



*Commissioner      Le Commissaire*

**DELIVERED IN PERSON AND BY EMAIL**  
**(info@ombudsman.on.ca)**

December 11, 2018

**Mr. Paul Dubé**  
Provincial Ombudsman  
Office of the Ombudsman of Ontario  
Bell Trinity Square  
483 Bay Street, 10th Floor, South Tower  
Toronto, ON M5G 2C9

**Dear Mr. Dubé:**

***Re: Request for Review of Potential Political Interference in the OPP Commissioner hiring process***

**Overview**

I write to you in my capacity as the current Commissioner of the Ontario Provincial Police ("OPP") and in my personal capacity as a candidate in the hiring process for the position of Commissioner. As you are undoubtedly aware, there exists in the Legislative Assembly and now in the Ontario public consciousness, growing concerns about the hiring process of the new OPP Commissioner. I am writing to you with the conviction that these concerns must be addressed by impartial review. If the hiring process remains enveloped in questions of political interference, the result will be irreparable damage to police independence in the third largest deployed police service in North America.

I have been a proud member of the OPP for over 32 years. I have policed in every corner of this province and it has been an honour and a privilege to serve with the dedicated men and women of the OPP. As Commissioner, I have a moral and legal obligation to ensure that the OPP remains independent.

The Supreme Court has ruled that police independence is fundamental to our democracy. In addition to its value as a constitutional principle, the people of Ontario well know the practical need for police independence, fully outlined during the Commission of Inquiry following the events in Ipperwash Park and the death of Dudley George. Police independence protects the men and women who have committed their lives to the Service, and it protects the people of the province of Ontario.

It should come then as no surprise that the perception of political interference in the hiring process has deeply affected the morale of the rank and file. OPP officers have shared with me their

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concerns that the process was unfair and their feeling that the independence of the OPP is now called into question. The officers know the consequences to come: if the police are to command public confidence and active cooperation, they must have the unfettered confidence of the people of Ontario. That is, the concern of political interference runs counter not only to the principles of a democratic society but also to fully effective policing.

Given the mandate of your office, to promote fairness, accountability and transparency in the public sector, as well as the function to investigate “any decision or recommendation made or any act done or omitted in the course of the administration of a public sector body and affecting any person or body of persons in his, her or its personal capacity,” I believe that you are uniquely placed to be able to conduct an independent review of the hiring process, to lift the cloud that has been cast over the OPP, and to restore public confidence in the independence of the OPP.

In light of the above, I have made the very difficult decision to seek the assistance of your office, pursuant to s. 14 of the *Ombudsman Act*, to review and determine if there was political interference in the Commissioner hiring process.

Further, I am of the opinion that an interim response is required. Current Toronto Police Service Superintendent Ron Taverner is scheduled to assume command of the OPP on December 17, 2018. To have this new command assumed without addressing this matter will cause dysfunction in the Service and undermine the command of the Service. In the circumstances, I request that there be a delay in the installation of Superintendent Taverner until the completion of your review and that an interim commissioner is appointed or, in the alternative, my OIC remains in effect which permits me to remain in the role up to February 3, 2019.

As stated in the Ipperwash Inquiry Report, “even though there may not be actual interference by politicians in police operations, the public’s perception of non-interference by the government is a fundamental principle that the Premier, Ministers, and other politicians must adhere to.”<sup>1</sup>

### **The Facts: Concerns Raised by the Interviewing Process**

The position of Commissioner of the OPP was posted on October 22, 2018. The posting indicated that the candidate would be a “proven, visionary leader whose dedication will inspire the confidence and respect of the Police and communities across Ontario, to assure and maintain public safety and trust in our Province” and would represent “the OPP with integrity, professionalism and leadership on police and justice issues provincially, locally and Internationally.” The facts of the hiring process, detailed below, raise a legitimate question as to whether the OPP’s integrity has been compromised and whether the public can have confidence in and respect for the OPP going forward.

To be perfectly transparent on my own position and role, and the means by which I came by the below information, throughout the interviewing process, I was viewed by members of the OPP as a front runner candidate. This was based on my qualifications (which met both the initial and the

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<sup>1</sup> *Report of the Ipperwash Inquiry, Vol. 4: Executive Summary* (Toronto: Ipperwash Inquiry, 2007) at p. 48.

amended job posting) including: my over 32 years of service to the OPP; my 5 years as a Deputy Commissioner; the fact that the other two Deputy Commissioners were not vying for the position (however, it should be noted that Provincial Commander Mary Silverthorn did apply and was granted a first- and second-round interview); and ultimately, the fact that the Provincial Government expressed confidence in my leadership, through Cabinet's decision to issue an Order in Council, which granted me the role of Interim Commissioner of the OPP.

### ***The Job Qualifications Changed Without Convincing Justification***

As stated, the posting for the position of Commissioner went live on October 22, 2018, with a deadline to submit applications by November 5, 2018. The job posting set out key requirements for the position, including that the successful candidate would be an "experienced executive with a background in policing" with a "track record and demonstrated ability to provide executive leadership in a complex policing organization at the rank of Deputy Police Chief or higher, or Assistant Commissioner or higher in a major police service." These have been the same job qualifications in place for the position of OPP Commissioner since 2006.

Two days later, the job posting was modified. On October 24, 2018, the minimum rank requirement of "Deputy Police Chief or higher, or Assistant Commissioner or higher in a major police service" was removed. The requirement for an "experienced executive with a background in policing" remained.

Media reports indicate that 27 candidates applied and 13 received invitations to the first of two rounds of interviews. Three candidates received second round interviews: OPP Provincial Commander Mary Silverthorn, myself and Toronto Police Service Superintendent Ron Taverner (interviewed in that order). Of the candidates who received interview invitations, I am aware of at least four candidates who did not meet the requirements of either the initial job posting and/or the amended job posting, as detailed below.

Staff Superintendent Randy Carter, of the Toronto Police Service, received a first-round interview. His rank did not meet the minimum rank requirement in the initial job posting.

OPP Superintendent Mike McDonell applied but I am not aware whether he received an interview. His rank did not meet the minimum rank requirement in the initial job posting.

OPP Provincial Commander Mary Silverthorn was granted a first- and second-round interview. Since she is a non-ranking civilian member of the OPP, Provincial Commander Silverthorn did not meet the requirement of the minimum rank of Deputy Police Chief or higher, or Assistant Commissioner or higher in a major police service. She did meet this requirement once the job posting was amended to remove the minimum rank requirement.

Finally, the successful candidate, Toronto Police Service Superintendent Ron Taverner was granted a first- and second-round interview. Due to his rank, Superintendent Taverner did not meet the eligibility requirements listed in the first job posting. He met the eligibility requirements only once the job posting was amended to remove the minimum rank requirement.

The rationale that has been provided publicly for the elimination of the minimum rank requirement was “to broaden the potential pool of applicants.” Of the 27 applicants, only four, that I am aware of, did not meet the original threshold requirements.

***The Hiring Panel had Questionable Authority and the Interview Panel Members Changed at the Last Minute***

First-round interviews were held on November 12, 2018. The interview panel consisted of three people: Paul Boniferno, the Deputy Attorney General of Ontario; Salvatore (Sal) Badali, a Partner at the search firm, Odgers Berndtson; and Mario Di Tommaso, the Deputy Minister of Community Safety. It should be noted that Mr. Di Tommaso served as Superintendent Taverner’s direct supervisor with the Toronto Police Service for a number of years.

Second-round interviews were held on November 20, 2018. In advance of the second-round interviews, I was informed that the interview panel would consist of the following people: Dean French, the Premier of Ontario’s Chief of Staff; Steve Orsini; the Secretary to Ontario’s Provincial Cabinet; Mario Di Tommaso; and Sal Badali.

Prior to my second-round interview, I witnessed Dean French walk out of the building. Approximately ten minutes prior to the beginning of my second-round interview – which was scheduled to commence at 9:45am – I was informed that Dean French would no longer be participating in the second-round interview panel.

Throughout the interview process, Sal Badali informed me on numerous occasions that he had no influence on either the process or the outcome of the interviews for the position of Commissioner.

***The Decision Appears to be Made Prior to the Cabinet Meeting***

At the end of my second-round interview, I was told by Sal Badali that I would receive a call regarding the outcome of the interview process either on the afternoon of Wednesday November 21, 2018, or on Wednesday November 28, 2018. This was because the Cabinet meets on Wednesdays and the Cabinet would ultimately decide on the appointment of the new Commissioner.

Unexpectedly, I received a call from Sal Badali at approximately 3:17pm on Tuesday November 20, 2018. During this telephone call, Mr. Badali informed me that he could not tell me about the outcome of the interview process but that a name was before the Secretary of Cabinet, Steve Orsini, that this name was being “socialized” and that an announcement would be made within the next two days. I understood this to mean that a candidate’s name had been selected and was being considered by the Secretary of Cabinet, Steve Orsini. Around 12:04pm, prior to Mr. Badali’s call, OPP Corporate Communications received an email from a Senior Communications Coordinator with the Ministry of Community Safety and Correctional Services indicating that we may learn

the name of the new OPP Commissioner as early as that very same day – i.e. November 20, 2018 – and requesting a review of a draft news release. The contents of this email were shared with me by OPP Corporate Communications. The totality of these events led me to believe that a selection for the new OPP Commissioner had been made on November 20, 2018, prior to Cabinet meeting on either November 21, 2018, or November 28, 2018.

The announcement for the new OPP Commissioner was ultimately not made until approximately 5:30pm on Thursday November 29, 2018. I was informed of Superintendent Taverner's appointment via a telephone call from Deputy Minister Di Tommaso, at approximately 12:34 pm on November 29, 2018. Deputy Minister Di Tommaso asked me to stay with the OPP and support Superintendent Taverner's leadership.

### ***Superintendent Taverner Accused by Media of Leaving the Premier's Office***

On Sunday December 2, 2018, I met with Superintendent Taverner at a Swiss Chalet to discuss his plans for his new role as Commissioner of the OPP. Our conversation mostly focused on his transition into the organization and the current challenges we were facing. We also had a brief discussion about the selection process we had just been through. During that part of our conversation he conveyed to me that on Tuesday November 20, 2018, after his interview, he ran into a reporter. The reporter accused Superintendent Taverner of having just left the Premier's office. Superintendent Taverner did not confirm whether or not he was in the Premier's Office on November 20, 2018. As already stated, Superintendent Taverner was the last candidate to be interviewed on November 20, 2018. Superintendent Taverner informed me that he asked the reporter to hold off on any story in exchange for providing this reporter with a first interview in the near future. I am not aware of the reporter's name; however, on December 8, 2018, Superintendent Taverner was interviewed by an unidentified CTV Global reporter.<sup>2</sup> From reviewing other media links,<sup>3</sup> I believe that the reporter in the video is Nick Dixon, a weekend Anchor and Reporter with CTV news.

### ***A Concerning History Already Exists Between Premier Ford's Office and the OPP***

Recent interactions between Premier Ford's Office and the OPP add to the concern about maintaining the independence and integrity of the OPP, free from undue political interference.

Prior to my appointment as Commissioner of the OPP, I was aware of requests from Premier Ford for a specific security detail, staffed with specific officers that Premier Ford would feel comfortable with. The OPP has the responsibility to provide dignitary protection to the Premier. A dedicated unit with a command structure provides this protection and reports within the OPP via the chain of Command to the Superintendent in charge of our Security Bureau. Security Bureau

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<sup>2</sup> [video link: <https://www.cp24.com/video?clipId=1559654&binId=1.1127680&playlistPageNum=1>]

<sup>3</sup> See also: <https://toronto.ctvnews.ca/video?clipId=1559731&binId=1.3378530&playlistPageNum=1>

reports to the Deputy Commissioner of Traffic Safety and Operational Support which is my command.

Typically, the security detail for the Premier is shared, and there is a rotating team that is responsible for both the security of the Premier and the Lieutenant Governor. Premier Ford expressed displeasure that this request was not being acted on by the OPP. Premier Ford requested that he have a face to face meeting with former Commissioner J.V.N. “Vince” Hawkes and stated that if former Commissioner Hawkes would not address the issue, perhaps a new Commissioner would. Ultimately, the Premier’s request was approved and implemented by the OPP.

In addition, as part of the protection package for the Premier vehicles are provided. The direct relationship with the Premier on operational matters in this arrangement are done via an OPP S/Sgt and the Premier’s Chief of Staff, Mr. Dean French. Mr. French requested that we the OPP purchase a large camper type vehicle and have it modified to specifications the Premier’s office would provide us. Mr. French then provided specifications and costs via a document from a company to our OPP S/Sgt and asked that costs associated with the vehicle be kept off the books. Approaching an individual company as a sole source and asking for the monies spent to be hidden from the public record is at minimum a violation of the Ontario Government’s financial policies.

These incidents add to my concerns about maintaining the integrity and independence of the OPP from undue political interference.

### **The Remedy: A Review by the Ombudsman**

#### ***Protecting the Public Interest***

It is paramount that we do not forget the lessons learned from the Ipperwash Inquiry. The Ipperwash Report implores that “[t]ransparency is important in order to promote accountability and public confidence in police-government relations.”<sup>4</sup> I would submit that failure to ensure such transparency and accountability creates a dysfunctional service.

This matter has been addressed in a number of publications which have continuously raised the need to ensure the independence of the OPP from perceived political interference.

On December 3, 2018, the Toronto Star Editorial Board<sup>5</sup> stated:

The men and women who lead our police forces should be free of any suspicion that they’re likely to be swayed by political influence.

That much is obvious, and in Ontario it’s especially true for the biggest force in the province, the one that’s the first to be called in when there’s wrongdoing by politicians or government officials.

<sup>4</sup> *Ibid* note 1 at 48.

<sup>5</sup> <https://www.thestar.com/opinion/editorials/2018/12/03/opp-leadership-must-be-free-of-political-suspicion.html>

On December 5, 2018, the Globe and Mail's columnist Marcus Gee stated:<sup>6</sup>

Democratic countries put a wall between leaders of the government and leaders of the police for a reason. If the police are beholden to those in power, it opens the door to political arrests. Police become guard dogs for the rulers instead of guardians of the public. People stop believing that the police will enforce the law without favour.

Even in a fortunate country like Canada where a descent into authoritarianism is remote, it is unwise to have a top cop who is the chum of a premier. Police sometimes have to investigate government leaders accused of lining their pockets or playing loose with election rules. How is the public going to trust the police to probe potential crimes or misdemeanours of the Ford government with Mr. Taverner in charge?

On December 8, 2018, Stephen Maher wrote an opinion for the Macleans stating:

The public must have confidence in the impartiality of the OPP but can't have confidence in Taverner. This is not how Ontario ought to be governed.

Taverner can either refuse the job or accept that he will always be viewed with deep suspicion.

On December 10, 2018, Law Professor Kent Roach (who advised the Ipperwash inquiry), wrote an opinion for the Globe and Mail, stating:<sup>7</sup>

... the fundamental concern should centre around the threat of populism on police independence and the rule of law.

...

A premier who directs how the OPP enforces the law will create a police state. An OPP that can do whatever it wants, however, equally will be a police state.

...

Ipperwash or worse could happen again. The Premier's enemies could be targeted and his friends sheltered if there is not better protection of police independence. This is the way that a democracy committed to the rule of law dies.

The Ipperwash Inquiry was not a one-off examination of the issue of political interference but rather, the fifth major Canadian public inquiry in the space of 25 years to consider

<sup>6</sup>[http://v1.theglobeandmail.com/servlet/story/RTGAM.20181205.ellipsis\\_DRVWOWVXB5B2ZKTVKFSBORHTX4/BNStory/National/marcusGee](http://v1.theglobeandmail.com/servlet/story/RTGAM.20181205.ellipsis_DRVWOWVXB5B2ZKTVKFSBORHTX4/BNStory/National/marcusGee)

<sup>7</sup>[https://www.theglobeandmail.com/opinion/article-is-police-independence-at-risk-in-ontario/?cmpid=rss&utm\\_source=dlvr.it&utm\\_medium=twitter](https://www.theglobeandmail.com/opinion/article-is-police-independence-at-risk-in-ontario/?cmpid=rss&utm_source=dlvr.it&utm_medium=twitter)

police/government relations.<sup>8</sup> This issue demands repeated and careful attention, and should it ever be threatened, as it is in the current circumstances, the public interest demands inquiry and review. Canadian democracy depends on it, as it depends on the police to fulfill their responsibilities equally, fairly, professionally, and without partisan or inappropriate political influence.

### ***Complaint to the Integrity Commissioner***

As you are likely aware, a complaint has been made to the Integrity Commissioner pursuant to section 2 of the *Members Integrity Act*. That section of the *Act* bans MPPs from making a decision, or participating in making a decision, “in the execution of his or her office if the member knows, or reasonably should know, that in the making of the decision, there is an opportunity to further the member’s private interest or improperly to further another person’s private interest.” Under the *Act*, if a finding of misconduct is found, the Commissioner can make a report and make a recommendation regarding penalties. However, once the Commissioner provides his report, the Assembly has 30 days to consider the report recommendations and may approve the recommendations and impose the penalty recommended.

In a sworn affidavit sent to the Integrity Commissioner, Kevin Yarde, an NDP MPP, focuses mainly on the fact that Premier Ford did not recuse himself from the final cabinet decision to appoint his family friend, Ronald Taverner to the position of OPP Commissioner, in addition to the fact that the job qualifications for the position were lowered such that Mr. Taverner became eligible to apply.

My concern is broader than the thrust of MPP Kevin Yarde’s complaint to the Integrity Commissioner. Mr. Yarde’s complaint is about the concern that Premier Ford acted on a personal interest for private gain. My request for your involvement as Ombudsman is about how this process has impacted me personally, the perceived independence and integrity of the OPP, and the public confidence in the OPP as an independent policing agency.

It is my opinion, as MPP Yarde’s complaint was made to Ontario’s Office of the Integrity Commissioner, that you are not barred from conducting a review of the matters set out above. Pursuant to s. 14 (4.4) of the *Ombudsman Act*, you are only barred from reviewing a matter within the jurisdiction of the Integrity Commissioner appointed pursuant to either the *Municipal Act*, or the *City of Toronto Act*, neither of which is applicable in these circumstances.

### **Conclusion**

I have accepted that I will not be the Commissioner of the OPP going forward, and this request for a review of the circumstances of the appointment of Superintendent Taverner has nothing to do with my desire to remain in this position. Rather, this request for a review is to ensure the independence and confidence of the command of the OPP. Given the circumstances outlined

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<sup>8</sup> In addition to the Ipperwash Inquiry, this issue was discussed at the APEC Inquiry, the Donald Marshall Inquiry, and the McDonald Commission.



above, it is clear to me that as the current Commissioner I must put my service to the OPP ahead of personal ambition in order to repair the apprehension of bias over this process and the potential damage to the reputation of the OPP.

Please be advised that I am represented in this matter by Julian N. Falconer and Falconers LLP and I would appreciate your office contacting my counsel if you require to speak to me further. Mr. Falconer can be reached at [julianf@falconers.ca](mailto:julianf@falconers.ca).

Yours very truly,

A handwritten signature in black ink, appearing to read 'BNAL', written in a cursive style.

Brad Blair  
Commissioner of the Ontario Provincial Police