang associates off-duty. S/Sgt Harloff's notes do not indicate he was involved in a criminal investigation, there was no evidence in his notes that the subject officer was being investigated for interfering or obstructing with a criminal investigation. The evidence shows that the subject officer was being investigated for Discreditable Conduct by association and this focus was largely driven by his brother's criminal associations.

Detective Stone was brought in to write the Production Order in February 2018. He knew a Production Order could not be obtained to assist a *PSA* investigation, so he claimed he joined to investigate criminal offences related to Abitibi Lake. He agreed that it was probably not in his notes that he investigated criminal offences. The reference to 'criminal' in his notes was in relation to the subject officer's 'association with known criminals'. The Production Order was obtained in relation to the criminal offence of 'parties' and 'obstruct police' but there was no reference in his notes to this investigation. Internal Affairs used a procedure not available in law to obtain the Production Order. In doing so, it was an abuse of process as noted in *Power*.

Detective Stone misrepresented the truth in his information where he swore, "Professional standards investigators have reasonable grounds to suspect that Anthony may have assisted Mohamed Sameer Khan and the Pandays through cell phone communication, enabling them to evade police and subsequent arrest and charges relating to serious firearms offence".

The history shows that Constable Gangadeen was dispatched to the call, but he never attended 89 Abitibi Lake, and did not communicate with a person at that address. He entered suspect information electronically for all members to see the description. He ran the address and the owner for officer safety reasons. The alleged 'reasonable grounds' did not exist in this Information. Speculative theories do not constitute objectively reasonable grounds. If a Justice of the Peace is deliberately misled, it nullifies the Order

Even if officers were conducting a criminal investigation and there was no misrepresentation in the ITO, they could not appropriate the information obtained from Rogers. What was not disclosed to the Justice of the Peace was that the officers intended to advance a possible *PSA* charge of misconduct. The sworn information would lead anyone to conclude that the information would be used to investigate the officer for "Party to the Offence" (does not exist as an independent criminal offence) and Obstruct Police. S. 487.016 of the Criminal Code does not give police the ability to use information they obtained for any other purpose.

In *Power*, there were contemporaneous criminal and *PSA* investigations of the officer. The intention was that the investigations be 'siloe'd', but this fell apart as the officers immediately collaborated. The abuse of process in this case involves the deliberate use of a statutory provision designed only for use in a criminal investigation to advance the *PSA* case and the misrepresentation to a Justice of the Peace as to the 'reasonable grounds of belief' of the deponent.

The prosecutor seeks to use a text message and phone call sent to the subject officer by a POI long after the subject officer left the address to establish a connection between the officer and whoever allegedly had a gun/replica. To permit the prosecution to use that evidence is unfair and an abuse of process. This evidence is the only support for count #1 of the NOH. The subject officer explained that Somie Narine was someone he has known since school, and he immediately told her he could not talk about the police investigation. This evidence is unchallenged. The only response, as noted in *Power*, is count #1 of the second NOH must be stayed for an abuse of process.

Aside from counts #2 and #5 of the first Notice of Hearing, the remaining misconduct allegations were not proven on clear and convincing evidence. The prosecutor did not contradict Constable Gangadeen's evidence that he conducted many queries every day. She did not challenge the officer's approach to his police duties to conduct significant random checks on people known or suspected to be involved in criminal activity.

The prosecution has selected a group of individuals who had contact with his brother and attempted to create a picture that the checks were motivated by this connection. It is uncontroverted that the prosecution could have selected numerous groups. There is no evidence that Constable Gangadeen disclosed any information he learned to another person, not a police officer. There is no directive that queries be noted.

The prosecution has alleged a conflict of interest that does not exist. Most checks occurred while his brother was in custody, and he explained his interest in the people he queried. He explained why he read the occurrences and why certain vehicles were queried. There were operational reasons to conduct the queries and lawful authority to access the occurrence reports.

No station duty officer made notes as much as in an electronic format. Supervisors must check notebooks every 30 days and no supervisor told him to make notes.

Notice of Hearing #2

Count #1 should be stayed for abuse of process; alternatively, none of the allegations in count #1 were proven on clear and convincing evidence. The assertion that Mohamed Sameer Khan asked if they knew his friends is contradicted by A/Sgt. Meyer. Constable Gangadeen testified to the animosity and jealousy exhibited towards him by Constable Angevine. Constable Gangadeen explained why he had Ajay Panday's phone information. The allegation that matters should have been noted in the officer's memo book fail as there is nothing in the directive that require such checks.

The prosecution failed to adduce anything to demonstrate that Constable Gangadeen knew the persons named were 'persons of interest' and no association with these individuals has been proven on clear and convincing evidence.

Count #2

It has not been proven that there was a mandatory requirement that Constable Gangadeen make the records as alleged.

Count #4

Constable Brown was not interviewed for 18 months. The timing of her interview shows this was done to build a case. Constable Brown had no notes, and she was never spoken to or cautioned about not making notes. Constable Cook's interview showed a different recollection. This count was not proven on clear and convincing evidence.

Count #6

Allegations that the officer is guilty of misconduct as he failed to make notes that he did not stop or issue a ticket to three fellow officers fails as there was no requirement to do so.

Count #7

Constable Gangadeen explained in detail the checks on Ajay Panday (Intelligence Report). With the number of checks Constable Gangadeen conducted, he had no memory of Simon BRAR and the prosecution did not introduce evidence that there was no reasonable law enforcement purpose for the check or identify any requirement to make notes.

Count #8

Constable Gangadeen testified that the PQT queries on himself in Oct 2017 were for his evaluation; on February 3, 2018 to lodge a complaint and on February 21, 2018 to assist in training a new officer.

Count #9

S/Sgt Harloff is not a neutral or impartial witness. This was an aggressive interview that lasted 6 ½ hours. It was conducted at least 2 ½ years after the initial NOI. The officer had been suspended once, reinstated, and suspended a second time which continues to date. This was the second compelled interview. Constable Gangadeen testified how difficult this whole process was for him, beginning with the arrest of his brother and how every other officer in the station knew about it except him. He asked to meet with a senior officer and was refused. He was the subject of slurs and innuendo. His enforcement numbers were outstanding after his return from the first suspension, he was given a covert phone by Intelligence and urged to contact and cultivate informants. The prosecutor's opinion and that of the investigator are not evidence as noted in *Byrne*.

There was nothing disobedient or rebellious about the May 8, 2019 interview of Constable Gangadeen. The prosecution has failed to prove on clear and convincing evidence that Constable Gangadeen, without lawful excuse disobeyed, omitted, or neglected to carry out a lawful order.

A fair reading of the transcript does not support that Constable Gangadeen presented himself in an unprofessional manner. The investigators got the reaction they sought after the lengthy interview. There is nothing to support that Constable Gangadeen was insubordinate by words and demeanour. Constable Gangadeen refused to answer when he broken up with his girlfriend. This was a personal, private, and irrelevant matter with no proper basis.

There was nothing insubordinate about calling the detectives annoying and agitating based on how Constable Gangadeen was treated during the lengthy, repetitive, and protracted nature of the questions. He called the Internal Affairs process 'slimy' when he was notified that he had been under a *PSA* investigation without required notice. It may have been a poor choice of words but was not insubordinate. The allegation that Constable Gangadeen presented in an unprofessional and insolent manner throughout the interview are subjective and biased opinions of the investigating officers and are not evidence as noted in *Byrnes*.

Reply—Prosecution

Duty to make notes

The requirement to make notes is clearly set out in PRP directive “Sworn Member Notebooks” (Exhibit 17, Tab 5). Notebooks are official records of officers’ duties and assist officer’s in refreshing their memories for court or other purposes. Sworn members shall ensure their notes contain an independent recollection and account of their duties as noted in clause C.2(c). If a CPIC query is required for operational circumstances that is above assigned duties, the requirements are set out in Directive I-A-403(F).

When discretion exists, basic notetaking is a foundational skill and officers are obliged to take notes during their shifts, regardless of their posting. It is concerning when an officer justifies the complete absence of his notes as ‘discretion’. The absence of a supervisor reviewing the lack of notes goes to mitigation. This is pertinent when an officer conducted dozens of queries on his brother and his gang affiliates within the confines of a conflict of interest. There is no evidence that 21 Division station duty officers did not make notes.

The argument that an officer cannot be found guilty of Neglect of Duty for stopping three PRP officers as there was no requirement to make notes of these stops fails for the reasons noted. The requirement to make notes is clear.

Insubordination and Opinion Evidence of S/Sgt Harloff

Mr. Black stated that the opinion of S/Sgt Harloff that the officer presented in an unprofessional and insolent manner throughout the interview is subjective, and biased opinions are not evidence. He relied on *Byrne* to support that opinion evidence of an investigating officer is not evidence. When the officer referred to the investigators as ‘annoying and agitating’, it was stated that this was truthful, but the opinion of counsel is

not evidence in a *PSA* proceeding. S/Sgt Harloff testified to provide an overview of the investigative process. Prosecution did not rely on his evidence as proof of the misconduct.

S/Sgt Harloff was called in addition to other key fact witnesses who were present during the alleged misconduct, contrary to the fact pattern in *Byrne* where the investigating officer provided his opinion as to whether the misconduct was substantiated. S/Sgt Harloff was a fact witness on all issues except Constable Gangadeen's demeanour. His testimony about the officer's demeanour is relevant to the charge of insubordination. Ontario Regulation 268/10 is clear that insubordination is made out when an officer is "insubordinate by word, act or demeanour". S/Sgt Harloff provided best evidence of that demeanour from the compelled interview as he conducted the interview and could comment on aspects of his insubordinate behaviour. Defence Counsel focused on S/Sgt Harloff's evidence about knowing if any statements made during Detective Seward's interview were untrue. S/Sgt Harloff would not know if any statements were untrue as he was not the investigating officer at the time and was not expected to fact check statements that he did not conduct. Detective Seward did substantiate numerous allegations of misconduct that Constable Gangadeen now faces.

Creating a case against the officer

It was alluded that officers colluded to concoct evidence that Constable Gangadeen engaged in misconduct and the Service carefully selected ten individuals to focus on. These individuals included Constable Gangadeen's brother and his criminal associates. It was submitted that this was evidenced by the PRP having brought Constable Gangadeen back to work in December 2017. The first argument is baseless, speculative, and not based in fact.

The second argument is misleading. Constable Gangadeen was brought back from suspension; he was charged, and his disciplinary matter continued and is the partial basis of the allegations before this Tribunal. He was suspended again, when, during the proceeding with formal *PSA* charges in NOH #1, more allegations of misconduct and criminality came to light, which form the basis of NOH #2. It was agreed that both

matters would be heard together. Constable Angevine's statement about what was said at 89 Abitibi Lake by Mohamed Sameer Khan is supported by statements made to Constable Meyer and S/Sgt Harloff. The evidence supports that this was not a fabrication by an officer who 'had it in' for Constable Gangadeen.

Timing of Service of Notices of Hearing

Prior to serving a NOH, the Service was required to complete a compelled interview. Constable Gangadeen noted that he had to convince his therapist to allow him to attend an interview as he was on medical leave. The interview was completed as soon as it was reasonable given the officer's alleged medical limitations. Given the passage of time, the Service submitted an extension to the Board which was granted.

Obligation to provide notice of a criminal investigation and January 4, 2018 document

Prosecution and defence counsel discussed, and defence counsel was aware, that the January 4, 2018 notice served on Constable Gangadeen is a document that was not served on Constable Gangadeen pursuant to the NOH before this tribunal. It is irrelevant and should be disregarded. The Service maintains there is no legal obligation to notify any person that they are under criminal investigation. No authority was provided to the contrary.

Jab-Jab Concert

It was suggested that the allegations of Discreditable Conduct during the Jab Jab Festival are fabricated. It is common for additional allegations of misconduct to emerge during investigations into separate matters, regardless of how long the alleged misconduct occurred. The Service has an obligation to investigate all allegations of misconduct which was done in this instance.

Response to Defence Counsel Written Submissions

Production Order

At no point during the hearing did defence counsel bring forward a motion for a stay of proceedings or an abuse of process. It is inappropriate to introduce this argument during closing submissions on guilt. A stay of proceedings should not be granted based on the evidence and an abuse of process is not made out.

Morelli dealt with child pornography. An Information to Obtain (ITO) search warrant was drafted pursuant to section 487 of the Criminal Code to search a computer. The ITO was deemed invalid as, *inter alia*, it did not refer to possession of child pornography rather it referred to accessing child pornography which are separate offences. The conviction was quashed, and an acquittal entered. The court in *Morelli* found the ITO was misleading, relied on broad generalizations and failed to highlight importance evidence to the contrary. The court found the officers were selective in their presentation of facts to make the subject of the search warrant appear more villainous than necessary.

The evidence in this matter does not support a similar conclusion. Defence counsel has not produced any evidence of generalization or failure to consider pertinent information that could have affected the wording of the ITO beyond speculative assertions that the ITO was used as a crutch for a *PSA* proceeding which is not based on fact.

The case of R. v. N.N.M. O.J. 2007 (Exhibit 39) involved a warrantless entry into a police officer's home under a mistaken belief which led to a strip-search in his driveway and the arrest of the accused. Subsequent authorized searches led to a seizure of weapons and narcotics. The court found there was no objective justification for the warrantless conduct of the police and the authorized searches were based on uninformed consent.

Both cases involved what is referred to as a *Garofoli* application to exclude evidence. The reviewing court re-assesses and determines the validity of a judicial authorization. If deemed there was a breach of a person's rights or insufficient grounds, some or all the evidence will be excluded from trial. There is a presumption of validity, and the burden is on defence to convince the reviewing court. The reviewing judge does not substitute

his/her view. If it is determined that the authorizing judge could have granted authorization, then he/she should not interfere. The test is not whether the judge would have granted the warrant, but whether a judge could have done so. The fact there could be errors, shortcomings or breaches does not lead to setting it aside if there was some evidence to justify the warrant. Inaccurate or omitted information does not automatically invalidate an ITO; rather it is excised and re-evaluated. Flaws are expected and inaccuracies or material facts not disclosed do not necessarily detract from the existence of statutory preconditions. Leave must be obtained prior to challenging the admissibility of intercepted communications by way of cross-examining the affiant. By asking me to review the affidavit evidence and invalidate the production order to S/Sgt Stone, defence counsel is asking me to conduct such an assessment without notice of the same or leave to do so.

The case of Supreme v. Blair, 2020, ONSC is a civil case stemming from a unique fact pattern. It involved several search warrants executed as part of a project. One of the warrants authorized entry into the *Supreme* premise. During a press conference, the plaintiffs alleged the Chief made defamatory statements. The Toronto Police moved to dismiss the action by way of summary judgement. The decision relied on the validity of the search warrant. The parties agreed that if the warrant pursuant to the search was upheld, the civil claim would fail. This determination required a *Garafoli* assessment. The plaintiffs cross-examined the officers responsible for the ITO as was done in the case before the Tribunal.

Power involved a parallel criminal and *PSA* investigation and stands for the proposition that a *PSA* statement cannot be used against an accused person in a criminal investigation as it is compelled speech. Using the Part V power of the *PSA* to compel evidence to assist in a criminal investigation is outside the legal limits of the investigators. The reverse is not true, namely that relevant information obtained pursuant to a criminal investigation cannot be used in a subsequent *PSA* investigation. Information obtained pursuant to a Production Order is not compelled speech. It is information obtained pursuant to a lawful order.

Criminal Investigation

Section 76(2) of the *PSA* speaks to the right to notice of a *PSA* investigation. S/Sgt Harloff and S/Sgt Stone's testimony established there was a criminal investigation. Constable Gangadeen became a POI after the 89 Abitibi Lake complaint. The covert investigation was assigned to Internal Affairs, a surveillance sheet, dates, and mobile surveillance was planned, and a Production Order was drafted to determine criminal association. S/Sgt Harloff relied on this information to identify Somie Narine, girlfriend of Ajay Panday, was the fifth POI for Abitibi Lake. The information was used to clear Constable Gangadeen of any criminal conduct. Internal Affairs was concerned that Constable Gangadeen shared police information with individuals at the Abitibi Lake house, many of whom were known to police. S/Sgt Stone was brought into Internal Affairs for the sole purpose of the criminal investigation into Constable Gangadeen.

S/Sgt Stone was the affiant for the Production Order and was able to provide best evidence for the Order. The Production Order was for the offences of Obstruct Police and Party to Offence (section 21(1)). It was initially a weapons dangerous call, and the Service suspected Constable Gangadeen assisted the parties to the offence, including Mohamed Sameer Khan and the Pandays' to evade police and subsequent arrest and charges. The association between Mohamed Sameer Khan and Constable Gangadeen was critical for this. This was the basis for the reasonable grounds to suspect that Constable Gangadeen was a party to the offence of Weapons Dangerous, or any other charges related to the possession of the firearm as noted in the ITO. The Production Order assisted in the criminal investigation but also the ongoing weapons dangerous call at 89 Abitibi Lake. D/Sgt Stone's Production Order was obtained on reasonable grounds to suspect. He sought a sealing order. There was a criminal investigation and Constable Gangadeen was not served as it would have interfered with the criminal investigation. Defence counsel submitted that S/Sgt Stone misrepresented when he indicated that investigators had reasonable grounds to suspect that Constable Gangadeen may have assisted the Pandays' and Mohamed Sameer Khan through cell communication as the records showed that he never communicated with anyone at the address. The purpose of the Production Order was to determine if there was any communication. The Production Order is valid and obtained pursuant to a valid criminal

investigation. The prosecution is entitled to rely on the results of the Production Order for the *PSA* investigation.

The use of the PO and the Power Decision

Contrary to *Power*, there was no *PSA* compelled statement used for criminal purposes. Information used from criminal investigations is routinely shared with *PSA* investigators. The Production Order was obtained in accordance with the Criminal Code and pursuant to a legitimate criminal investigation. Constable Gangadeen did not have a right to understand the criminal jeopardy he faced by being made aware of the Order or being interviewed about it. The Order assisted investigators in ruling out criminal offences and in determining that Constable Gangadeen was in contact with a POI from the 89 Abitibi Lake incident. Two text messages and a phone call occurred. This was critical for the *PSA* investigation and there was no reason for officers to ignore this evidence as it was not obtained in violation of the Charter. Constable Gangadeen had an opportunity to respond and has attempted to do so before this Tribunal. There are no fairness concerns. This is supported by *Supreme* where the ITO was used as evidence in a civil proceeding.

In Minister of National Revenue, B.C.J., 1993 (Exhibit 42), the RCMP seized documents from the taxpayer during their investigation, some of which were examined by the Minister of National Revenue at the invitation of the RCMP. The court held, at para 22,

I do not regard the conduct of the Income Tax Department investigators or the R.C.M.P., herein as violative of the rights of Mr. Szalontai. While a person would expect their document in police custody not to be shown to the public at large or to the press, for instance, I doubt that a person could have any particular high expectations that another investigative department of government would not be apprised in a general way that there might be matters of interest to them in the seized material (Exhibit 42).

MNR was an application under s490(15) of the Criminal Code, which required that any party interested in anything seized pursuant to a search warrant under s490(1) to

490(3.1) bring an application before a Superior Court Judge. The case is instructive on the general approach to sharing documents among investigative government departments.

Defence stated that using the Production Order evidence amounted to an abuse of process. He should have brought a motion. The test for abuse as set out in *Blencoe* has not been met. There are no fairness considerations as the officer has been aware of the results for years and had time to respond to all the allegations. The evidence from the Order was obtained in compliance with the Charter and in accordance with the law. There would be no prejudice to this hearing, nor would the justice system be brought into disrepute, should the evidence be admitted. There is no evidence of deliberate misleading, as was seen in *Power*, to warrant the remedy of a stay of proceedings.

Analysis and Decision

There were many significant issues that were raised during this hearing. I felt it prudent to address these issues at the outset as my findings impact many of the particulars.

Standard of Proof

The parties agreed that the standard of proof in a police disciplinary hearing is clear and convincing evidence. The cases submitted and read included Penner v. Niagara (Regional Police Services Board), S.C.J. 2013, Munro, Board of Inquiry, 1994, Ottawa (City) Police Service v. Ottawa (City) Police Service, O.J. 2016 (Exhibit 31, Tabs 1-3).

Criminal Investigation and Production Order

Upon review of S/Sgt Stone and S/Sgt Harloff's testimony, their notebooks (Exhibits 27 & 23), my direct conversation with Mr. Black during the hearing over his concerns with the ITO, Production Order, and lack of notice to the officer, submissions of both counsel (oral and written) and a review of case law submitted, I find that this was a criminal investigation, and the results of the Production Order are admissible for reasons outlined below.

S/Sgt Stone did not misrepresent the facts to the Justice of the Peace. At the time the ITO was written, the focus was on the actions of Constable Gangadeen surrounding the Abitibi Lake incident. The issue of ‘parties’ is clearly established in Appendix ‘B’ of Exhibit 44 where he articulated the offences for which the application was sought included:

1. Party to the Offence s. 21(1) of the Criminal Code
2. Obstruct Police s. 129 of the Criminal Code

These offences are also articulated in Appendix ‘C’ along with determined and believed *criminal* associations. These included Constable Gangadeen, Ashton Gangadeen, the Panday brothers and possibly an occupant of the home, Mohamed Sameer Khan. The reasons for ‘party to the offence’ and ‘Obstruct Police’ are set out in the ‘background to the investigation’ and, if established, were criminal in nature. The reasons to suspect were clearly established and there is no evidence that S/Sgt Stone misled the Justice of the Peace, nor were his actions, or that of any member of the investigative team, a ruse to obtain a Production Order for the *PSA* matter.

I find no reason to interfere with the decision of the Justice of the Peace who authorized the Production Order given the information contained in the ITO. I followed the process as outlined in *Garafoli* and determined there was sufficient evidence that the Justice of the Peace could rely on when she issued the ITO. There was no breach of Constable Gangadeen’s rights under the Charter, no fairness concerns, and no abuse of process. As no leave was requested to challenge the admissibility, I am left to decide on whether the issuing Justice of the Peace could have granted the ITO with the information she was provided. I find no reason that it should not have been authorized and there is no reason to set it aside. The Production Order ITO is entered as Exhibit 44 and the Production Order for Documents (Form 5.005) is entered as Exhibit 45.

S/Sgt Stone’s notes clearly indicate that this was a criminal investigation. His notes dated February 1, 2018 showed he was involved in an investigative briefing where the focus was the “association with known criminals—Instagram picture, influencing criminal investigation—fraud, offensive weapons call he attended, a party attended where victim

hit with tire iron” (Exhibit 27). Further, he was tasked to obtain all communications from the Abitibi Lake call and draft a Production Order which is only authorized under the Criminal Code. The Production Order was written under s487.06 of the Criminal Code. He swore to the ITO on February 12, 2018. On February 13, 2018, he was asked to help with the Jab Jab incident *after* the investigative components which showed that the focus was on the criminal aspects with side issues identified that were set aside in the interim. There were other criminal incidents the team investigated (BCH party) that do not form part of these Notices of Hearing. A connection was made between Constable Gangadeen’s phone number and a number for a person of interest on March 20, 2018. Although the word ‘criminal’ did not appear in S/Sgt Stone’s notes, this was clearly a criminal investigation that he was involved in from the onset.

In his testimony, S/Sgt Stone articulated the concern that even though Constable Gangadeen held a perimeter, three persons fled the area, and a gun was not found. Constable Gangadeen was one of the first officers on scene, queried the address and names that appeared and some of the persons of interest were associated to his brother and known to Constable Gangadeen. An officer was at the Abitibi Lake address when Mohamed Sameer Khan asked if he knew his friends, Ashton and Anthony Gangadeen and this information was given to a supervisor. Although name dropping does occur, it was a point of concern for S/Sgt Stone given the circumstances and considered in context. These steps all formed part of the criminal investigation. S/Sgt Stone went so far as to seek a sealing order in the event Constable Gangadeen found out that the Production Order was granted so the cell phone evidence would not be lost. He referred to these steps as covert—again part of a criminal investigation.

S/Sgt Harloff’s notes (Exhibit 23) do not include the word ‘criminal’, but they specifically addressed the Production Order to determine if any contact was made with criminal/gang associates at the Abitibi Lake incident pre/post Sept 24, 2017. Defence counsel referred to this consideration as a Discreditable Conduct investigation, but the ramifications of such contact on that night would have supported a criminal charge(s) if borne out.

S/Sgt Harloff was clear in his testimony that the purpose of the Production Order was to clear Constable Gangadeen from *criminal* contact with any party from Abitibi Lake and to look at the investigation through the lens of a criminal investigator. This formed the basis of the Obstruct Police 'reason to suspect'. In support of a criminal investigation, surveillance dates and addresses were created, and mobile surveillance conducted. This does support that the subject officer was being investigated for interfering with a *criminal* investigation. Further, S/Sgt Harloff was brought into Internal Affairs for the sole purpose of the criminal investigation of Constable Gangadeen and the Abitibi Lake incident. The lack of the word 'criminal' in their notebooks does not negate the actions of the investigators who clearly outlined their reasons to consider Constable Gangadeen a person of interest during their investigation.

S/Sgt Harloff's assertion that this was a covert operation rings true given the types of investigative techniques used (sealed Production Order and surveillance). Given the foregoing, the investigative team conducted a criminal investigation as outlined above and side issues appeared along the way which normally occurs. These were sidelined as evidenced by S/Sgt Stone's notes.

As noted in *Power*, there was no compelled statement under the *PSA* used for criminal trial purposes as this would have been a breach of Constable Gangadeen's Charter rights. In my experience, it is certainly not unusual for information from criminal investigations (ie: breathalyzer readings, criminal court transcripts) to be used in *PSA* investigations. The Production Order was properly obtained, D/Sgt Stone was honest in his submissions to the Justice of the Peace, the evidence from the Production Order was obtained in compliance with the Charter, and in accordance with the law, and is relevant. Relevant evidence is admissible in a *PSA* hearing as per the *SPPA* s. 15.

The Service prosecutor noted that the identification of the last POI resulted in confirmed communication between the POI and Constable Gangadeen on the night in question and was critical to the *PSA* investigation. This statement caused me to pause and review the evidence and submissions of both parties as well as the ITO and the Production Order. This review confirmed in my mind that the Production Order was properly obtained under the Criminal Code. There was no evidence that, when the

Production Order ITO was submitted and the results received, that the officers intended to advance a possible *PSA* charge of misconduct as noted by defence counsel. The possibility of future *PSA* charges is always present during a criminal investigation, but there was no evidence that investigators knew the return would produce any fruitful results. In listening to the testimony, it was evident that both officers set aside any *PSA* issues and siloed the criminal investigation until they could not prove their belief that Constable Gangadeen conspired with persons of interest on September 24, 2017. This was not a ruse wherein a Criminal Code authority was used to further a *PSA* investigation. There are no fairness concerns and upon review of *Supreme* and *MNR*, the results of the Production Order were properly received and the results admissible in the *PSA* investigation. I will address the *Power* case shortly.

Notice of Investigation

The Service prosecutor submitted that a police officer does not have the right to notice of a criminal investigation and that any notice may be withheld. Constable Gangadeen was not served notice of the Abitibi Lake investigation given the covert nature of this investigation, and at the end of the investigation, there was no legislative requirement to serve the officer notice. Defence counsel asserted that it was the practice of the PRP to comply with s. 76(2) of the *PSA* and provide notice as it had provided such notice on January 25, 2017 and January 4, 2018.

Section 76(2) of the *PSA* allows the Chief to withhold notice if such notice “might prejudice an investigation into the matter”. This section only speaks to the right of notice for a *PSA* investigation, not a criminal investigation. Constable Gangadeen was served every notice under the *PSA* for which he was entitled, which differentiates his case from that of *Gage*. That said, a Chief of Police routinely delegates such authority to Commanders in charge of units. I find the need to withhold notice was clearly the case with the Abitibi Lake incident given the surveillance and need to preserve information from Constable Gangadeen’s cell phone. There was evidence before this tribunal that the Chief felt such notice might prejudice the investigation as he charged members of Internal Affairs with carrying out the investigation which they deemed covert for reasons

already noted. This discretion is afforded the Internal Affairs Commander and his/her investigators to make such decisions.

In Gage v. Ontario (Attorney General) OCJ, 1992 (Exhibit 38), the court dealt with the question of whether the Public Complaints Commissioner failed to give the constable notice in writing forthwith of the decision to hold a Board of Inquiry which might deprive the Board of jurisdiction. The delay in *Gage* was partly due to bureaucratic inertia and a period of vulnerability of the Statute (1990). The fact pattern for Constable Gangadeen involved a covert criminal investigation and as such, this case is distinguishable.

I reviewed the Notices of Investigation (Exhibits 22, 25 & 26). I found that seven pertained to *PSA* investigations, one was specific to a Criminal Code investigation (January 25, 2017) and one outlined a delay in service pursuant to a Criminal Code investigation (January 4, 2018). The Service complied with s76(2) of the *PSA*. It also appears to be the practice of the PRP to provide service for Criminal Code investigations. Constable Gangadeen was not served notice for the Abitibi Lake incident, pre-or post-investigation, which defence counsel cited as reasons why this was not a criminal investigation, but there is also no legislative authority that requires the officer must be served any such notice. This may be a practice by the PRP, but it is not mandatory. The lack of notice post-investigation for the Abitibi Lake incident does not amount to an abuse of process. The Chief may withhold notice of a criminal investigation if he/she feels such service might prejudice the investigation. Ultimately, any criminal allegations were withdrawn, the officer attended a compelled interview and was able to speak to the remaining *PSA* allegations which address any fairness concerns. All requirements under the *PSA* with respect to notice were met which distinguishes this case from that of Clarke and Peel Regional Police Service, OCCPS, 2006 (Exhibit 31, Tab 15).

Defence counsel expressed concern that Constable Gangadeen was notified on January 4, 2018 that a criminal investigation into a matter was closed, and notice was withheld. The investigators were brought into Internal Affairs for the Abitibi Lake investigation in February 2018. The prosecutor confirmed that the January 4, 2018 notice referred to another matter and there is no evidence of that the Service created a

case around Constable Gangadeen given the ending of one investigation and the start of another.

Admissibility of the Production Order in the PSA Investigation

As noted above, the Production Order was obtained under the Criminal Code pursuant to a criminal investigation. There were no Charter violations and fairness concerns were addressed as Constable Gangadeen had the right to respond. Although the criminal allegations did not bear out, the information received is admissible in the *PSA* investigation. Section 15 of the *Statutory Powers and Procedures Act* (SPPA) notes,

Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

- a. any oral testimony; and
- b. any document or other thing

Relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

Mr. Black provided three scenarios, the first two of which I have addressed. This was a criminal investigation, and the Judicial Officer was not misled. The third contention was that if investigators were engaged in a criminal investigation and there was no misrepresentation of the facts, the Service cannot use the information for an unauthorized purpose never disclosed to the Justice of the Peace.

The case of *Morelli* dealt with possession vs. access to child pornography as outlined in the ITO for a search warrant and unreasonable search and seizure. It was asserted that the ITO relied on “unsupported generalizations” which are not found in the ITO as drafted by S/Sgt Stone. At the time the ITO was drafted, the sole focus was the criminal investigation. There was no indication, through the testimony of the investigators and through their notes, that they were focused on any *PSA* issues identified at that point.

The case *N.N.M.* involved warrantless entry, searches, and arrest under exigent, but mistaken, beliefs. As a result of the lack of objective justification for the warrantless searches, evidence seized pursuant to subsequent authorized warrants for weapons and drugs was excluded. This case is distinguishable as S/Sgt Stone was thorough and

upfront with his ITO and his 'reasons to suspect' with the Justice of the Peace. I have deemed this to be a criminal investigation. With many criminal investigations, side issues of misconduct are identified; however, the primary and sole reason as known at the time of the ITO was 'party to the offence' and 'Obstruct Police'. These grounds were clearly articulated and there was nothing nefarious about the ITO or its contents. The Service Prosecutor submitted the case of Jacques v. Pétroles Irving Inc. SCC, 2014 (Exhibit 30) which demonstrates that criminal evidence can be submitted in a civil proceeding if it is relevant.

Abuse of Process

Mr. Black contends that investigators used a procedure not available in law to obtain the Production Order which was an abuse of process as noted in *Power*. The Justice of the Peace was not notified that officers intended to advance a *PSA* investigation with the Production Order. Section 487.016 of the Criminal Code does not give police the ability to use information they obtained for any other purpose. The abuse of process in this case involves the deliberate use of a statutory provision for use in a criminal investigation to advance the *PSA* case and misrepresentation to a Justice of the Peace. The only response is count #1 of the NOH #2 must be stayed for an abuse of process. I have addressed this issue wherein this was a criminal investigation, a properly written and executed Production Order, the intent of the affiant was to further the criminal investigation and admissibility of relevant documents are allowed under S. 15 of the *SPPA*. There was no evidence adduced when *PSA* issues were identified and the decision to advance them was made.

In *Power*, the officer was investigated for suspected criminal activity as well as conduct issues. Both investigations were conducted in collaboration, and it was alleged that the merging of the criminal and *PSA* investigations amounted to an abuse of process. Defence counsel brought forward a motion on the last day of the hearing to stay the proceedings, but the hearing officer failed to adjudicate on the motion.

In the case before this Tribunal, defence counsel did not raise the issue of abuse of process during the hearing; rather, it was raised during closing submissions made orally

and in writing. No motion in written form was brought forward or served or discussed at any length. This case also outlines that a *PSA* statement cannot be used in a criminal investigation as it is compelled speech. There is no evidence before this Tribunal that the criminal and *PSA* investigations were merged at any point. The investigators did not use any Part V power under the *PSA* to compel evidence in a disciplinary matter against Constable Gangadeen in the criminal forum. Conversely, as noted above, the *SPPA* allows any relevant document to be used in a conduct hearing and relevancy has been established in this case. There are no fairness issues left unanswered. The evidence from the Production Order was obtained in compliance with the Charter and in accordance with the law.

I have considered the issue of abuse of process but find there is no evidentiary foundation to support this allegation. I specifically asked D/Sgt Stone if he worked on both the criminal and *PSA* investigations, and he noted he was brought in for the criminal investigation and to examine his background as an investigator. In short, I was alive to this issue. This is not to say that other members of the team did not focus on *PSA* matters, but there was no evidence elicited to support this theory. It was clear to me that D/Sgt Stone and S/Sgt Harloff were conducting a criminal investigation only, when the ITO was submitted. There was no evidence raised that at the time of the ITO/PO, there were *PSA* conduct charges being formulated. There was one comment about the Jab Jab concert which would be examined after the criminal investigation was complete. There was no information to include about any potential *PSA* charges in the ITO as no evidence was elicited that any such charges existed at the time. As noted in *Power*, “the standard of reasonableness includes the existence of justification, transparency and intelligibility of the decision-making process” (Exhibit 17). I have noted the existence of adequate ‘reasons to suspect’ for the ITO, and why Constable Gangadeen was not notified of a covert criminal investigation and the lack of requirement to do so. I have examined the case law and the evidence before me. There are no fairness concerns left unanswered, and I do not find there was an abuse of process in this matter.

NOTICE OF HEARING #1

Conflict of Interest

For each of the individuals queried, it was alleged that Constable Gangadeen was in a conflict of interest. A conflict of interest involves a perceived discord between one's personal or self-serving interests and his/her professional duties. A conflict of interest impacts personal and organizational reputations, and, in this instance, it put Constable Gangadeen's personal decision-making ability in question. It also questioned whether the officer's actions/judgment could be deemed unbiased.

Constable Gangadeen needed to remove himself from his involvement with these ten individuals due to their association with his brother, his brother's arrest and the position of some individuals as co-accused with Ashton Gangadeen. Instead, Constable Gangadeen appeared to 'double down' to keep tabs on their whereabouts, charges, conditions, gang affiliations, and changes of addresses. This was evident as there was little to no evidence that he paid any degree of attention to these individuals before Ashton Gangadeen was arrested. CPIC and PQT/Niche were not Constable Gangadeen's personal playground. Although the arrest of Ashton Gangadeen and his associates were not of Constable Gangadeen's actions, he was put in a conflict-of-interest position when the gang's criminal actions were identified, and individuals arrested. Instead of running parties for status updates, he should have refrained and at the very least, made notes of each query, reason for the query, location, and outcome. He should have stopped and asked himself if the Service would trust his judgment if they knew he was running his brother's associates for 'information' with no specific operational reason other than updates.

Constable Gangadeen testified that the ten individuals listed in the NOH were members of the NSG but stated there was no association between the NSG and the offences his brother was charged with. Upon review of the occurrences (Exhibit 28), Ashton Gangadeen was co-accused with AA and BB on four occurrences: Robbery, Disguise with Intent, Gas Station Robbery and Carjacking X2. He stated in his first compelled

interview that he heard FF was also associated. There is a clear connection between Ashton Gangadeen and members of the NSG and a clear conflict of interest with all members of the NSG. One cannot put blinders on to the actions of Ashton Gangadeen and operate with impunity in querying and reading reports of his criminal associates. Even if I accept that he did not know his brother was involved in criminal activity, as testified, if his knowledge of the criminal element was so deep, he knew the names of his brother's co-accused and their criminal association to the NSG. Constable Gangadeen failed to acknowledge the conflict of interest between the group of ten individuals known as the NSG, his brother's actions and his role and responsibility as a police officer.

I find there was a significant conflict of interest in this case involving these ten individuals and the actions of Constable Gangadeen. Using CPIC and PQT/Niche in a conflict-of-interest situation injures the reputation of the individual and the Service, and if known by members of the public that police officers are conducting queries of individuals who were co-accused with their family member, it would likely damage the reputation of the Service in their eyes. This is more than a technical breach of the law made in good faith as noted in *Shockness* and *Rose*. In his compelled interview dated June 10, 2017, when asked if it would be appropriate for him to embark on an investigation with his brother's criminal associates, he replied, "And that's where I find a conflict of interest in because it's not my brother specifically, directly however, they may be associates, but they still commit offenses and I still work the area they commit crimes in. So what am I gonna do turn a blind eye to it just because they're my brother's friend?" (Exhibit 20). This was an example where he acknowledged a conflict of interest but failed to see the bigger picture and poor decision-making while wanting to continue to work the area and arrest these associates of whom he paid little attention before Ashton's arrest. Conversely, although I find the decisions to query these individuals were made by Constable Gangadeen alone, noting the affiliations and potential conflicts, the organization could have assisted by finding another work location for the officer.

Constable Gangadeen stated in his compelled interview that he knew his brother was incarcerated on robbery charges but did not know the specifics. However, he stated that what he knew, he read on CPIC, that they were Halton charges and some of the names the investigator read were associated to Ashton under the CPIC association section. So, in essence, he knew who was involved as a result accessing CPIC and reading about Ashton's criminal associates.

There is no doubt that Constable Gangadeen felt he was ingrained in the community, he knew the players, and received information. He stated there were other groups of individuals that the Service could have focused on, but they chose the one that included his brother. This also speaks to judgment as the specific reason for the conflict of interest were the individuals queried being associates or co-accused with Ashton Gangadeen. This is not a matter of creating a case around this group of ten; rather, it was the interactions, criminal activities and how they intertwined that differentiates this group from potential other groups Constable Gangadeen identified. This conflict could have been ameliorated, in part, by the officer concentrating on those other groups, providing information to his fellow officers about this specific gang for their follow-up, making notes of any involvement or choosing to work in another area of the Service to prevent such conflict. He failed to do so and was in a conflict on interest in relation to any criminal associates of his brother.

In making this assessment about conflict of interest, I reviewed the Service Directives on CPIC and the Code of Conduct (Exhibit 17, Tab 3). The Code of Conduct speaks to the need for sworn members to exercise good judgment, exercise self-discipline, and ensuring good faith guides officer's actions.

Blanketly throwing out that he just runs people at random when he wants and how he wants is in contravention to how a police officer should conduct their duties. Police officers are held to a higher standard. When officers query individuals on CPIC, especially if there is a conflict of interest, there are consequences. This is privileged information.

Service Notebooks, Supervision and Training

As noted by defence counsel, Service directives will not capture every instance where an officer must make a notation in his/her notebook. As noted in *Murray*, "...an order must be clear and unequivocal" (Exhibit 31, Tab 10). Service directives are Orders, and every scenario cannot be so scripted as to not allow for officer discretion using a combination of common sense, discretion, following the spirit of the directive and coupled with an officer's experience and maturity. I find that Constable Gangadeen was fighting against the need to make notes but instead, asserting that there were electronic records, so he did not have to maintain notes. There are some instances, such as the Prisoner Management Application, where notes are maintained electronically, but he had an organizational requirement to maintain his memo book as directed.

Service directives are more than guidelines; rather, they form an integral and fundamental role in a police officer's duty. One cannot state that every instance of failed notetaking is a technical breach as it is a mere guideline. The Service directives constitute Service Governance. If they are not clear, it is incumbent on an officer to seek guidance, as much as it is on a supervisor to mentor an officer. Officers are afforded discretion in their duties, but the exercise of discretion involves choice from among options. To simply disregard one's duty or obligation is a blatant disregard of the Service Directives and Governance that the community believes guide officers in their decision making.

Service Directive 1-B-134 (F) *Sworn Members Notebooks* stipulates, 'It is the policy of this Service that notebooks be kept by sworn members of all ranks in order to maintain an official record of their duties and to assist in refreshing their memories for judicial proceeding or for any other purpose required by their duties' (Exhibit 17, Tab 5). Further it notes that all members shall ensure that their notes,

- a) are legible
- b) are treated as their will state
- c) contain independent recollections providing an accurate and complete account of the members duties including but not limited to their observations, perceptions, authorities, decision-making process, actions, activities and who else was present (Exhibit 17, Tab 5)

Further, the directive notes, when completing entries in notebooks, sworn members shall,

- 1b) leave no spaces between entries
- 1e) Complete all notes before reporting off-duty expected as directed
- 3a) time commencing duty
- 3b) day and date of entry—underlined
- 3c) time paraded for duty—by whom
- 3d) nature of duties
- 3h) during the tour of duty, all information pertaining to their duties including but not limited to offences, investigations, and incidents, including relevant sketches, statements, notes or documents
- 3j) time of lunch period
- 3k) time reporting off-duty, and
- 3l) the member's signature and badge number
(Exhibit 17, Tab 5)

Notes are required to build a case, to identify the source of your information, when it was received, when a query was run and the outcome.

A common theme that emerged from the compelled interviews, officer and witness testimony and cross examination involved notetaking, supervision, training, and common practice of other officers. In his compelled interview, Constable Gangadeen deflected his personal responsibility around notetaking when he stated, “other officers don’t make notes, I was never taught, my supervisor didn’t tell me, my supervisors knew, they praised me, he was never told by his coach officer to stop and make notes, he was never challenged by a supervisor”. He has sworn in as a police officer since 2014. He admitted he received training on notetaking. One cannot simply make a blanket statement, ‘I was never told’ or ‘It was common practice’. This is not the way policing works.

In his interview, he admitted that he did not make notes or follow directives to a tee. He stated, “Have I made a mistake and not done notes or followed the rules and procedures, yes, and I’ll eat that” (Exhibit 20). He continued to talk about the high number of arrests he made, and although this statement is uncontroverted, it is irrelevant in these matters. However, with this type of purported leadership comes a responsibility to follow the rules set by the organization. The high number of arrests is not an impressive feat if an officer does not follow the basic requirements in notetaking.

When asked about his proactive policing of NSG members who were involved in Project Interlock, it was suggested that Constable Gangadeen could have removed any conflict of interest by notifying a supervisor of information received. He stated that no supervisor wanted him to inform them the individuals being queried/investigated were associated to his brother, there was an ongoing investigation or that his brother was arrested. His rationale that supervisors did not want to get involved is not acceptable. That is part of a supervisor's duty, and Constable Gangadeen had a responsibility to remove himself from any connection, perceived or otherwise, from the NSG members. This could have been achieved by involving his supervisors and making proper notes. Officers who hold important information that should be followed up on but find themselves in a conflict of interest have a duty of care and responsibility to notify a supervisor and remove the conflict.

Constable Gangadeen was aware of who these individuals were in relation to his brother as he read occurrence reports. I will elaborate on this further. He was in a conflict of interest with these individuals and making random queries furthered this conflict. He had a requirement to make notes about the nature of his duties, investigations he assisted with, to account for his actions and activities and to refresh his memory. This latter point became evident when asked about certain queries or reasons behind his actions and Constable Gangadeen was unable to explain his actions. These queries were more than an unwise action as noted in *McCoy*. He had a duty to maintain his memo book and note that he was running members of the NSG for future reference and possible court appearances.

Count #1: Discreditable Conduct

Before considering the cases of discreditable conduct, I reviewed the cases of *Monaghan*, *McCoy*, *Rose*, and *Saxon* for guidance. In short, the measure of discreditable conduct is based on the reasonable expectations of the community and extent of potential damage to the reputation of the Service if the public were to become aware of the misconduct. Also, the misconduct must be objectively discreditable.

Most of the CPIC/PQT/Niche queries were made after the arrest of Ashton Gangadeen although Constable Gangadeen stated he was aware of this crew and their criminal activity before the arrest of Ashton. Every person listed in the group of ten individuals has some association—co-accused, identified through Project Interlock, a person of interest or named party and all are related to violent crime. There is no evidence that Constable Gangadeen disclosed any information he learned to another person who was not a police officer.

In his testimony, Constable Gangadeen described police databases for querying as many people and plates as you need while on duty. He was encouraged to use databases and never told not to access them or write down what he did. Although I agree there are times that making notes in the moment is impractical, it is situation-based and stating, 'I was never told' is a deflection of his responsibility. What is also important is the after-shift and regular day off queries. Constable Gangadeen never lost his e-token, has never disclosed his password, and no one signed into his profile. Other than allowing a cadet to use his computer while he signed on, there were no security breaches. Constable Gangadeen is responsible for the queries made under his name.

In his first compelled interview, Constable Gangadeen asked if running a name to check for warrants, address changes, date of last arrest was okay. Detective Seward was discussing access to a police computer for a non-lawful reason at that point and the following conversation occurred:

Det Seward: You're embarking on a criminal investigation at that point, correct?

Constable Gangadeen: Yeah, that's usually why I would have run him.

For most of the queries, Constable Gangadeen ran criminal associates of Ashton Gangadeen and his own family members for curiosity purposes. He often started the day conducting these queries for no operational reason and he was not involved in a criminal investigation as noted in his interview. He was looking for information for a quick arrest and was not actively involved with the individuals when the queries were conducted. This differs from defence counsel's submission that there was no clear duty for an officer to make notes about running plates or querying CPIC for someone that

Constable Gangadeen observed on the street. One could argue that this was the start of an investigation, but testimony has demonstrated that these queries were not made in that situation. Most were made while working station duty or at the beginning/end of his shift when he was not engaged with the person being queried.

A blanket explanation of 'change of address, bail conditions, new charges' are not operational reasons. He did not know if or when he would see that individual next or if the information would still be current. In cross examination, he stated that he understood the difference between querying himself and his family members, and his brother's associates, as his family members are related to him, and it was not for investigative reasons. The fact that individuals are co-accused with his brother made no difference

Muhammad ASIF

In his interview dated June 10, 2017, Constable Gangadeen was told that the ten individuals listed in the NOH were associates, persons of interest, co-accused, or criminal associates to Ashton Gangadeen, or somehow connected to the robbery investigation 'Project Interlock'. In the interview, Constable Gangadeen admitted he knew that BB was associated to Ashton and heard that FF was also associated.

Constable Gangadeen queried ASIF 13 times between February 10, 2016 and January 15, 2017. His operational reason was to keep current on their charges, conditions, and addresses. He stated that he did not know ASIF was involved in robberies with Ashton Gangadeen, but I have not accepted this statement given the association of Ashton Gangadeen and the NSG members.

Constable Gangadeen made a query on ASIF on February 10, 2016 at 0815 hrs., but had reported off duty at 0600 hrs. He could not justify the PQT query on March 2, 2018 at 1340 hrs and on March 4, 2016, he made a PQT query at 1015 hrs but had reported off duty at 0700 hrs. The fact that Constable Gangadeen returned to the station or was present long after logging off-duty and conducted two queries is concerning. There was no operational reason to conduct queries after-hours. He was not actively involved with these individuals and there was no evidence he was conducting an investigation. This

is a dangerous and unsupported practice that does not correlate to any immediate operational reason.

The following PQT queries were noted in the NOH:

October 11, 2016	1423 hrs	Station Duty
November 5, 2016	1919 hrs	Station Duty
November 22, 2016	2243 hrs	Station Duty
November 23, 2016	1208 hrs	Station Duty
November 28, 2016	1410 hrs	Station Duty

There was no operational reason to conduct any PQT queries on ASIF during the above-noted time frame. There was no evidence that any information garnered because of these queries was passed on to other officers for their action. Constable Gangadeen was assigned to station duties and unable to act upon any information received. He was assigned to station duty for a period of time, and not likely to deploy to the road if any information was discovered. He stated that he started his shift by running people and addresses so he can hit certain locations and make good arrests. This was not possible from his assigned duty in the station and his rationale for these queries is disingenuous and lacks credibility.

On December 2, 2016, Constable Gangadeen was assigned to station duty, but was on a day off when he conducted a PQT query at 1422 hrs. Again, this is a dangerous practice that displays an overinvestment in his role as a police officer. He had no explanation for this query and there was no overt operational reason for it.

On December 30, 2016 at 1505 hrs., Constable Gangadeen was assigned to an 'utter threats' investigation but ran ASIF on PQT. ASIF was not part of the incident. He could not recall why he made the query and had no notes. Constable Gangadeen did not make notes unless it involved an arrest, or he ran into the person. On January 15, 2017,

he queried ASIF at 1653 hrs. This was the same day that he was emailed by Detective Petrucci about the 'silent hit'. He had no notes to justify that query.

I find Constable Gangadeen was in a conflict of interest with ASIF given his brothers connection to the NSG of which ASIF was a member. ASIF's membership in this gang was evidenced by the crime spree as outlined in several occurrences (Exhibit 28). He conducted proactive policing on this gang which included Ashton Gangadeen. I am also concerned about the frequency of the PQT queries. For instance, what was the need to query ASIF on March 2, 2016 and again on March 4, 2016? Although neither query was justified or had an operational reason attached, what information would changeover a two-day period? Again, ASIF was queried five times in six weeks between October 11, 2016 and November 28, 2016. These queries go beyond looking for conditions, addresses, and arrests. Internal police databases, including CPIC, are not for the personal use of Constable Gangadeen.

Constable Gangadeen made no notes of the above PQT queries, even though I find that he was in a conflict of interest. He stated that if something became valuable later, he made notes of his investigative steps. He alone made the determination if information was of value after making the queries. This practice does not follow the Service directives on notebooks (Exhibit 17). This directive notes that all sworn members shall ensure that their notes,

- c) contain independent recollections providing an accurate and complete account of the members duties, including but not limited to their observations, perceptions, authorities, decision-making process, actions, activities, and who else was present (Tab 5).

Making a 'late entry' puts into question the need for contemporaneous notes and one's independent recollection and observations. Constable Gangadeen had no notes of the above PQT queries. These queries were conducted for his own curiosity, and he was unable to provide explanations for some of the queries (December 2, 2016, December 30, 2016). His belief that he would 'fill in the blanks' with his investigative steps if something became valuable later is in direct contravention of Service directives on memo books. His lack of notes in his memo book are evidence that there was no

operational reason for the queries. The notebook directive further states that members notes are treated as their will-state and reflect professionalism and fairness. How is it a will-state or a reflection of fairness to work backwards to build a case once viable information is received. Constable Gangadeen was required to keep notes, especially in his position of conflict.

BB

In cross examination, Constable Gangadeen admitted that he read several occurrences pertaining to BB prior to his compelled interview in June 2017. He knew BB was co-accused with Ashton, and as such, he would have been aware that he was in a conflict of interest with respect to BB.

Although Constable Gangadeen was adamant that the Service should have provided him more information about the arrest of his brother, he stated that he did not pay attention to criminal affiliations, skimmed reports, read the narratives in others, did not pay attention to actual parties, and did not read all the occurrences. He agreed that he read reports related to Project Interlock and was aware of the ten individuals and their alleged criminality. Although he read occurrences, he did not tell the investigator in his compelled interview that BB was co-accused with Ashton Gangadeen as he did not pay attention to this part. This information is incongruent with his testimony. He read the reports to familiarize himself with people he regularly monitored.

These statements do not carry an air of reality as he was desperate for information on the arrest of his brother and felt entitled to a meeting with a senior member of the organization. While he accessed the very occurrences that spoke to his brother's arrest, it is duplicitous and insincere to state that he did not pay attention to narratives, associations, associated parties, and only skimmed reports. In his compelled interview, he stated that he knew BB was associated to Ashton as BB spoke about his brother. By that point, Constable Gangadeen had run BB on CPIC five times and on PQT/Niche fourteen times. He reviewed four occurrences that connected BB and Ashton Gangadeen. Constable Gangadeen knew more about BB and his affiliations than he admitted.

Constable Gangadeen ran BB on CPIC on five dates. On one of those dates, November 12, 2016 at 1429 hrs., Constable Gangadeen was assigned to station duties. There was no operational reason to run BB while working at the station with no date wherein he would return to the road. There was no evidence that he passed on any information for other officers to action. Constable Gangadeen conducted fourteen PQT/Niche queries on BB between December 4, 2015 at 0832 hrs and November 28, 2016 at 1144 hrs. On March 26, 2016 at 1347hrs., Constable Gangadeen investigated a shop theft but conducted a query on BB who was not connected to the theft. He did not recall the day and conducted the query 'probably just the same reason, just information'. There was no operational reason provided to run BB while actively assigned to a call for service where there was no evidence BB was involved. Constable Gangadeen made no notes to support this query and the lack of notes speaks to the lack of an operational need for the query.

Although all the queries are concerning, the check made on August 16, 2016 at 1924 hrs was queried on a regular day off. As noted with the queries made on ASIF, this is a very dangerous practice that results in many questions as to why an officer would go to the station to query an individual on a day off. There was no operational reason to conduct this query while off-duty. He did not recall this query which is evidence of why notes are required.

On the following dates, Constable Gangadeen made PQT/Niche queries of BB while he worked station duty:

October 12, 2016 @ 1454 hrs
October 14, 2016 @ 0224 hrs
November 12, 2016 @ 1121 hrs
November 22, 2016 @ 2232 hrs
November 23, 2016 @ 0400 hrs

November 28, 2016 @1144 hrs

Constable Gangadeen stated that he ran the queries for “just information, just knowledge”. He stated the queries made while working station duty were “it’s just running people”. During his examination-in-chief, Constable Gangadeen stated that Ashton Gangadeen did not factor into his decision to query BB in 2016. I find it hard to believe that Constable Gangadeen could separate his brother from the other members of the NSG, and, while BB was co-accused on four occurrences and continue to state that Ashton did not factor into any of the queries of BB.

The Commission, in *Coon*, has recognized that the misuse of CPIC constitutes major misconduct. Further, the Commission noted,

The use of CPIC must be solely reserved for official police work and must never be used for personal reasons. Fundamental to the successful functioning of the CPIC system is a strong sense of trust; trust that the system is there to help police officers in pursuit of their official duties and trust that no police officer will purposely or wilfully misuse the system. (Exhibit 29, Tab 2).

This position is further referenced in *Hampel* (Exhibit 29, Tab 3). Constable Gangadeen has broken that position of trust with respect to the CPIC database. Improper use of CPIC is a violation of public privacy rights and a breach of contract with the RCMP. One cannot ‘just run people’ without a lawful, operational reason.

CC

CC was an individual involved in Project Interlock. Constable Gangadeen queried CC on CPIC once on November 12, 2016, and five times on PQT/Niche. He worked station duty while he conducted the CPIC query and worked station duty for four of the PQT/Niche queries. Constable Gangadeen knew that CC was an associate of FF and explained that ‘all those guys come up on CPIC as associates’ (Exhibit 20). This speaks to the fact that he developed tunnel vision with respect to this group of ten individuals

and continued to check their status even when he was not able to action the outcome of the information. He was never involved in a lawful investigation of CC and ran him to see who he was associated to.

On February 7, 2016, Constable Gangadeen worked day shift and manually logged off CAD at 1829 hrs but performed an MDU query at 1215hrs. He did not recall this query. The CPIC query and remaining four PQT/Niche queries were entered while he worked station duty and had no operational reason to run CC on any internal police database or CPIC. There was no evidence that he was involved in an active investigation, had the ability to act on any information received, had shared it with other officers and the lack of memo book notes speaks to a lack of operational reason.

Nicholas Armstrong

Nicholas Armstrong was an individual involved in Project Interlock. Constable Gangadeen identified ARMSTRONG as an associate of ASIF and FF, both members of the NSG. He testified that he knew the association because it was on CPIC. Constable Gangadeen investigated a string of robberies and ran ARMSTRONG on CPIC to look at his PQT mugshot to see if he was familiar. He did not run him for personal reasons. He ran ARMSTRONG on PQT/Niche on November 22, 2016 at 2243 hrs., shortly after the CPIC query. He ran him again on November 23, 2016 at 0008 hrs. He 'thought' there was a bulletin on him, so he ran ARMSTRONG to keep tabs on him. He stated, "I already knew they were a crew before any of this with my brother happened. I already knew what they were up to. And all the kinds of crimes they did" (Exhibit 20). These crimes included store and gas station robberies, the same crimes that Ashton was involved in.

ARMSTRONG appeared to be a major player in the NSG and was charged in ten of the occurrences. I considered these queries at length but ultimately, it was not Constable Gangadeen's responsibility to query ARMSTRONG on CPIC and PQT/Niche while assigned to station duty to 'keep tabs on him'. He thought it was because of a bulletin, but even if it was, a bulletin disseminates information, it is not an invitation to conduct a background check using internal police databases. He made no notes on these queries,

and there was no proof a bulletin was issued. One must question how Constable Gangadeen would recall all the information he garnered from CPIC and PQT/Niche on ARMSTRONG without making notes. Constable Gangadeen was not involved in any active investigation with ARMSTRONG. As stated earlier, an officer does not create notes after the fact to substantiate a query or build a case, and the Service directive is clear that Constable Gangadeen had an onus to account for his time, maintain an official record of his duties and to make notes to refresh his memory for judicial proceedings or other purposes required by his duties (Exhibit 17).

AA

AA was an individual involved in Project Interlock. AA was a co-accused with Ashton Gangadeen in four occurrences. In his compelled interview, Constable Gangadeen stated that AA was an associate of FF and ASIF but failed to state that he read the occurrences involving his brother where AA is listed as co-accused.

Constable Gangadeen ran AA to make himself familiar with him as he was an associate. He ran AA on June 1, 2016 at 0514 hrs while on lunch, on September 10, 2016 at 1945 hrs and on November 12, 2016 at 0750 hrs while on station duty for 'curiosity purposes'. He stated that he ran a lot of people as he wasn't on the road and wanted to keep up to date with them.

Constable Gangadeen was in a clear conflict of interest involving AA. He knew his status as co-accused, had read occurrences wherein he was involved and using internal police databases to keep up to date is not an operational reason for the use of police systems. He made no notes of these queries which is in defiance of Service directive 1- B-134(F) Sworn Members Notebooks (Exhibit 17, Tab 5). One must have a specific operational reason when accessing internal police databases and CPIC.

FF

FF was an individual involved in Project Interlock but not charged with any criminal offence. He ran FF on CPIC 12 times and on PQT/Niche 15 times. Constable Gangadeen worked nights on January 31st into February 1, 2016. He logged off at 0623

hrs, but a query was made on an MDU at 0835 hrs. He could not explain why the query was made at that time. He stated he 'probably' came back into the station to conduct a query. This is another example of a dangerous practice by running queries on individuals while off-duty for no operational reason.

He recalled doing a subject stop of FF on February 9, 2016 at 0115 hrs. FF was 'probably just smoking somewhere or just finished. I stopped him a bunch of times; I see him all the time'. He investigated FF in the summer of 2016 for mischief and in the summer of 2015 or 2016 for a street fight. He queried FF to 'keep up to date with him'. Constable Gangadeen was not aware FF was associated to the series of robberies two months prior. The investigator went through a series of dates to which Constable Gangadeen stated 'anything with no notes is just me for my own knowledge'. This rationale does not support an operational reason to continually run an individual through internal police databases to satisfy one's own curiosity, especially when eight days where he conducted CPIC checks and ten days where he conducted PQT/Niche queries, Constable Gangadeen worked station duty and was unable to pursue any information received.

On October 11, 2016 and October 12, 2016, he ran FF. He worked day shift as station duty and had no notes. He stated Constable Raji was looking for FF for a fraud call. A complainant came to the front desk, and he assigned an officer to the call. Constable Raji mentioned FF and Constable Gangadeen was familiar with him. He 'probably' ran him to look at his current address and retrieve his picture to give Raji more information. He ran him back-to-back days as he helped work the case. He did not recall the name of the fraud victim.

Constable Gangadeen stated he had no phone contact for FF. He was shown a screen shot that lists Officer Gangadeen and his phone number. He admitted to sending a message to FF with a phone number supplied by the victim, although he also stated that the investigating officers had no information on the suspect other than a nickname. It was obvious that FF had Constable Gangadeen's phone number saved in his contacts as it showed up as part of the response. He then remembered calling FF. One of FF's associates off CPIC, Dymain Panday, was known to Constable Gangadeen personally.

The officer called Panday to ask if he knew where FF was that same day. He called Panday twice. He was aware FF was a suspect in the fraud, but he did not make any notes. In cross, he noted that he arrested FF many times and did not make notes. It depended on the degree of his involvement on whether he would make notes (assisted in locating FF). His involvement with phoning Ajay was a simple phone call and not an important investigative step.

Constable Gangadeen had clearly inserted himself into this investigation, yet he failed to make any contemporaneous notes. The fact that an investigator or member of the public did not make subsequent queries is irrelevant. Service Directive 1-B-134(F) entitled, 'Sworn Members Notebooks' clearly states that sworn members shall record pertinent information at the time of the event, or as soon as practicable, including:

(h) during the tour of duty, all information pertaining to their duties including but not limited to offences, ***investigations and incidents***, including relevant sketches, statements, notes or documents (Exhibit 17, Tab 5, Emphasis added).

It was not his responsibility to direct others to make notes in their memo books on his behalf.

GG

GG was an individual involved in Project Interlock. Constable Gangadeen conducted a PQT query of GG on Dec 9, 2016 at 3:58am while working station duty as the cells officer. GG was a prisoner in the cells and Constable Gangadeen wanted to see his rap sheet or when he was arrested. He also ran him on PQT to see his conditions and mug shot. His rationale was "it's just something that I do" (Exhibit 20). He did not make notes on this query and was in a conflict of interest.

Constable Gangadeen's desire to be a proactive street officer is admirable, but he must follow the rules. In my experience as a booking officer (cell officer), there was no operational reason to query an individual by virtue of his having been booked as a prisoner and unknown to Constable Gangadeen. The officer was not involved in an active investigation, and he made no notes of this query in his notebook. The reason of

'it's just something that I do' runs contrary to Service Directive 1-B-134(F) as noted under FF.

EE

EE was involved in Project Interlock. Constable Gangadeen conducted three PQT queries on Nov 4, 2016 at 1420 hrs, Nov 23, 2016 at 0719 hrs., and Dec 9 at 1558 hrs. He worked station duty on all three dates. Constable Gangadeen did not remember EE and believed he ran him for curiosity purposes for CPIC conditions, perhaps an associate, maybe a bulletin, or suspect identifiers (Exhibit 20). He stated, "I was just there (station duty) and going through stuff". Constable Gangadeen provided no lawful reason for conducting the PQT queries on EE and each of the assumptions he provided do not support an operational reason for running EE on PQT and were speculative at best.

In his compelled interview (Exhibit 20), Constable Gangadeen agreed that "anytime you interact with an individual that you run on CPIC there's a requirement to note that interaction in your notebook and duty book". Detective Seward did not find any individuals mentioned reflected in his duty books. Further, the CPIC queries were not the result of interacting with any of the individuals noted; they were status checks for information purposes.

S/Sgt Harloff testified that it would be reasonable to query someone in your patrol area that was up to criminal conduct and to "periodically check for arrests, bail conditions, but you had to make notes on it". Constable Gangadeen's actions superseded random or periodic checks. He worked station duty for a significant number of queries and was in a conflict of interest with the above-named individuals. His work assignment and conflict do not support any operational reason and his lack of notes support this assertion.

Constable Gangadeen's actions in running **each** of the above-mentioned individuals on CPIC and internal databases was more than a technical breach and not performed in good faith. A member of the community, considering the facts with an open and unbiased mindset, objectively would be shocked that this action occurred. Given the foregoing, for count #2, I find, on clear and convincing evidence, for each, that

Constable Gangadeen engaged in misconduct, specifically Discreditable Conduct, in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of this charge.

Count #2: Discreditable Conduct

Constable Gangadeen plead guilty, and was found guilty, of discreditable conduct in relation to unauthorized and unlawful queries on his brother, Ashton Gangadeen before and after his arrest.

Constable Gangadeen conducted CPIC queries on Ashton Gangadeen on December 6, 2015, and September 10, 2016. He stated these queries were for personal reasons. He made no notes of these queries, had no operational reason and was in a conflict of interest. In his testimony, he could not recall why he queried his brother on December 6, 2015.

He performed nine PQT/Niche queries on Ashton Gangadeen between June 1, 2016 and December 1, 2016. In addition, he had three blank pages in his notebook after the query made on June 14, 2016 as” sometimes you get caught up, forget to do your notes, miss or leave a space to fill it in” (Exhibit 20). Constable Gangadeen stated the PQT queries on Ashton Gangadeen were for personal reasons and he had no notes or operational reasons for the queries. He ‘probably’ ran the query to read the reports about the arrest. Constable Gangadeen was not part of any investigation.

The CPIC Policy Manual (Exhibit 17) notes at section 13.2.1,

Information obtained from CPIC is to be used for law enforcement, criminal justice and officer and public safety purposes only. Misuse of CPIC information is a breach of this policy (Tab 1)

Further, the PRP has established ‘levels of security’ from which CPIC breaches can be measured. Viewing information for personal reasons or personal gain is established at ‘levels 4 or 5’ (Tab 2). The CPIC checks on Ashton Gangadeen constitute a serious breach of the system.

Constable Gangadeen believed that he was entitled to a meeting with a senior member of the organization who could explain what occurred with his brother. I can understand his frustration, but any breach of CPIC or internal databases constitute serious misconduct, supports a serious breach of trust, and cannot be tolerated. This conduct offends the Service's contract with the RCMP and violates the individual privacy rights of Ashton Gangadeen.

By using the confidential police databases for his own personal use, Constable Gangadeen disregarded Service Rules and Procedures and although I find that he did consider the potential consequences of his actions, his desire for information was an overriding factor in his actions. The PRP Code of Conduct notes that all sworn members shall 'exercise good judgment without being influenced by their personal feelings' (Exhibit 17, Tab 3). Constable Gangadeen did not exercise good judgment by accessing secure databases and he allowed his personal feelings to become involved.

I have read in their entirety the cases of Shockness v. Peel Regional Police Force, Board of Inquiry, 1993, Monaghan v. Toronto (City) Police Service, O.J. 2005, McCoy, O.P.R., 1969, and Rose et al, OCPC, 2018 (Exhibit 31, Tabs 4-7), the synopses of which are highlighted by Mr. Black in his written submissions (Exhibit 37).

Constable Gangadeen's actions in running Ashton Gangadeen on CPIC and internal databases was more than a technical breach, were not performed in good faith and were not reasonable under the circumstances. Given the foregoing, for count #2, I find, on clear and convincing evidence, that Constable Gangadeen engaged in Discreditable Conduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of this charge.

Count #3: Discreditable Conduct

Constable Gangadeen is alleged to have accessed PRPS occurrence reports associated to Project Interlock after his brother's arrest, with no operational reason, without lawful authority and he was in a conflict of interest. He made no notes in relation to the queries in his notebook. There were 15 occurrences, nine of which took place

after his brother's arrest on December 30, 2015. Constable Gangadeen made 61 queries of the 15 occurrences related to Project Interlock between February 10, 2016 and December 30, 2016.

- **PR150500640:** Motor vehicle theft from driveway on December 26, 2015 Reviewed on June 1, 2016, September 10, 2016 and November 12, 2016. No suspect info
- **PR150502653:** Convenience store robbery on December 27, 2015. Reviewed on February 10, 2016, March 4, 2016, November 22, 2016 & December 30, 2016 Associates: Muhammad ASIF, Nicholas Armstrong, GG
- **PR150505001:** Convenience store robbery on December 29, 2015. Reviewed on April 2, 2016, June 1, 2016, July 2, 2016, August 17, 2016, September 13, 2016, October 13, 2016 & November 12, 2016. Associates: AA, Ashton Gangadeen, BB
- **PR150505022:** Gas station robbery on December 29, 2015. Reviewed on April 2, 2016, June 1, 2016, August 17, 2016, September 10, 2016, September 13, 2016 and November 12, 2016. Associates: AA, Ashton Gangadeen, BB
- **PR150505061:** Carjacking on December 30, 2015: Reviewed April 2, 2016, June 1, 2016, July 2, 2016, August 17, 2016, September 10, 2016, September 13, 2016, October 13, 2016 & November 12, 2016. Associates: AA, Anthony Gangadeen, BB
- **PR150505063:** Carjacking on December 30, 2015: Reviewed April 2, 2016, June 1, 2016, July 2, 2016, August 17, 2016, September 10, 2016, September 13, 2016, October 13, 2016 & November 12, 2016. Associates: AA, Ashton Gangadeen, BB
- **PR160020001:** Convenience Store Robbery on January 15, 2016: Reviewed on February 10, 2016, March 2, 2016, March 4, 2016, November 12, 2016 and December 30, 2016. Associates: Muhamad ASIF, Nicholas Armstrong, GG, CC
- **PR160020018:** Gas Station Robbery on January 15, 2016: Reviewed on February 10, 2016, March 2, 2016, March 4, 2016, November 12, 2016,

November 22, 2016 and December 30, 2016. Associates: Muhammad ASIF, Nicholas Armstrong, GG, CC

- **PR160023754:** Gas Station Robbery on January 18, 2016: Reviewed on November 12, 2016 and November 22, 2016. Associates: Nicholas Armstrong, GG, DD & CC
- **PR160023791:** Motor vehicle theft on January 18, 2016: Reviewed on November 22, 2016. Associates: GG, Nicholas Armstrong, DD
- **PR160039203:** Motor vehicle theft on January 29, 2016: Reviewed on November 22, 2016. Associates: Nicholas Armstrong, GG
- **PR160041796:** Gas Station Robbery on January 31, 2016: Reviewed on November 22, 2016. Associates: Nicholas Armstrong, GG, DD
- **PR160041835:** Gas Station Robbery on January 31, 2016: Reviewed on November 22, 2016. Associates: Nicholas Armstrong, GG, DD
- **PR160041844:** Gas Station Robbery on January 31, 2016: Reviewed on November 22, 2016: Associates: DD, Nicholas Armstrong, GG
- **PR16001484:** Motor Vehicle Theft on February 14, 2016: Reviewed on September 10, 2016, September 29, 2016, October 11, 2016, November 5, 2016, November 22, 2016, November 28, 2016 & November 29, 2016. Associates: Nicholas Armstrong,

The occurrences submitted (Exhibit 28) spanned a six-week period, but Constable Gangadeen viewed the occurrences over ten months with dates in close proximity to each other.

February 10, 2016	3 times
March 2, 2016	2 times
March 4, 2016	3 times
April 2, 2016	4 times
June 1, 2016	5 times
July 2, 2016	3 times

August 17, 2016	4 times
September 10 2016	5 times
September 13, 2016	4 times
September 29, 2016	1 time
October 11, 2016	1 time
October 13, 2016	3 times
November 5, 2016	1 time
November 12 2016	8 times
November 22, 2016	9 times
November 28, 2016	1 time
November 29, 2016	1 time
December 30, 2016	3 times

I agree with the Service prosecutor that, when confronted that many individuals were co-accused with his brother and associated to the NSG, Constable Gangadeen stated he did not read the occurrences in full, the names of the accused persons did not register with him, and these excuses were untruthful and lacked credibility. He is not permitted to query occurrences specifically when they pertain to family members and his associates.

Constable Gangadeen accessed the occurrences on PQT when he queried the named individuals. He clicked on the occurrences to find out how the crimes were committed but testified that reviewing them had nothing to do with his brother. In cross-examination, he agreed that he read reports specific to Project Interlock and at times, he read the reports, was aware of the ten individuals and their criminality. He noted some individuals were co-accused with his brother while others were not. He was not looking for this type of correlation; rather he read the reports for information only. He was able to separate his brother's actions when he looked at separate individuals. This

was not feasible, and his testimony does not ring true. He knew the individuals involved in Project Interlock, and he reviewed the occurrences and vehicles involved. There are organizational rules that govern behaviour within the PRP. Officers have access to very sensitive, private, and privileged information that is not available to the average citizen. This includes CPIC, PQT/Niche and any other internal police database.

In Service Directive 1-A-506(O) "Security of Police Computer Systems and Information (Exhibit 17), it notes, "all computerized files and information are classified as "Confidential—For Official Use Only" (Tab 4). Further, it notes that corporate information, computer assets such as files and programs shall be protected from inappropriate use. Further, Service Directive 1-A-204 (F), "Code of Ethics, Conduct and Discipline—Sworn Members" (Exhibit 17, Tab 3), notes that "In the performance of my duties, I acknowledge the limits of my authority and promise not to use it for my personal advantage" (Code of Ethics excerpt. The Code of Conduct (Section E), also notes that all sworn members shall, "carry out their duties within the law, appreciating the limits on their authority...exercise good judgement without being influenced by their personal feelings and carry out their duties in an impartial and unbiased manner while ensuring that good faith guides their actions". Constable Gangadeen acknowledged these directives in his first compelled interview.

Constable Gangadeen agreed that he was familiar with the ten individuals prior to his brother's arrest and referred to them as a crew. He did not know that Ashton was involved. In his compelled interview dated June 10, 2017 (Exhibit 20), he felt an entitlement to know what occurred with his brother, the specific details and was upset that he was not given the time by the organization. He did not know the specifics of the robberies that involved his brother and any such information he garnered from CPIC. He stated he was not familiar with the persons related to the robbery investigation, other than BB. I must question the veracity of his statements as he stated he was familiar with the 'crew' long before Ashton's arrest, and by June 10, 2017, he had reviewed specific occurrences 61 times, would have known that BB and AA were co-accused with Ashton and was familiar with the associations of the other crew members.

When challenged by Detective Seward in his interview about accessing internal systems to research the reasons behind the arrests, Constable Gangadeen stated, "Maybe it wasn't the right thing to do according to our policies and procedures, no. However, should someone have told me, the basic information, that everyone else was allowed to and do I think that's unreasonable, not at all" (Exhibit 20). In the same interview, Constable Gangadeen stated that he would not just run one crew member. "So, on station duty, I ran it for knowledge or information purposes, and I probably ran all of them the same, like simultaneously, like one after another. PQT or CPIC, look at, read reports, stuff like that". (Exhibit 20).

He may not have known Project Interlock by name, but he knew who was involved, accessed them on PQT, Niche and/or CPIC, knew associations, and read the occurrences over a ten-month period. He was asked if ASIF was involved in the same robberies as his brother. He stated he did not know, but it would be impossible not to know if he knew the individuals in the crew, ran ASIF (for example) 13 times on PQT/Niche over an 11-month period, and read occurrences that outlined his involvement, all before his compelled interview.

Constable Gangadeen was in a conflict of interest with any connection with Project Interlock and the criminal associates of Ashton Gangadeen. He had no operational reason to view the occurrences other than for personal information and to satisfy his need for information or to make sense of what occurred as the information was not forthcoming. He made no notes of viewing these occurrences and did not outline what purpose he had in reading the occurrences and viewing the associations. Members of the community, apprised of the facts, would be disappointed that the police service allowed an officer to continue to dig for information associated to this crew, given their affiliation with a family member and articulate his justification as 'information purposes'. This conduct was objectively discreditable. Constable Gangadeen was hurt that the organization did not assist him; instead, he was investigated and resorted to reviewing occurrences without lawful authority to retrieve information he sought.

Constable Gangadeen's actions in querying and reading the occurrences associated to Project Interlock was more than a technical breach and not performed in good faith.

Given the foregoing, for count #3, I find, on clear and convincing evidence, that Constable Gangadeen engaged in Discreditable Conduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of this charge.

Count 4: Discreditable Conduct

Constable Gangadeen undertook vehicle queries through PQT or NICHE on vehicles associated to Project Interlock. He had no role in this project and was in a position of conflict of interest. He made no duty notes in relation to these queries. The following vehicles were queried:

- Ontario Licence BVFB384 queried June 1, 2016, September 10, 2016 and November 12, 2016
- Ontario Licence BVRB073: June 1, 2016 and November 12, 2016

In his compelled interview, Constable Gangadeen admitted that he read one report to see what type of car was involved. Although these were the cars/plates that his brother had essentially stolen, Constable Gangadeen believed it was okay as the arrest had taken place. One of the vehicles was involved in the pursuit which was why he ran it. He read a synopsis 'somewhere' and ran the plate to see the type of car. He noted that "there was no reason for that it was just personal". He ran the plate on June 1, 2016 for curiosity reasons. He did not recall running the same vehicle on September 10, 2016 and on November 12, 2016. He did not think he ran the registered owner. These issues would have been clarified had Constable Gangadeen made notes, as required by Service Governance. As noted previously, the lack of memo book notes speaks to the lack of an operational reason for the queries. Detective Seward confirmed that the only reason he ran this plate was for curiosity. Constable Gangadeen replied, "Yeah, why else would I run it—there's no other..." (Exhibit 20). He stated that he read the actual synopsis of what happened and ran the cars to see the make and model. When asked if there was a legitimate police reason, Constable Gangadeen replied, 'No' (Exhibit 20).

The second vehicle (Ontario Licence BVRB073) was run on June 1, 2016 and November 12, 2016. This vehicle was involved in a carjacking. Constable Gangadeen was never assigned, requested to assist, or given any task in relation to the robbery investigation or project. Again, he read the synopsis of what happened and ran the two cars for the make and model. Detective Seward stated, "So I can say that there's no legitimate reason for you to query those vehicles and essentially those people?". Constable Gangadeen replied, "Yeah, no" (Exhibit 20).

Through his own admission, Constable Gangadeen committed misconduct by querying the vehicles without an operational requirement or a lawful reason. His queries were not authorized and were inappropriate. He made no notes about running the vehicles and the queries were made for his own information and curiosity. Constable Gangadeen was not compliant with Service Governance 1-A-506-(O) wherein it notes that "all corporate information and computer assets such as files and programs shall be protected against unauthorized or inappropriate use, copying, disclosure or destruction" (Exhibit 17, Tab 4).

The public would be appalled to know that an officer accessed an internal database for his own personal interest. Constable Gangadeen's actions in querying these vehicles associated to Project Interlock were not performed in good faith. Given the foregoing, for count #4, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

Count #5: Discreditable Conduct

Constable Gangadeen queried his father, Anthony Gangadeen on PQT (two queries) and CPIC (eight queries) for no operational purpose. He made no notes to justify the queries on his father and was in a position of conflict. He also queried his mother, Lynn Gangadeen on PQT (four times) and CPIC (eight queries) for no operational purpose. He failed to make notes to justify the queries on his mother and was in a position of conflict.

Constable Gangadeen plead guilty and was found guilty of Discreditable Conduct in relation to the improper use of CPIC and internal police databases.

Constable Gangadeen confirmed the four PQT queries on his mother but did not recall typing her name into CPIC. He could not provide a suitable answer why another person would know her date of birth. He never printed the CPIC return. He ran the address and hit 'person details', clicked on the person which populated their information, but he did not recall looking at a '29' on his parents. With respect to his mother, Constable Gangadeen stated, "I've probably ran her eight times on PQT but not CPIC" (Exhibit20). Detective Seward stated that the MI response for all queries reflected his call sign. The officer agreed that the MI referred to the remarks you need to enter to conduct a CPIC query and you cannot enter names; you must put in a reason.

He did not recall running his father on CPIC but acknowledged that any query of his father was not done for a police investigation. These queries were for personal knowledge or information. He ran his parents to see if there were any open investigations with them.

As noted earlier, any breach of CPIC constitutes serious misconduct. The public places their trust in police officers and organizations that their private information will be kept confidential and not improperly accessed. The fact that he ran queries on immediate family members is egregious and is a breach of privacy for Anthony and Lynn Gangadeen.

Constable Gangadeen's actions in querying his father, Anthony, and his mother, Lynn, were not performed in good faith. Given the foregoing, for count #5, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

Count #6: Neglect of Duty

Constable Gangadeen failed to complete any notes from September 23, 2016 until December 6, 2016. He provided investigators with a notebook which was completed up to September 23, 2016 with no entries beyond that time frame. A new notebook was provided which began on December 6, 2016.

Constable Gangadeen was assigned to station duty for the period of September 2016 to January 2017. He made sporadic notes for the first two weeks of September 2016 then failed to make notes for the duration. He did not dispute the fact that he did not make notes and stated it was complacency. There are 120 blank pages.

Detective Seward confirmed that using the PMA system to record prisoner bookings would suffice, but there was the requirement to complete a memo book. Constable Gangadeen stated, "Yeah, there's no excuse for that I just started the desk. Maybe one or two entries and I just didn't do anything" (Exhibit 20).

His position changed during cross-examination, when he stated he did not make notes if no investigative steps were taken. During his five months as a station duty officer, he never received a criminal complaint. His position was "no investigative steps, no arrest, no notes, no court, no charge". In his testimony, he stated that all notes in the booking area were electronic, so he did not use his memo book. Officer did not routinely make notes while assigned to front desk duties and no sergeant told him he was required to keep notes.

The Commission noted in Humphries v. Kelly and Durham Regional Police, OCCPS, 2003 (Exhibit 29, Tab 5) that, for neglect of duty to be established, there are a number of requirements,

First it must be shown that a duty exists. Second, it must be proven on clear and convincing evidence that the officer has neglected or omitted to perform that duty in a prompt and diligent manner. Finally, an officer will avoid discipline if her or she is able to show a lawful excuse for failing to meet the required standard (Tab 5).

As noted below, there was a clear duty for Constable Gangadeen to maintain a memo book as per Service directives. It is uncontested that he failed to maintain his memo book for approximately 3.5 months. He was unable to provide a lawful excuse for meeting the required standard. The fact that other officers did not maintain their books, he was never told, or a supervisor failed to inform him does not rise to the level of a lawful excuse. The responsibility was clear, and Constable Gangadeen wilfully neglected to maintain his memo book as required.

While working station duty on October 11, 2016 and October 12, 2016, Constable Gangadeen assisted Constable Raji with a fraud investigation. He knew the suspect, ran FF, and gave Constable Raji his picture, ran him on back-to-back days and helped work the case. He did not recall the name of the fraud victim and he did not maintain any memo book notes for this investigation. Further, he sent a message to, and called, FF to have him come into the station. He called another person involved in Project Interlock, Dymain 'Ajay' Panday to try and locate FF. Constable Gangadeen was aware that FF was a suspect, yet he failed to make any notes. He did not view his actions as an important investigative step.

Service Directive 1-B-134(F) entitled, 'Sworn Members Notebooks' clearly states that sworn members shall record pertinent information at the time of the event, or as soon as practicable, including:

(h) during the tour of duty, all information pertaining to their duties including but not limited to offences, ***investigations and incidents***, including relevant sketches, statements, notes or documents (Exhibit 17, Tab 5, Emphasis added).

Further, Service Directive 1-B-134(F) notes that sworn members shall record pertinent information at the time of event, or as soon as practicable, including:

- Time commencing duty
- Day and date of entry—underlined
- Time paraded for duty—by whom
- Nature of duties
- time of lunch period

- time reporting off-duty; and,
- the member's signature and badge number

This section of the directive is not a guideline and is not dependent on the role one is assigned to. Constable Gangadeen had an obligation to complete his memo book as noted in Service Governance and failed to do so.

As noted by the court in *OPP*, there must be an element of wilfulness in the officer's action or a degree of neglect to make the action more than a training issue. Once neglect is identified, it is up to the officer to show why they did not fulfil their duty as noted in *Kelly*. Constable Gangadeen referred to his lack of maintaining a memo book as complacency. This was more than a job performance issue. He stated that his supervisors did not correct his actions, but this was an attempt to obfuscate the issue and deflect his personal responsibility. I understand his position on the PMA and electronic entry, but there is no lawful excuse for failing to maintain a memo book pursuant to Service Governance.

The case of *Lloyd* sets out the purpose of an officer's notebook is to ensure a "clear and credible record of observations and vital information used to refresh one's memory" (Exhibit 29, Tab 7).

Contrary to *Hewitt*, there was a specific directive that required Constable Gangadeen to maintain a memo book and note investigations and incidents as outlined.

Given the foregoing, for count #6, I find on clear and convincing evidence, that Constable Gangadeen engaged in misconduct, where, without a lawful excuse, failed to maintain a memo book as required and I find him guilty of Neglect of Duty.

NOTICE OF HEARING #2

Count #1: Discreditable Conduct Abitibi Lake

The admissibility of the Production Order is a key factual issue for count #1. I have found that the Production Order is admissible in this administrative proceeding.

There was no evidence submitted that Constable Gangadeen knew or associated with Alicia Persaud.

Constable Gangadeen testified that he did not know who Mohamed Sameer Khan was and never attended his address on or off duty and the first time he queried him was on September 24, 2017. Constable Gangadeen testified it was not uncommon for people to name drop in an attempt for leniency. He knew Mohamed Sameer Khan was a friend of his brothers and stated Mohamed Saleel Khan lied when he stated that Sameer Khan knew Constable Gangadeen.

On September 24, 2017, Constables Angevine, Dykxhoorn and A/Sgt Meyer attended 89 Abitibi Lake Drive. While standing on the front porch, Constable Angevine testified that Mohamed Sameer Khan asked if the officers knew his friend, Anthony, then Anthony Gangadeen and his brother. Constable Angevine discussed the utterances with A/Sgt Meyer and Sgt. McLeod. He made a late entry in his memo book and explained his rationale for doing so (Exhibit 17, Tab 7). He claimed not to be jealous of Constable Gangadeen and testified that he did not exaggerate his involvement with Mohamed Sameer Khan.

A/Sgt Meyer was also on the front porch and testified that Mohamed Sameer Khan asked if they knew an Officer Anthony. A/Sgt Meyer did not respond, but Mohamed Sameer Khan stated, "Anthony Gangadeen and said he knew him and his brother". In his interview dated January 10, 2018, A/Sgt Meyer stated he was asked if he knew an officer 'Anthony' and he didn't think anyone mentioned the surname. Mohamed Sameer Khan fumbled around and said he thought his name was Gangadeen. He agreed that people ask officers if they knew other officers.

S/Sgt Harloff stated that, while conducting follow-up interviews, Mohamed Saleel Khan stated he knew Constable Gangadeen as his brother Mohamed Sameer's friend. Mohamed Saleel Khan did not know Constable Gangadeen himself.

Constable Angevine may or may not have had a degree of animus toward Constable Gangadeen but their mutual beliefs of each other are irrelevant. This is not a case of Constable Angevine being the sole person in conversation with Mohamed Sameer

Khan. The testimony of the two officers, under oath made it obvious that Mohamed Sameer Khan asked if the officers knew Anthony or Officer Anthony, then stated Anthony Gangadeen and his brother. What was also telling was S/Sgt Harloff's testimony when speaking with Mohamed Saleel Khan wherein he stated Constable Gangadeen and his brother were Mohamed Sameer's friends. Further, Constable Gangadeen initially testified that he did not know Mohamed Sameer Khan but later stated he knew Mohamed Sameer Khan was a friend of his brothers. This was more than alleged fabrication by a peer officer.

This may have been 'name dropping', but Mohamed Sameer **and** Mohamed Saleel Khan would have had to know Constable Gangadeen and his brother to ask about them. What I found troublesome was Constable Gangadeen's testimony that he didn't know Mohamed Sameer Khan, then stated he knew him as a friend of his brothers. This was a case of choosing one's words.

I am not concerned with the late entry in Constable Angevine's memo book as the remark was added before he signed off that morning. This was not a case of writing it in a few days later which would make me question the veracity of the statement. He did wait three weeks to speak with his sergeant which should have occurred immediately. His duty as a police officer was to report any suspected misconduct and not wait to decide a course of action.

I find that Constable Gangadeen knew Mohamed Sameer Khan on the night of September 24, 2017. He cannot say unequivocally that he did not know Mohamed Sameer Khan, then, when presented with conflicting information, change course, and say that he knew him as a friend of his brothers. A connection between Constable Gangadeen and Mohamed Sameer Khan has been established, although I find that the connection is weak and confined to the utterances made to the officers. Given the connection, Constable Gangadeen queried the address and occupant even though he was not the person assigned to complete the report and he was not the lead investigator. He testified that this was a common practice for him for background information or persons associated to the address for officer safety reasons. He was assigned to a traffic point, and he failed to share any relevant information retrieved on

Mohamed Sameer Khan with other officers who shared the same officer safety concerns.

Even if I accept, and I do not, that Mohamed Sameer Khan was solely acquainted with Ashton Gangadeen's, this was information known and available to Constable Gangadeen, yet he failed to inform any investigator that he made the query or that he knew the occupant. This was information important to the investigation. There was no evidence that Constable Gangadeen overtly knew that Mohamed Sameer Khan was a POI on September 24, 2017, but the information and his knowledge of the occupant was important and should have been reported.

Constable Gangadeen testified that he knew Jayson Panday as a friend of Ashton's. He met Jayson Panday at the family homes a few times and saw him hanging out. He knew Jayson Panday had a criminal record as he queried him. He never associated with Jayson Panday off duty and no evidence was adduced of any association or relationship. There was no evidence that Constable Gangadeen socialized with, spoke with, or 'hung out' with Jayson Panday off duty. He did, however, have knowledge of Jayson Panday, his criminal background, and Jayson's association with Ajay Panday and Ashton Gangadeen. Jayson Panday attended the family home and what is troubling is Constable Gangadeen testified that last time he met Jayson and Ajay Panday was at the family home in 2017. Ashton Gangadeen was incarcerated at this time so there was no reason for them to be at the home. This was more than a casual relationship. He knew Ajay and Jayson Panday were involved in the Abitibi Lake call the next day when he read the report, but he did not advise a supervisor of any connection, knowledge, or association with Jayson Panday. He may not have socialized with Jayson Panday, but he has significant knowledge and encountered casual contact with him, both on and off duty.

Constable Gangadeen is not responsible for the actions of his brother. He was not involved in any of Ashton's criminal activities. What is important is the decisions that Constable Gangadeen made around his brother's criminal associates, what knowledge he had, and the onus was on the officer to remove himself from situations that involved individuals with criminal backgrounds, including visitors to his family home.

Ajay Panday was also a friend of Ashton Gangadeen and had been at the Gangadeen home a handful of times. Constable Gangadeen knew that Ajay Panday had a criminal record for Robbery and Break and Enter and was arrested with Ashton in 2015. The officer queried Ajay on CPIC and PQT and read occurrences wherein Ajay was named. Ajay did renovations at the Gangadeen home pre/post arrest, and Constable Gangadeen had Ajay's phone number programmed into his phone, which was deleted by his interview. His explanation for having the phone number did not make sense. He seemed to validate his actions by compartmentalizing what occurred in his off-duty life that involved known criminals and his responsibility as a serving police officer. When it was suggested that he remove himself from any association with Ajay Panday and the renovations, Constable Gangadeen stated, ““That’s my family home I’ll go there as much as I want, as (unintelligible) I please.... I’ll go there whether I like it or not, whether I want to or not. You have no say in that at all”. Police officers shall not associate with persons with criminal backgrounds.

I find that Constable Gangadeen had a strong connection with Ajay Panday. In addition to the links noted above, the officer contacted Ajay Panday when he worked station duty to help find a person of interest for another investigation. He stated that he knew Ajay Panday (also known as Dymain Panday) personally. In his compelled interview, Constable Gangadeen stated,

Constable Gangadeen: “...one of his associates off CPIC Dymain, Dymain Panday, I know Dymain personally. So I gave him a call to ask him if he knew where FF was that same day.

Seward: That same day.

Constable Gangadeen: Yeah, I’m pretty sure I called him, yeah, I called him a few times cause he called and then said I’ll call you back and return my phone call. Yeahlike two, I think twice, twice.

Seward: Was—do you know what happened with this investigation after RAJI and uh KADRI initially...

Constable Gangadeen: No, I was just trying to help him out by locating him cause I knew someone who knew where he was and trying to get him to come into the station. Other than that I don’t know what happened after.
(Exhibit 20)

This was not a phone call between an officer and a member of the community. The 'I'll call you back' and 'Return my phone call' held a sense of familiarity between Constable Gangadeen and Ajay Panday. Constable Gangadeen stated that, when he called Ajay Panday to find FF, he took the phone number from a police database. This does not ring true given the dynamics of their relationship and Constable Gangadeen's statement that he knew Dymain (Ajay) Panday personally.

Given that Constable Gangadeen had knowledge of Ajay Panday and his criminal record and connection to the NSG, the fact that Ajay Panday was at the Gangadeen home before and after Ashton's arrest, did renovations at the family home post-arrest, the officer had Ajay's phone number for the purpose of calling FF, which is more than just having it to trouble shoot for his parents renovation then deleting it, I find that Constable Gangadeen had a strong connection with Ajay Panday which is troubling.

Constable Gangadeen knew Somie Narine. He described her as friend with whom he grew up. He has known her before his days as a PRP officer. He testified that he did not know she was in a relationship with Ajay Panday, and this is uncontroverted. They were friends on Facebook which would not be unusual as Constable Gangadeen admitted they knew each other. They had a strong enough connection to each other where Somie Narine felt comfortable to reach out to Constable Gangadeen to ask what was going on at her friend's home. Constable Gangadeen testified that he receives requests for assistance of the PRP, but this was not a random request. This was a specific request from a friend for information about a weapons dangerous call where the suspect and weapon were still outstanding. Somie Narine felt comfortable to text Constable Gangadeen, but the officer could not recall the content of the text or the second phone call. Constable Gangadeen may not have known that Somie Narine was a POI for the weapons dangerous call, but the timing of these phone calls and texts are highly unusual. I find that Constable Gangadeen and Somie Narine did have an association or connection with each other. The onus was on Constable Gangadeen to disclose the phone calls/text message as this was an active investigation and to notify a supervisor that he received these communications on the same day as the investigation unfolded. What was also troubling was Constable Gangadeen did not recall receiving a text

message from Somie Narine within 24 hours of the Abitibi Lake call 'as it's been so long'. He did, however, remember being asked what was going on at the call, yet the same length of time had passed.

The word 'association' can be debated but I consider it to entail knowledge and a connection with persons or information. Some associations are stronger than others, but they still existed.

I find that Constable Gangadeen demonstrated an association, or was found to have an association with Sameer Khan, Jayson Panday, Ajay Panday and Somie Narine. He had significant information about these individuals, and he knew the next day that Sameer Khan, Jayson, and Ajay Panday were persons of interest for the Abitibi Lake weapons dangerous call, and he knew they were involved in criminal activity.

Defence counsel submitted that the prosecution failed to adduce anything to demonstrate that Constable Gangadeen knew the persons named were 'persons of interest' and no association with these individuals has been proven on clear and convincing evidence. I disagree. The associations are outlined above, and Constable Gangadeen knew who the persons of interest were the next day when he read the report. Defence counsel also asserted that matters should have been noted in the officer's memo book fail as there is nothing in the directive that requires such checks.

Service Directive 1-B-134 (F) *Sworn Members Notebooks* stipulates, 'It is the policy of this Service that notebooks be kept by sworn members of all ranks in order to maintain an official record of their duties and to assist in refreshing their memories for judicial proceeding or for any other purpose required by their duties' (Exhibit 17, Tab 5). Further it notes that all members shall ensure that their notes,

- a) are treated as their will state
- b) contain independent recollections providing an accurate and complete account of the members duties including but not limited to their observations, perceptions, authorities, decision-making process, actions, activities and who else was present (Exhibit 17, Tab 5)

Further, the directive notes, when completing entries in notebooks, sworn members shall,

3h) during the tour of duty, all information pertaining to their duties including but not limited to offences, investigations, and incidents, including relevant sketches, statements, notes or documents

(Exhibit 17, Tab 5)

Constable Gangadeen should have recognized the seriousness of the text and calls from Somie Narine and the inquiries she made. He had a duty to record this information as part of the investigation and his will state, should the matter end up in court. He was required to record his independent recollections which would have included the information from the text. This information was important to the investigation. Further, Constable Gangadeen formed part of this investigation as he spoke to the witness and recorded pertinent suspect information. It was important to get the information out quickly, which he did through the CAD system, but he had a duty to make memo book notes about his actions and he failed to do so. This was more than a technical breach made in good faith. He failed to understand the importance of the situation as it unfolded and his role in the matter.

Constable Gangadeen demonstrated an association with known criminals who were persons of interest in the Abitibi Lake call and was not forthright with the organization or investigators. As a serving police officer, he had a responsibility to assist the investigation and instead, he withheld information about his associations, connections, and text/phone calls with Somie Narine. I agree with the Service prosecutor that if the public knew that officers attended calls that involved persons or associates involved in criminality or were alleged to have been involved in criminal activity, and they were not forthright about it, these actions would bring serious discredit to the Service. This is serious misconduct.

Based on the foregoing, for count #1, I find on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

Count #2: Neglect of Duty Abitibi Lake

Constable Gangadeen testified that he direct entered the information from the complainant into the CAD system; therefore, he was not required to make a duplicate entry in his memo book. He stated this did not make sense to him as the information was in the call history, and available for everyone to see in real time. He did not make a notation about querying 89 Abitibi Lake or Muhammad Sameer Khan as it was the same call. Defence counsel stated that it was not proven that there was a mandatory requirement for Constable Gangadeen to make records as alleged.

The Service prosecutor asserted it was undisputed that Constable Gangadeen failed to make any notes of the complainant's observations from 89 Abitibi Lake. He failed to make notes of the suspect description, the queries of Mr. Khan and the address, and his conversation with Somie Narine.

Constable Gangadeen entered the suspect information directly into the CAD history which provided timely and necessary assistance to his peers, both for information and officer safety purposes. However, his assertion that he did not have to make notes in his memo book runs contrary to Service Directive 1-B-134 (F), Sworn Members Notebooks, wherein it notes, among other requirements, under section D, "Notebook Entries",

Sworn members **shall** record pertinent information at the time of the event, or as soon as practicable, including:

h) during the tour of duty, all information pertaining to their duties including but **not** limited to offences, investigations and incidents, including relevant sketches, statements, notes or documents (Exhibit 17, Tab 5).

I take note of the word, 'shall' as being an imperative. This is not an area where an officer is afforded a high degree of discretion. At 02:56 hrs., Constable Gangadeen rightfully entered the information into the unit history; however, he had a duty as outlined by the PRP to make notes in his memo book. Further, he ran the address and occupant. He did, in fact, investigate the radio call. He had the complainant's

information, suspect information, information on the address and homeowner and at least one occupant. This is the foundation of an investigation and his duty to make notes is clear. He had an onus to record the information in his memo book. This information is the official record for court purposes and to refresh his independent recollection of what occurred on that evening, his role, and actions. Although he entered the suspect information, he chose not to enter the query results for his colleagues to view and the complainant information is absent (Exhibit 17, Tab 8). If he ran the address and occupant for officer safety issues, it was equally as important that his peers were aware of his findings, if any. His memo book recorded his traffic point when he had significantly more information to note in his book. (Exhibit 17, Tab 11).

What is troubling is the contact that Constable Gangadeen had with Somie Narine on September 24, 2017. Constable Gangadeen testified that he has known Somie Narine since school and immediately told her he could not talk about the police investigation. Defence counsel rightfully noted that Constable Gangadeen cleared the call at 04:06 hrs., and the on-duty call/text were sent at 05:25 and 05:26 hrs.

Although not at the scene, Constable Gangadeen was on-duty when he received the call and the text message. Ms. Narine said the police were at her friend's house and wanted to know what was going on. Constable Gangadeen rightfully told her he was unable to provide that information and he did not know that Somie Narine was Ajay Panday's girlfriend.

Constable Gangadeen knew what investigation Ms. Narine referred to. Although he may not have known she was related in any way, a person known to you who asked for information about the call is information vital to the investigation. It may not amount to much once investigated, but it was information that was required to be recorded in his memo book. Constable Gangadeen took the call as a regular phone call from a friend. He could not differentiate his role as a police officer receiving information pertinent to an investigation, and that of a casual phone call with a friend. He was on-duty when this text/call were received, and this information formed part of the investigation which was required to be noted in a memo book as per the Service Directive. Constable Gangadeen was off duty for the final phone call. Knowing that this individual had

inquired about the Abitibi Lake call, he should have made a 'late entry'. He testified based on other scenarios that if information *became relevant*, he would have completed a 'late entry'. It was not up to Constable Gangadeen to make that determination, and this was not a lawful excuse for neglecting his duty to complete his notebook.

The court, in *OPP*, noted,

"To constitute neglect of duty, the impugned conduct must include an element of willfulness in the police officer's neglect or there must be a degree of neglect which would make the matter cross the line from a mere job performance issue to a matter of misconduct". (Exhibit 31, Tab 8).

Constable Gangadeen had a clear duty to make notes. He chose not to do so and explained it away as he made notes into the unit history and that sufficed. He failed to follow a Service Directive that constituted a mandatory course of action. Contrary to *Hewitt*, there was a clear directive that required officers to make notes that involved investigations or incidents. I find that Constable Gangadeen was involved in an investigation or incident and had a clear duty to make proper notations in his memo book about his actions at/around 89 Abitibi Lake Drive, including queries, text messages and phone calls.

Given the foregoing, for count #2, I find on clear and convincing evidence, that Constable Gangadeen engaged in misconduct, where, without a lawful excuse, failed to maintain a memo book as required and I find him guilty of Neglect of Duty.

Count #3—withdrawn at request of Service Prosecutor

Count #4: Discreditable Conduct Jab Jab

It is alleged that Constable Gangadeen was rude, belligerent, and disrespectful to two fellow PRP officers, did not listen to their commands, used profane language, and 'kissed his teeth' at an outdoor concert on July 29, 2016. He was off duty at the time.

There are three versions of the event. Constable Gangadeen stated he stood by the fence and listened to music with his friend and another male. He did not make any of

the statements accredited to him by the paid duty officers. He did not attempt to climb the fence and denied that he 'kissed his teeth'. In his compelled interview, he stated that he does not make that action "in general to be honest so it doesn't apply to me really" (Exhibit 19).

In evaluating credibility, I considered the O'Halloran Test as outlined in *Faryna v. Chorny* wherein the court noted,

The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions (Exhibit 29, Tab 9).

Constable Cook and Constable Brown were paid-duty officers with the responsibility of preventing anyone from jumping the fence to get into the restricted area. Constable Cook recognized the officer and told Constable Brown. Constable Cook saw three males with their hands on the fence, rocking it and it appeared they were 'kinda jumping it' or testing the strength of the fence and doing more than leaning on it (Exhibit 19). He told Constable Brown they should talk to the group. Constable Cook asked Constable Gangadeen why he wasn't listening, and he remembered Constable Gangadeen kissed his teeth immediately. Constable Cook took the officer aside and told him to leave.

Constable Brown was a 23-year veteran of the Service at the time of the interview. She did not make notes of the incident, which was troubling, but she testified in a straightforward manner and did not falter when questioned. She did not know Constable Gangadeen at the time of the incident and had no reason to fabricate or embellish her evidence. In short, her evidence was believable. She had an independent recollection of the event and I accept her evidence. She had no motivation to fabricate her evidence, she was impartial, and any inconsistencies between her evidence and that of Constable Cook were able to be explained. She did not know who Constable Gangadeen was

when she approached him, and she continued to act in a professional manner when they interacted. She admitted she was 'worked up' about the incident which also speaks to the honesty of her evidence. As outlined in *Faryna v. Chorny*, her evidence made sense with the preponderance of probabilities of what occurred on that night.

She observed Constable Gangadeen on the fence, about three feet off the ground. The paid duty officers were 50-60 feet away when she first observed the males by the fence and yelled for them to get off. If Constable Gangadeen's version is to be accepted, one must question why both officers felt they had any need to interact with the males if Constable Gangadeen and his friends were simply leaning on the fence listening to the music. His version does not ring true. Whether shaking the fence, or on the fence, Constable Brown, a trained former tactical and canine officer, continued to interact with Constable Gangadeen. When she was 10-12 feet away, she heard him mutter, 'fuck' under his breath. At this point, Constable Cook veered away about eight feet. It is quite possible that both observed and heard different things based on their vantage points and distance from Constable Gangadeen. When asked to remove his hands from his pockets, she heard him say, 'fuck' again and she heard it a third time when the other two males grabbed Constable Gangadeen and walked away. She stated 'kissing your teeth' is a sign of disrespect.

I do not know how this event was brought to the attention of the Service or when, but the Service has an obligation to investigate all acts of misconduct. Constable Brown did not have notes of the incident. She was adamant that the males were on the fence vs. rocking the fence as noted by Constable Cook. She saw Constable Gangadeen several months later and recognized him from this event.

In his testimony, Constable Gangadeen stated the interaction took 5-6 minutes. This period of time encompasses more than being asked to walk away and acquiescing. The act of 'kissing your teeth' is very disrespectful and an act of disdain, especially when directed to a co-worker engaged in their duties. Both Constables Cook and Brown stated that Constable Gangadeen engaged in this action, and I have no reason to doubt the veracity of their evidence as it was credible.

Constable Gangadeen was off duty at the time of this incident. As noted in the *PSA 80(2)*, “A police officer shall not be found guilty of misconduct under subsection (1) if there was no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force” (Exhibit 31, Tab 16). As noted in *Stock*, there is a need to consider the evidence in an objective manner. I have considered all three versions, assessed credibility, found connections between the evidence of the paid-duty officers, and provided reasons why their evidence was more credible than that of Constable Gangadeen. There was a nexus between the misconduct of Constable Gangadeen and the reputation of the police service. The misconduct was likely to diminish the reputation of the Service in the eyes of his co-workers, and Constable Gangadeen was also with two other males not associated with the Service. He noted in his compelled interview (Exhibit 19) that there were other people scattered around the same area watching.

Constable Gangadeen’s actions in general, and towards members of the Peel Regional Police service constitute Discreditable Conduct. When considering the facts with an open mind, his actions were objectively discreditable. Any member of the community would find it shocking that a member of the organization would act in that manner towards co-workers. Given the foregoing, for count #4, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

Count #5-withdrawn at request of Service Prosecutor

Count #6: Discreditable Conduct: PRP member queries

It is alleged that Constable Gangadeen queried PRPS President Adrian Woolley’s licence plate on CPIC on November 8, 2017 and failed to make notes explaining this query. An audit revealed that he also queried Constable Syblis and his licence plate on CPIC on March 14, 2018 and failed to make notes outlining the purpose of the query. Further, the audit revealed that Constable Gangadeen queried Constable Kudzma and

his licence plate on February 13, 2018 and failed to make notes outlining the purpose of this query.

Constable Gangadeen worked the day shift on November 8, 2017. He ran Adrian Woolley's licence plate while he drove in to work. Constable Gangadeen never recorded queries on plates unless they were part of a specific call or somehow related. He did not know Adrian Woolley at the time. He realized Mr. Woolley was going to work and he did not stop him.

On March 14, 2018, Constable Gangadeen worked day shift. He knew Constable Sybblis when he ran his licence plate. He ran several plates at a time on a random basis and Constable Sybblis was caught in these queries. He did not make a note of this query.

On February 12-13, 2018, Constable Gangadeen worked night shift. He was on a traffic stop when Constable Kudzma sped by him. He didn't know who the driver was at the time. Constable Gangadeen caught up with Kudzma, ran his plate, knew the name, and let him go. He did not make a note of this query.

D/Sgt Harloff stated these queries were unique as they involved police officers and Constable Gangadeen should have made notes why he ran the plates. Further, Constable Gangadeen conducted an investigative query on Constable Sybblis, and he took the time to read the report.

Although making a notation in his memo book would help Constable Gangadeen if questioned why he ran these three officers, I do not find that his actions on these days constitute major misconduct. He was not in a conflict of interest, and there was little likelihood that he would have to draw on this evidence to testify in court. He explained why he made the queries, and why he did not stop the vehicles or investigate further. He was in the lawful execution of his duties when he exercised his discretion. In short, he should have recorded this information, I find that his actions do not reach the threshold of major misconduct based on clear and convincing evidence, and I find Constable Gangadeen not guilty of Discreditable Conduct.

Count #7: Discreditable Conduct—CPIC and PQT Queries

It is alleged that Constable Gangadeen queried Ajay Panday on CPIC and PQT on December 17, 2017. Mr. Panday is an associate of Constable Gangadeen and a known criminal associate of his brother, Mr. Ashton Gangadeen. Constable Gangadeen had no reasonable law enforcement purpose for this query. He failed to make any notes explaining the purpose of this query.

It is uncontroverted that Ajay Panday was a known criminal associate of Ashton Gangadeen, and a person with a criminal past who was known to Constable Gangadeen. I have found that Ajay Panday and Constable Gangadeen had an association with each other, Ajay Panday had been to the Gangadeen familial home when Constable Gangadeen was present and Ashton Gangadeen was incarcerated, Constable Gangadeen had Ajay Panday's phone number in his own cell phone, and Ajay Panday did renovations at the home.

The Service prosecutor stated that his operational reason of completing an Intelligence Report was an attempt to cover his tracks as he became aware of another PSA investigation about 89 Abitibi Lake Drive, which was the same address he referenced in the report.

Constable Gangadeen did not feel the need to make notes as he submitted a full detailed (Intelligence) report with the information. If asked to testify about the source of the information, he would submit a late entry in his notes. As I have referenced earlier, this is not how contemporaneous memo book notes are made and the need to testify in court pursuant to an investigation does not invoke the need to go back and create notes. He was trained in notetaking and his excuse of 'no one ever told me to do notes after you do an intel report' is not a lawful excuse. He knew he was investigating an individual known to him, and a fulsome explanation was required. Such explanation was not included in the Intelligence Report. Constable Gangadeen was quite vague about where and from whom the information came from, and it certainly was not shared with the Intelligence Bureau through this report. In his compelled interview, he stated that he just drove around, knows the people in his patrol area, hears nicknames and

people talk about things. He did not reference what he heard on the street and forgot where the information came from, although the Intelligence Report noted that 'photos were viewed within a few days of the post' (Exhibit 21). So, either the report was stale-dated, or it was created within a few days of receiving the information and he 'forgot' where the information came from. He stated the information in the report was not substantiated and based primarily from open-source social media. He did not feel he was in a conflict of interest with Ajay Panday, but he knew that the Abitibi Lake call was being investigated, and he was served a NOI. Ajay Panday was a POI from that call, but he failed to mention it. These are all problematic areas should the intelligence have been actionable, and Constable Gangadeen required in court.

This particular is for querying Ajay Panday on CPIC and PQT on December 17, 2017 with no reasonable law enforcement purpose and for failing to make notes explaining the purpose of this query. The quality of the Intelligence report is not before this Tribunal. His reasonable law enforcement purpose for this query was the submission of an Intelligence report and I accept that.

My concern stems from his lack of notes. Service Directive 1-B-134(F) entitled, 'Sworn Members Notebooks' clearly states that sworn members shall record pertinent information at the time of the event, or as soon as practicable, including:

(h) during the tour of duty, all information pertaining to their duties including but not limited to offences, ***investigations and incidents***, including relevant sketches, statements, notes or documents (Exhibit 17, Tab 5, Emphasis added).

Constable Gangadeen clearly investigated Ajay Panday. He spoke to at least one individual in the community who would stand as the witness or complainant. He required this information when asked for his source. His personal knowledge of Panday was important to note as Constable Gangadeen did not come to the investigation with complete independence from Ajay Panday for the reasons already articulated. He was willing to submit an Intelligence Report under his name, possibly be called to court but had to work back and submit a late entry to cover his investigative steps. All of the pertinent information was not captured on the intelligence report. This information

included, but is not limited to his source, when the information was received, his personal knowledge and interaction with Ajay Panday, his association with a family member, his personal knowledge of his criminal past.

I find his lack of memo book notes troubling for the reasons articulated. Constable Gangadeen appears to fight against the need to make notes or his actions are a disregard for Service Directives. Either way, this was an investigation, and it is very clear in the Service directive that memo books notes were required about this query. Community members rightly expect police officers to follow Service directives, and ensure they are fully prepared to testify in court or answer questions based on their actions. Constable Gangadeen's responses were vague, and he did not record the pertinent information to support any follow-up action based on his report.

For the reasons noted above, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

A police database audit revealed that, on February 3, 2018, Constable Gangadeen conducted a CPIC query on his parents, Anthony and Lynn Gangadeen without any reasonable law enforcement purpose. He failed to make any notes explaining the purpose of the queries.

Constable Gangadeen's queried his own licence plate that was registered to his parents. This is why the audit referred to a CPIC query on his parents. The reason for the licence plate query is a separate particular listed in count #8. As the primary driver of the vehicle, Constable Gangadeen knew that his licence plate was registered to his parents. He queried his plate on CPIC for a separate issue, but when the registered owner populates, the information automatically rolls over to do a CPIC check. Although he did not directly enter his parents' information into CPIC, he knew how the system worked and, by proxy his parent's private and confidential information was available to him when he queried his plate. In short, the query was of each parent, not just the licence plate.

This was a personal use of a police database. There was no operational reason to view his parent's information and he made no notes about this CPIC query or the reason behind it. This was more than a technical breach made in good faith as noted in *Shockness* and *Rose*. He knew what would occur once he entered the information as he testified that he queried multiple plates at a time. He knew whose return the result would be. Viewing his parent's information is a breach of the CPIC policy (Exhibit 17, Tab 2). Even if I was to view his actions as an operational circumstance beyond Constable Gangadeen's regular duties, the onus was on Constable Gangadeen to inform a supervisor and receive approval prior to conducting the query, document the reason for the query and the name of the supervisor. He did not follow these steps, and when he discussed the reason behind the query with a supervisor, he did not inform him that in running his plate, he queried his parents on CPIC. This was a breach of Anthony and Lynn Gangadeen's privacy rights and was avoidable.

CPIC abuse is serious misconduct and a breach of the Service contract with the RCMP. Maintaining the public's trust in the sanctity of police information systems is of paramount importance. Any member of the community would find these actions unreasonable and not following the Service directive as inexcusable.

By querying his parents on a system and receiving information not available to the public, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

The police database audit revealed that Constable Gangadeen queried Mr. Simon Brar on January 20, 2018 on CPIC and PQT. Mr. Brar was a co-accused in a series of robberies, with ASIF and BB. ASIF and BB were previously charged with Mr. Ashton Gangadeen as part of a series of robberies in December 2015. Constable Gangadeen had no reasonable law enforcement purpose for the query, and he failed to make notes to explain the purpose of the query.

Constable Gangadeen worked the front desk at 21 Division when he queried Simon BRAR. He did not recall this query, did not know who Simon BRAR was as his name did not stand out. He did not make any notes 'as it was just station duty'. He queried BRAR on PQT and on CNI as he worked the night shift. What is important is Simon BRAR was a co-accused with Muhammad ASIF, who was a member of the NSG and a criminal associate of Ashton Gangadeen. Through the Production Order, D/Sgt Harloff was able to make a connection with BRAR, ASIF and BB, who was co-accused with Ashton Gangadeen. The officer stated in cross-examination that he would have remembered him if BRAR was part of a gang.

It is obvious through the affiliations with ASIF, BB and ultimately Ashton Gangadeen that BRAR was a gang member, or criminal associate and certainly involved in the criminal underworld. Constable Gangadeen purported that he was cognizant of gang members and affiliations in his assigned patrol area, and it is inconceivable that he did not know who BRAR was. Simon BRAR was also a person who placed Constable Gangadeen in a conflict of interest given BRAR's affiliation with the NSG members and their criminal association with Ashton Gangadeen. By 2018, Constable Gangadeen read numerous occurrences that involved the NSG, including BB and ASIF and their criminal charges pursuant to Project Interlock. The fact that he did not have notes, or an independent memory speaks to the lack of operational reason for making the query and speaks to the need to keep such notes. Given the unique circumstance due to his associations, Constable Gangadeen should have refrained from making this query, advised his supervisor and made notes for the exact reason we find investigators asking these questions about why the query was made. This has placed Constable Gangadeen in a precarious position which could have been redressed through proper notetaking. It is not a matter of stating he did not make notes 'as it was just station duty'. His obligation to make such notes is ever present as per the Service Directive and not based on his assignment.

Constable Gangadeen stated that he left his token logged in at the front desk and three people worked there who could have opened up PQT and ran BRAR. This is unlikely given BRAR's association to the NSG and Constable Gangadeen's knowledge of the

players and actions of his brother. There was no evidence that any other officer at the front desk had any association with members of the NSG or would have a reason to run that specific name.

After his 2017 suspension, Constable Gangadeen stated he would not knowingly query anyone associated with his brother 'that he knew of'. This is another qualifier. He also had an onus under Service Directive 1-A-506 (O)—Security of Police Computer Systems and Information which notes that all members **shall**, under Section E- Responsibilities, "ensure that any computer or computer terminal that is left in an area affording access to others is logged off or otherwise secure; and ensuring the removal and safekeeping of the eToken when absent from a workstation for an extended period of time" (Exhibit 17, Tab 4). Stating that someone else may have made the query under his name is an assumption without proof and against Service policy. There is no evidence that any other member who worked the front desk on that night had any knowledge of the NSG members, Ashton Gangadeen, knew Simon Brar or his associations, or had the need to make that query.

Constable Gangadeen worked station duty when this query was made. His comment, "as it was just station duty" is more perplexing as there was no operational or lawful reason provided for the query and Constable Gangadeen was not in the position to action any information that he received given his posting at the time.

I considered defence counsel's submission that, given the number of checks conducted by the officer, he had no memory of BRAR, and the prosecution did not introduce evidence that there was no reasonable law enforcement purpose for the query or to make notes. The onus is on the officer to state why he conducted a query or did not complete his notes. Given the circuitous and intertwined affiliations of the NSG and BRAR's connection with this group, coupled with Constable Gangadeen's repeated explanation that he ran these individuals for curiosity purposes, there is overwhelming reason to believe that there was no reasonable law enforcement purpose. Further, if he ran BRAR while on the road, there should be a subtext of 'mobile' as noted by the officer. This was not introduced into evidence; the officer had no memo book notation to support this query and no operational reason.

The restricted use and the sanctity of the CPIC database goes to the heart of officer safety and cannot be used for curiosity purposes. As noted in *Coon*, “Fundamental to the successful functioning of the CPIC system is a strong sense of trust; trust that the system is there to help police officers in pursuit of their official duties and trust that no police officer will purposely or willfully misuse the system” (Exhibit 29, Tab 2). A police officer is a professional who is looked upon by the public as a person they can trust. When an officer uses internal police databases for their own information, this trust is broken.

Based on the above-noted particulars, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of this charge.

Count #8: Discreditable Conduct: conducted two PQT queries and CPIC on his licence plate, MTO query

A police database audit revealed that Constable Gangadeen conducted PQT queries on himself on October 14, 2017 at 1507 hrs., and on October 22, 2017 at 0926 hrs. He did not offer a reasonable explanation for the queries and failed to make notes to explain the purpose of the queries.

Constable Gangadeen conducted PQT queries on himself on October 14, 2017 and October 22, 2017. He stated the first query was for his annual evaluation where he must print his CPIC and CNI information. The second query was an MTO check for Paris (licence history). He did not make notes of these queries. He gave the printouts to Sergeant Rice. His was his three-month evaluation post-suspension. The reason for making the queries is not in question, just the fact that he did not make any notation of running himself on PQT. I find that he had an operational reason to make this specific query. There was no evidence to show that Sergeant Rice did not receive a copy of the CPIC/CNI/MTO queries, so a supervisor was aware that he ran himself on these systems. Although this is a technical breach of Service Directives, as noted in *Shockness*, a supervisor was aware of his actions, and I do not find that any reasonable

person in the community would find that his actions brought discredit to the police service. I do not find misconduct in his actions that reach the level of clear and convincing.

On February 3, 2018, Constable Gangadeen conducted a CPIC query of his personal licence plate. He had no reasonable law enforcement purpose for this query and failed to make notes explaining the purpose of this query.

Constable Gangadeen queried his licence plate as fellow officers harassed him. At one point the occupants of another cruiser put their lights on his personal vehicle and left the scene. On another occasion, a police vehicle came up behind his personal vehicle and the occupant ran his licence plate. Constable Gangadeen queried his licence plate to see who ran his plate to take it up the chain of command. He notified Sgt. Rice but had no notation of their conversation. He told Sgt. Rice that an officer attempted to pull him over and ran his licence plate. He admitted that he ran his plate and Sgt. Rice also ran it. Constable Gangadeen did not make notes. Under cross examination, he agreed that it was not an appropriate use of PQT to determine if he was under investigation

This query occurred while Constable Gangadeen faced *PSA* charges for misuse of police databases (Notice of Hearing #1). PRP officers cannot use police databases for curiosity purposes. This is made clear to all employees through Service Directives and is specifically addressed in Service Directive 1-A-403 (F), Canadian Police Information Centre wherein it notes how an officer must address operational circumstances that are beyond the course of his/her regular duties (Exhibit 17, Tab 2). Conducting a query on his licence plate was not the responsibility of Constable Gangadeen. His job was to report the alleged harassment to a supervisor for an investigation to commence. CPIC information must not be accessed for personal reasons or other purposes unrelated to law enforcement. As noted in *Coon*, "The use of CPIC must be solely reserved for official police work and must never be used for personal reasons" (Exhibit 29, Tab 2). Constable Gangadeen had options to address his concerns. The community expects officers will abide by Service Governance and not use internal police systems for personal use. Police officers should not be in a better position than members of the community who do not have access to the CPIC system. CPIC is an investigational tool

and must be protected against improper or unauthorized use. There was no reasonable law enforcement purpose for this CPIC query, and this was more than a technical breach of the law made in good faith.

For the reasons noted above, I find, on clear and convincing evidence, that Constable Gangadeen engaged in misconduct in that he did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Peel Regional Police Service and I find him guilty of Discreditable Conduct.

Constable Gangadeen conducted an MTO query on himself on February 21, 2018 where he viewed his driver's licence history, photograph, and convictions. He was unable to provide a reasonable justification for the queries.

Constable Gangadeen had a cadet 'ride along' on the date in question. He queried himself on MTO to show the cadet how to use PQT, run plates and read PARIS returns to provide him a head start. He believed he was fine running himself for this purpose. He testified that he did make a note about running an Ontario driver's licence for training purposes. These actions occurred in the report room. He closed out his notes but went back in to make the notation about running himself. What is interesting is Constable Gangadeen queried another party one minute before he ran himself but would not show this information to the cadet; rather, he chose to query himself. The cadet was a 'ride along' for the entire shift and, presumably, had been privy to other queries conducted by Constable Gangadeen as he stated he queried hundreds of plates a night. The cadet would have been present when the queries were made, he was a Service member who swore to an Oath of Secrecy. Constable Gangadeen was a cadet prior to being sworn in as an officer and should have been aware of the parameters within which they would work and had access. If not, he should have clarified their role before leaving the station.

There was no need to run himself for training purposes within this scenario. However, he did recognize the unique circumstances and went back into the query to make a notation about running himself which follows the Service Directive. Although I do not condone his actions or the evasive qualifiers of 'he probably investigated the guy

before', *probably* swivelled the computer to himself and 'he was *probably* in the cruiser' (he was in the report room), he was '*probably* following up on something', I find that his actions as outlined in this particular do not rise to the level of misconduct within this tribunal. If he did not make the notation, which was uncontroverted, this finding would have been different.

Count #9—Insubordination

S/Sgt Harloff was called in addition to other key fact witnesses who were present during the alleged misconduct, contrary to the fact pattern in *Byrne* where the investigating officer provided his opinion as to whether the misconduct was substantiated. S/Sgt Harloff was a fact witness on all issues except Constable Gangadeen's demeanour. The Service prosecutor did not rely on his evidence as proof of misconduct.

It is alleged that Constable Gangadeen presented himself in an unprofessional manner throughout the duration of his lengthy, compelled interview on May 8, 2019. When ordered to answer questions by Detectives from the Internal Affairs unit, it is alleged that he was insubordinate by words or demeanour, that he refused to answer certain questions he deemed irrelevant, called the detectives annoying and agitating, referred to the Internal Affairs investigative process as 'slimy' and presented in an unprofessional and insolent manner throughout the interview.

As noted in *Murray*, "...an order must be clear and unequivocal" (Exhibit 31, Tab 10). At the beginning of the interview, S/Sgt Harloff and his partner identified themselves as detectives attached to the Internal Affairs Bureau. Constable Gangadeen understood that his responses must be truthful, forthright and if he refused to answer the questions asked that he could be charged with Insubordination. This preamble to the investigation was clear and unequivocal. Constable Gangadeen acknowledged that he understood each section.

S/Sgt Harloff testified that Constable Gangadeen was unprofessional, confrontational, refused to answer certain questions and was argumentative. Constable Gangadeen stated some questions were irrelevant, told detectives to come up with a better example, told the detectives they were annoying him, and he did not care they were

detectives. S/Sgt Harloff found the interview to be among the most difficult he had conducted.

Sgt. Harloff took the lead in the interview and as such, was entitled to his share his observations. As noted in *Byrne*, ultimately the decision on whether a charge is substantiated is my responsibility and not the opinion of the investigator. I agree this was a lengthy interview and it was the second compelled interview that Constable Gangadeen had to participate in. There is no doubt that this entire process has been frustrating and stressful; however, Constable Gangadeen had a responsibility to answer all questions asked and to respond in a professional and respectful manner.

S/Sgt Harloff stated this was one of the most difficult interviews he had conducted. I have conducted what I believe to be a fair reading of the transcript several times and it was obvious that the tension was building as the interview continued. Constable Gangadeen was argumentative at times. Everyone in the room had a role. If Constable Gangadeen was upset or disturbed by any question, his lawyer was present, and he was able to ask for a break or clarification. There were at least three short breaks and a lunch break. He did not know the information that the investigators had or how the pieces came together. It was not up to him to decide what questions were relevant or not.

There were sections of his responses that I can overlook given their context. He was surprised when asked about when he broke up with this girlfriend and he spoke out of turn, even though he indicated he understood he could be charged with Insubordination under the *PSA*. Again, he did not know how this information fit in with the bigger picture. He referred to the complaint process as 'slimy'. He was just made aware of how the complaint about Abitibi Lake came about and why he was not notified. This question and information most likely took Constable Gangadeen by surprise, and he responded. However, I cannot overlook his responses that followed. Shortly after the 'slimy' comment, Constable Gangadeen responded to a question with "I wasn't going to say that earlier on because I wanted you to ask your simple questions one by one". Further, he stated, "you have to understand this has been the second year this...these things

have happened to me. Over and over and over, nonstop. It's frustrating. It's tiresome (Exhibit 19).

His disrespect of the process and the investigators really started to show when it was suggested that he needed to remove himself from any association with Ajay Panday and the renovations of the family home given Panday's known criminal background and Constable Gangadeen's position as a serving police officer. Detective Cuoco stated that it would be wise to separate himself from Panday however he could. The officer responded, "That's my family home I'll go there as much as I want, as (unintelligible) I please.... I'll go there whether I like it or not, whether I want to or not. You have no say in that at all". These words certainly caused me concern as it held an insolent or defiant tone no matter how you read it.

What I cannot accept was his exchange with D/Sgt Harloff near the end of the interview:

Gangadeen: Then pick a better reference cause you guys are getting really annoying now and you're really starting to agitate me.

Black: Just a minute, just minute Anthony...

Harloff: Excuse me?

Black: Anthony, Anthony, Anthony

Gangadeen: You heard exactly what I said

Black: ...Anthony, Anthony just calm down...he's getting tired. He's getting tired

Gangadeen: It doesn't matter if you're a detective.

Harloff: It does

Black: Just a minute

Gangadeen: You're trying to pin something on me that's not relevant

Black: Listen just a minute, just a minute we're gonna stop right here

Harloff: No, it's relevant. And I'll decide what's relevant

Black: We're gonna stop—just stop, be quiet, Just—take five minutes?

Gangadeen: No, I'm fine. It's fine

Black: (sighs)

Constable Gangadeen was insubordinate by word. No officer speaks to a colleague in that manner, especially one of a higher rank. If Mr. Black had an issue with how the interview was conducted, he had the opportunity to intervene or express his opinion or follow-up post-interview, not to provide his opinion on how Constable Gangadeen was treated during the interview as this is not evidence. Instead, at the end of the interview, defence counsel expressed the strain his client was under for the two years prior, and that strain manifested itself at times. I agree that strain and stress impact people which can result in outbursts. As noted by S/Sgt Harloff, this was a professional atmosphere. The onus was on Constable Gangadeen to control his emotions rather than react to questions he did not like. His interaction with S/Sgt Harloff was telling, especially when Constable Gangadeen replied, "You heard exactly what I said". The officer was not backing down from the path he was taking, and his insolence was notable.

The cases of *Murray* and *P.G.* are distinguishable as there is little to no correlation with the fact scenario before this Tribunal. In *Rowe*, it was noted that "a lawful excuse is a defence to a charge of Insubordination" (Exhibit 31, Tab 12). Constable Gangadeen did not provide a lawful excuse for his insubordinate and confrontational behaviour. He cited the lengthy period from when he was charged and the stress and toll this investigation has taken on him. I have no doubt this is true, but every investigation is going to have an impact on a subject officer, and this alone cannot be a defence to wilful insubordinate behaviour.

Constable Gangadeen testified that he regretted saying 'some of those things' but was under considerable stress at the time. I appreciate his candour, but this is a point for consideration at another stage of the process.

I find, based on clear and convincing evidence, that Constable Gangadeen was insubordinate by word or demeanour and I find him guilty of this Insubordination.

Summary of Decision

I have carefully considered the testimony of the witnesses, examined the exhibits, and considered the submissions of all counsel and the prosecutor. Based on the evidence presented to me, I conclude there is clear and convincing evidence to substantiate misconduct against Constable Gangadeen. The following is a summary of my findings in relation to the Notices of Hearing:

Notice of Hearing #1:

Count #1: Guilty of Discreditable Conduct
Count #2: Guilty Plea—Discreditable Conduct
Count #3: Guilty of Discreditable Conduct
Count #4: Guilty of Discreditable Conduct
Count #5: Guilty Plea-Discreditable Conduct
Count #6: Guilty of Neglect of Duty

Notice of Hearing #2

Count #1: Guilty of Discreditable Conduct
Count #2: Guilty of Neglect of Duty
Count #3: Withdrawn
Count #4: Guilty of Discreditable Conduct
Count #5: Withdrawn
Count #6: Not guilty of Discreditable Conduct
Count #7: Guilty of Discreditable Conduct
Count #8: Guilty of Discreditable Conduct
Count #9: Guilty of Insubordination

Debra Preston
Hearing Officer
September 30, 2021

Dated and Electronically Released: September 30, 2021

REFERENCES

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Byrne and Ontario Provincial Police, OCCPS, 2007 (Exhibit 31, Tab 13)

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Coon and Toronto Police Service, OCPC, 2003, (Exhibit 29, Tab 2)

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Gage v. Ontario (Attorney General) OCJ, 1992 (Exhibit 38)

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Hampel and Toronto Police Service, OCCPS, 2008, (Exhibit 29, Tab 3)

Hewitt and Devine, Police Commission, 1999 (Exhibit 31, Tab 9)

Horton and Ontario Provincial Police, OCPC, 2015 (Exhibit 29, Tab 10)

Humphries v. Kelly and Durham Regional Police, OCCPS, 2003 (Exhibit 29, Tab 5)

Jacobs v. Ottawa Police Service, ONCA, 2016 (Exhibit 29, Tab 1)

Jacques v. Pétroles Irving Inc. SCC, 2014 (Exhibit 30)

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Police Law Reports, Volume 2 (Exhibit 29, Tab 6)

Power v. London Police Service, OCPC, 2013 (Exhibit 31, Tab 17).

PRP Code of Conduct (Exhibit 17, Tab 3)

PRP CPIC Policy Manual (Exhibit 17, Tabs 1 & 2)

R. v. Morelli, SCC, 2010 (Exhibit 40)

R. v. N.N.M. O.J. 2007 (Exhibit 39).

Rose and Toronto Police Service, OCPC, 2017 (Exhibit 31, Tab 7)

Rowe and Sault Ste. Marie Police, OCCPS, 2003 (Exhibit 31, Tab 12)

Saxon and Amherstburg Police Service, OCPC, 2010 (Exhibit 29, Tab 4)

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Stock and Windsor Police Service, OCPC, 2014 (Exhibit 29, Tab 11).