

Background

On Thursday, April 22, 2010 Detective David VAN BUSKIRK of the Windsor Police Service received a call from his daughter who reported to him an incident during which she had been approached by a man who had attempted to enter the vehicle being operated by her mother and in which she was a passenger. This had occurred as she and her mother were leaving the Parkside Tennis Club where she had been receiving tennis lessons. The same man had approached and talked to her earlier while she was in the tennis club. The man had been chased off by employees of the club who had seen him acting in a suspicious manner within the club and then again in the parking lot. His daughter described the suspect as being; white, in his 50's, wearing glasses, having a bit of a beard, with a backpack, a brown jacket or long sleeves and with wavy dark hair.

As a result of receiving this information Detective VAN BUSKIRK left Windsor Police Headquarters in an unmarked police car and travelled to the tennis club. He searched the area but did not locate the suspect and started back to his office. While en route he noticed a man, later identified as Dr. Tyceer ABOUHASSAN, running and walking southbound on the west sidewalk of MacDougall Street adjacent to Jackson Park. He suspected that Dr. Tyceer ABOUHASSAN might be the person he was looking for. At about 5:00 pm he caught up with Dr. ABOUHASSAN in the parking lot of the Jackson Health Centre near the north wall of the building.

At the conclusion of the subsequent altercation between Detective VAN BUSKIRK and Dr. ABOUHASSAN, Detective VAN BUSKIRK arrested Dr. ABOUHASSAN on a charge of Assault Police contrary to section 270(1)(a) of the Criminal Code. During the incident Dr. ABOUHASSAN received serious injuries for which he required hospitalization and Detective VAN BUSKIRK claimed to have received a sore cheek caused by a glancing blow from Dr. ABOUHASSAN. The altercation was observed by several eye witnesses and, possibly unknown to Detective VAN BUSKIRK at the time, was also captured by a video surveillance camera.

Dr. ABOUHASSAN was removed from the scene by ambulance while Detective VAN BUSKIRK, apparently on the instructions of Staff Sergeant Michael LAPORTE, attended the police station where he prepared a General Occurrence Report (GO#: 2010-22570) alleging that he had been assaulted by Dr. ABOUHASSAN. Prior to leaving the scene Det. VAN BUSKIRK learned from Mr. Randy LEPACK, an employee of the Parkside Tennis Club who had attended the scene at Detective VAN BUSKIRK's request to view the suspect, that Dr. ABOUHASSAN was not the man involved in the incident at the tennis club. In addition, upon returning to his office, he also

learned that a patrol officer had spoken to another man with a similar description and referred to under case #22573.

It is the practice of the Windsor Police Service to have an independent investigator assigned to further investigate Assault Police charges and prepare the Crown Folder for court. On Friday, April 23, 2010 the report of Detective VAN BUSKIRK was assigned to Detective Kent MCMILLAN by his supervisor, Staff Sergeant Paul BRIDGEMAN.

Detective MCMILLAN completed his investigation and the file, charging Dr. ABOUHASSAN with Assault Police that was forwarded to the Ontario Courts of Justice in Windsor, after he had reviewed the General Occurrence interviewed civilian witnesses and reviewed a surveillance video of the incident. He also requested Dr. ABOUHASSAN and Dr. ABOUHASSAN's lawyer, Mr. Anthony BARILE, to provide a statement but his request was refused. Dr. ABOUHASSAN was required to make his first court appearance on Tuesday, June 15, 2010 and on that date the proceedings were 'Stayed' at the instance of the Attorney General pursuant to section 579 of the Criminal Code.

In the meantime, both the Special Investigations Unit (SIU) and the Office of the Independent Police Review Director (OIPRD) had received a complaint from Dr. ABOUHASSAN which caused them to commence investigations into the conduct of Detective VAN BUSKIRK. The SIU's investigation culminated in him being charged and subsequently convicted in June, 2012 on charges of Assault Causing Bodily Harm and Public Mischief for which he was sentenced to serve 5 months in jail.

On May 27, 2010 the OIPRD commenced its investigation which was focussed on the conduct of the police officers involved in the investigation of the Dr. ABOUHASSAN matter including Detective David VAN BUSKIRK, Staff Sergeant Paul BRIDGEMAN and Detective Kent MCMILLAN.

The OIPRD investigation resulted in the Chief of the Windsor Police Service being directed to hold a Hearing, pursuant to sections 68(3) and 68(5) of the Police Services Act R.S.O. 1990, in relation to the conduct of all three officers.

Det. VAN BUSKIRK resigned from the police service after being convicted criminally but prior to the commencement of a Hearing; therefore, jurisdiction was lost with respect to the allegations against him.

On February 21, 2013, after this Hearing of the allegations against him and S/Sgt Paul BRIDGEMAN had commenced but not completed, Det. MCMILLAN indicated that he was retiring from the service effective April 30, 2013. Jurisdiction with respect to the allegations against Det. MCMILLAN having been lost, due to his retirement, resulted in the proceedings against him being adjourned sine die. This Hearing continued with respect only to the conduct of S/Sgt. BRIDGEMAN.

Allegations

The following two Counts of Misconduct have been labelled by the Service along with their respective statements of particulars against **Staff Sergeant Paul BRIDGEMAN #1777**:

COUNT #1

Between April 23, 2010 to May 5, 2010 you did commit misconduct of Discreditable Conduct, in that you acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force contrary to the Code of Offences section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 123/98 of the Revised Regulations of Ontario, 1997 and therefore, contrary to Section 80(1)(a) of the Police Services Act, R.S.O.

PARTICULARS

Staff Sergeant Bridgeman was the Officer in charge of Windsor Police Criminal Investigation Bureau (CIB) on April 23, 2010. On that date, he received a General Occurrence Report dated April 22, 2010 and a file relating to the arrest of Dr. Abouhassan by Detective VAN BUSKIRK on April 22, 2010. He assigned the investigation to Detective MCMILLAN. Detective MCMILLAN reported to Staff Sergeant Bridgeman that he had located a surveillance video tape. Staff Sergeant Bridgeman reviewed the video tape with Detective MCMILLAN, while Detective VAN BUSKIRK was present, on April 23, 2010.

Staff Sergeant Bridgeman oversaw the investigation of Detective MCMILLAN, reviewed the case and watched the video on numerous occasions.

Staff Sergeant Bridgeman had a telephone conversation with Dr. Abouhassan's lawyer, Anthony Barile, wherein he advised Mr. Barile that the surveillance video corroborated Detective VAN BUSKIRK's Report.

Staff Sergeant Bridgeman also met with Mr. Barile at Windsor Police Service Headquarters on April 29, 2010, at which time Mr. Barile, Detective MCMILLAN and Staff Sergeant Bridgeman reviewed the video. At that time, Detective MCMILLAN pointed to the initial interaction between Detective VAN BUSKIRK and Dr. Abouhassan stating that it was during that interaction that Dr. Abouhassan's "arm movement was threatening".

Staff Sergeant Bridgeman acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force by endorsing the Assault Police Charge against Dr. Abouhassan when there were no reasonable or probable grounds to do so, thereby committing misconduct of discreditable conduct contrary to the Code of Offences Section 2(1)(a)(xi) of the Code of Conduct, O. Reg. 123/98 of the revised Regulations of Ontario, as amended.

COUNT #2

Between April 23, 2010 to May 5, 2010 you did commit misconduct of Neglect of Duty in that you without lawful excuse, neglected or omitted promptly and diligently to perform a duty as a member of the police force contrary to the Code of Offences section 2(1)(c)(i) of the Code of Conduct, Ontario Regulation 123/98 of the Revised Regulations of Ontario, 1997 and therefore, contrary to Section 80(1)(a) of the Police Services Act, R.S.O.

PARTICULARS

Staff Sergeant Bridgeman failed to properly monitor and oversee an investigation under his command. He failed to properly monitor and oversee an investigation under his command. [sic]

Staff Sergeant Bridgeman willfully and/or negligently disregarded inconsistencies in the information obtained by Detective MCMILLAN during the course of the criminal investigation and allowed an Assault Police Charge to be laid against Dr. Abouhassan, thereby committing misconduct of neglect of duty contrary to the Code

of Offences Section 2(1)(c)(i) of the Code of Conduct, O. Reg. 123/98 of the Revised Regulations of Ontario, as amended.

Exhibits

Fifty exhibits were tendered during the Hearing and they are listed in Appendix B.

Witnesses Evidence Summaries

At the commencement of the Hearing the following witnesses testified over its course. These can be generally divided into four categories; citizens who possessed information regarding the altercation that took place at approximately 5:00 pm on Thursday, April 22, 2010 at 2475 MacDougall Street, Windsor including the complainant, Dr. ABOUHASSAN, members of the Windsor Police Service who have particular knowledge with respect to the Services' operations or procedures, OIPRD staff responsible for investigating Dr. ABOUHASSAN's complaint, and the accused officer.

Dr Tyceer ABOUHASSAN (Complainant)

Dr. ABOUHASSAN testified that at the time of the incident he was a medical doctor employed at a hospital in London Ontario. He was responsible for making a complaint to the SIU and OIPRD against Det. David VAN BUSKIRK and that his lawyer assisted him to complete the complaint document on May 11, 2010 to which was attached a 3 page typed statement that he prepared on May 1, 2010.

The incident referred to in the documents occurred on April 22, 2010 outside the medical centre located at 2475 McDougal Street, Windsor. He had travelled by train from London and was going to visit a friend at the medical centre before going home to visit his mother.

At that time he became involved in an altercation with the then Det. VAN BUSKIRK during which he was assaulted and seriously injured. He first learned of the existence of a surveillance video two days later from his friend Eddie Kadri, a lawyer in Windsor, who had attended at the hospital while he being treated for the injuries he received. Mr. KARDI had obtained it from

Brian PORTER at the health centre. His lawyer, Mr. BARILE, showed him the video and also gave him a copy.

He viewed the video and identified himself in it. He also described what occurred and the conversation that took place between himself and Det. VAN BUSKIRK immediately prior to being assaulted and thereafter. His injuries included a concussion, broken nose, a laceration over one eye and a detached retina. He also identified 9 photographs depicting the injuries he had received and which had been taken at the hospital, his lawyer's office and at the office of his ophthalmologist.

He was subsequently released from custody at the hospital on a Promise to Appear to attend in Court on June 15, 2010 on a charge of Assault Police and also to appear for fingerprinting on May 25, 2010. He also acknowledged an undertaking that required him to have no communication directly or indirectly with David VAN BUSKIRK.

He acknowledged that on April 24, 2010 he declined to provide a statement to Det. MCMILLAN during a telephone call and had no further contact with him. He considers the charge being laid against him was more devastating than the actual assault because he knew that the charge would interfere with his medical licence. He was also concerned about the effect that a charge would have on his ability to cross the border for conferences. The matter was investigated by the SIU and in June 2010 the charge against him was stayed.

Under cross examination he stated that it was because he had been charged that it was decided to involve the SIU. He stated that he had never had a negative contact with the police before and does not have a record. He stated that he told Eddie KADRI his side of the story and was advised not to give a statement to the police at that time. He also agreed that he had commenced a civil action in the amount of \$14.3 million dollars. His detached retina was not apparent for a week after the incident and he did not inform the police. He indicated that a private investigator in the employ of his lawyer, Mr. BARILE, had gathered information relating to 8 or 9 eye witnesses that were available to the police and there was also the video. He also indicated knowledge of a "session" between Mr. BARILE and other police officers during which he believes it was suggested that if he dropped the charges against the officer the police would drop the charges against him. It was his knowledge of the eye witnesses, the video, and the session between Mr. BARILE and the police that caused him to believe that the police were not acting in good faith and influenced his decision not to provide a statement to them. The statement he provided to Mr. BARILE was primarily for his use at that time. His lawyer was focussed on trying to get the charges dropped because he understood the impact they would

have on his career and schooling. He has knowledge from his lawyer that the police had identified and located a mentally ill person who had been involved in the incident at the tennis club. He stated that he is visually impaired and would never attempt to strike anyone because he cannot defend himself. The witness was shown frame by frame video from Exhibit 11 but he qualified his responses due to his poor eye sight. He conceded that at certain points in the video someone, who had received no other explanation from him, might think that he was attempting to strike Det. VAN BUSKIRK.

Mr. Rob ZUFELT (OIPRD Investigator)

Mr. Zufelt has been an investigator with the OIPRD for the previous 3 years prior to which he has experience as a Military Police officer, an investigations manager with the Ontario Lottery Corporation and as an investigator with Purolator.

He testified that Dr. ABOUHASSAN's complaint was received on May 27, 2010 by investigators, but as the SIU was already involved, the OIPRD stood down pending completion of the SIU investigation. A Summons to a Witness was served on the Director of the SIU on September 14, 2010 requiring production of all materials in the VAN BUSKIRK incident and these documents were eventually received by the OIPRD.

He arranged attempts to enhance the video which were unsuccessful. He also interviewed Detective VAN BUSKIRK, Staff Sergeant BRIDGEMAN (on March 3, 2011) and Detective MCMILLAN (on April 21, 2011) and these interviews were audio recorded.

Mr. ZUFELT was vigorously cross-examined by the Defence, primarily on the procedures and processes followed during the OIPRD investigation including alleged collusion he might have had with the investigators in what were supposed to be compartmentalized investigations.

He introduced exhibits relating to his interviews with Det. MCMILLAN and S/Sgt. BRIDGEMAN including audio recordings (Exhibits 16 & 20).

Mr. Brian PORTER (Property Manager with Video Surveillance)

Mr. PORTER who is the General Manager of Windsor Squash and Fitness is also the Property Manager for the building at 2475 McDougall Street. He testified that he supplied Det. MCMILLAN with surveillance video after having some issues transferring it to external media.

The first he had heard about an assault taking place was in the early morning of April 23, 2013 when he received a telephone call from a lawyer who requested a copy of the surveillance video as his client had been assaulted. He immediately viewed the video and when he saw what was on it he contacted his father who is a lawyer. Also, later on that day Barile and Associates got involved and he was also contacted by Detective MCMILLAN of Windsor Police.

He and Det. MCMILLAN viewed the surveillance footage of the incident together in the electrical room where the system is located. Det. MCMILLAN requested a copy but there was no media available so Det. MCMILLAN had to leave and return with a thumb drive or other media which he did. He then copied the incident onto it and they went to another computer to ensure that it had copied correctly. They watched the video a number of times over about 10 minutes. Det. MCMILLAN wanted to see who the aggressor was and if a punch had been thrown by Dr. ABOUHASSAN. He testified that the surveillance machine records for about 4 -7 days and then erases itself. The amount of video transferred was from a short time before the incident up until about 30 minutes after the ambulance left.

He described the location of the camera to be just west of the main entrance pointing towards a cash machine and along the wall where the offices of NovaMed Diagnostics are located. Mr. PORTER reviewed the video and identified the parking lot. The camera was described as facing northwest and he was requested to view the video from about the 3 minute mark. He recognized Dr. ABOUHASSAN on the left and Det. VAN BUSKIRK whom he would not have recognized by name at the time.

He stated that the video shown to him is a fair representation of the video he gave to the police and it was entered as Exhibit 14. He gave the video a day or two after the incident. He was also able to identify Det. MCMILLAN. He had conversation with employees of NovaMed, Casey BALMER (employee) and Anna Waugh or DELDUCA (owner). He also recognized Dr. ABOUHASSAN because the doctor had done an internship there and had made use of the Windsor Squash and Fitness Club. He recognized Det. VAN BUSKIRK probably only after the news of the incident came out. He recalled that Det. MCMILLAN had said he was attempting to discover who had thrown the first punch. In watching the video he came to the conclusion that

Dr. ABOUHASSEN had not done so, and if anything, he only tried to defend himself. He only had one meeting with Det. MCMILLAN.

Under cross-examination the witness states that the clarity of the video was probably better viewed on a smaller screen. (The Hearing Room was equipped with a large projection screen) He maintained that he knew that it was Dr. ABOUHASSAN although perhaps at that time he may not have known his name. He maintained that it was he who downloaded the video from the security system and he reviewed the video with Det. MCMILLAN a number of times. He did not change the content of the video and he also would not have allowed it to be over-written because they had received requests for it. He maintained that Det. MCMILLAN indicated that he wanted to see if a punch was thrown. He also released it to the SIU and probably to the BARILE firm but he is not entirely sure. He also gave a statement to Emily WATSON of the SIU. He may have given Det. MCMILLAN the names of the witnesses from NovaMed as he knew them to be witnesses.

Ms. Waltraut (Wally) PIZZUTI (Eye Witness)

On the day of the incident the witness was working at NovaMed. She had left her office and gone to the "scanning centre" to drop off charts. Once there she was chatting with other staff, Casey BALMER and the owner, Anna DEL DUCA. Her attention was drawn to the window of the office when one man was thrown up against it by another man. She described the office to have a desk up against and facing the window. The window also has a sill about 12-18" deep which is also approximately at desk height. People outside can be seen down to about waist height depending on how tall they are and how close they are to the window. She saw the man in the yellow shirt grab a man wearing a green shirt and that he "began to punch [him] rather brutally". She was aware of who they were but probably only because she learned afterwards.

She described the altercation stating, "It wasn't a fight; it was a beating". She made the 911 call and from that point on she was communicating with the dispatcher. At the time she was standing behind Casey BALMER's desk and the window was about 6 feet in front of her. They had marks on the window for days from where the man in the green shirt had been thrown. The man in the yellow shirt stopped hitting the man in green shirt who was on the ground and bleeding. The man in the yellow shirt then got on his cell phone while pacing about in the lot.

She described the man in the green shirt's face as being all swollen and covered in blood. She believes that the man doing the punching was using his right arm. The man in the green shirt

appeared to be allowing himself to be “beaten to a pulp.” He did not appear to be defending himself at all. She believes the man in the yellow shirt had his shirt un-tucked. She stated that she is “fashion conscious” and did not recall seeing a belt. There was nothing to indicate that he was a police officer but she began to suspect that he was because of the way he was on the phone and looking for ID in the backpack that she presumed belonged to the man in the green shirt. He did not seem to be at all concerned.

She stated that Casey BALMER had climbed up on her desk to knock on the window to try and get him to stop and she thought that got the man in the yellow shirt’s attention. He stopped hitting the other man then. Her view of the incident was not impeded.

She thought that she was on the telephone a lot longer than she really was and she thought she was being asked irrelevant questions. Eventually the man in the green shirt sat up on the ground and later the “paddy wagon” came at about the same time as an ambulance. She was surprised that Det VAN BUSKIRK was given hand sanitizer before they treated the injured man.

She was contacted by Det. MCMILLAN although she was not sure when, but no statement was ever taken from her, “because I made the 911 call”.

Det. MCMILLAN attended at their office but she identified S/Sgt. BRIDGEMAN when asked to point out Det. MCMILLAN. A private investigator working for Mr. BARILE came and she gave him a statement but she made him come back several times until it was correct. She also gave a statement to the SIU.

She recognized her voice on the 911 call as it was played to her (Exhibits 33a, 33b). She also identified a statement taken from her by Emily WATSON of the SIU. (Exhibit 34) She claims to have told the same story regardless of who asked her.

At some point she saw a portion of the video on the Windsor Star website. She viewed the surveillance video (Exhibit 14a) and identified the location of the windows of NovaMed. She is aware of a camera that is located to the right of the front entrance. She identified the light coloured car at the forefront of the video as not being visible from the office. There was not much activity in the parking lot because it was close to five o’clock and most people had already left.

Under cross-examination she repeated that it was, “a beating, not a fight.” She was aware of the allegations of a “cover-up” and she acknowledged that she heard about it in the media. She

was unsure of exactly when she gave a statement to the private detective which may have been a few weeks later. He identified himself as working for Mr. BARILE. This was prior to being interviewed by the SIU on May 21, 2010. She agreed with Counsel that she did not tell the Dispatcher everything that had happened as she just wanted the police and ambulance to respond. Under intense cross-examination the witness maintained her initial positions as to what she saw. Her recall of her phone contacts with Det. MCMILLAN (he had left her a message at her cell number) is not clear but she maintained that he told her at some point that he did not need a statement because she had made the 911 call.

Ms. Casey BALMER, nee ZVRIC (Eye Witness)

The witness is an employee of NovaMed. She stated that she was in her office on Thursday, April 22, 2010 close to her going home time. She was sitting at her desk in front of which is a large north facing window. She initially noticed the man in the yellow shirt walking east in front of her and out of sight but did not pay much attention to him. A short time later the man in the yellow shirt was back in front of her window with a man in a green shirt. She recalls the men having a brief exchange and saying to Anna DELDUCA that it looked as if it was going to get serious. And then, within a couple of seconds, the man in the yellow shirt threw the man in the green shirt up against the window and then started punching him in the face. Then, before she knew what was happening, (Wally) PIZZUTI was calling 911 while Anna (DEL DUCA) said she was going outside to tell him that they were calling the police. She saw that after the man in the green shirt had been punched in the face a couple of times he slumped to the ground. Then the man in yellow shirt stood over him and continued to punch him when he was down. At that point the witness got up on her desk and banged on the window in an effort get him to stop and to let him know that someone could see what was happening. The man in the yellow shirt stopped and looked up and shouted "Call the police". He then went through a backpack and was shouting at the man on the ground to stay down. At that point the witness assumed that the man in the yellow shirt might be a police officer but he never showed a badge or a gun and he was in casual clothes.

It seemed to the witness that it took an unusually long time for the ambulance to arrive compared to the usual response time when she has called paramedics to the health centre. She also saw the "paddy wagon" arrive. She saw that the paramedics tended to the man in the yellow shirt first and then they walked over to the man in the green shirt who was bleeding profusely and they wrapped his head in gauze. She stayed until they had him put on a stretcher and then she left. She did not know the identity of the men on that day but the next morning

Dr. Said, a physician with whom she works, called to ask if anyone in her office had seen what happened. At that time she learned that the man in the green shirt was Dr. ABOUHASSAN. She stated that there were other offices in the building above hers and others on the ground floor beside hers. When she first saw the two men together it looked like the man in the yellow shirt was angry. She is unable to be 100% certain but she thought that the man in the yellow shirt may have used his left hand to punch the other man in the face. She was interviewed by Det. MCMILLAN on April 24, 2010. The witness recognized the statement taken by him but claimed that it is just the very basic information, his notes, and she would actually have given more extensive information similar to what she told the SIU and had testified to at this Hearing. She described it as “not wrong, just incomplete”. She assumed that he was taking down what was pertinent. The witness identified the statement she gave to Det. MCMILLAN (Exhibits 35a and 35b). The witness also identified the statement she gave to the SIU and agreed that it was accurate (Exhibit 36).

She viewed the video and pointed out at which point the action was taking place in front of her window. She confirmed that her account given at the Hearing and to the SIU was the same account that she gave to Det. MCMILLAN.

Under intense cross-examination she maintained that the statement as recorded by Det. MCMILLAN are from his notes and that what is written in his book is consistent with the typed version. Despite that, all of the things she said were not included. It is not wrong but it’s an abridged version of what she actually said.

Mr. Glendon PRICE (Eye Witness)

The witness has been a truck driver for Chrysler Transportation for the last 15 years and usually works the midnight shift. On April 22, 2010 he was parked in the lot of the Jackson Park Medical Centre as he had arrived between 4:00 and 4:30 pm for an appointment that was not until 5:30 pm. He was sitting in his truck because he had to pay for parking.

While he was there he saw the altercation between Det. VAN BUSKIRK and Dr. ABOUHASSAN during which he had a completely unobstructed view. He was in the second parking row right in front of the sidewalk and the men were just west of the main entrance to the medical centre. He described Det. VAN BUSKIRK as a big man with “arms like a body builder.” He later found out from a newspaper who they were although the officer had identified himself to Mr. PRICE by saying “It’s ok, I’m a cop” when Mr. Price approached. Mr. PRICE had jumped out of his

truck after the man wearing a yellow shirt and kakis had beaten the other man and yelled, "He's had enough, let him go". That was when the man turned around, flashed something and got on his phone to call other officers. At that point Mr. PRICE decided to make himself scarce and he continued to his appointment. He did so because he has long hair and rides a Harley. He thought that he might end up on the ground with that other man because he had seen an officer beat a man up. He was, "worried for myself". He went to Dr. COATES' office where he discussed what he had seen with two ladies at the front desk and then with the doctor he was seen by, because Dr. COATES was off that day. He described the attack upon Dr. ABOUHASSAN and indicated that he saw another woman outside in the lot. He thought that there were a lot of people inside although he could not say for sure if they saw anything. Later he saw something in the paper that the SIU was investigating and he called a lawyer's office and the lawyer told him to call the SIU (confirmed by Mr. BARILE). His own doctor's office is located on the second floor but facing to the back of the building away from the parking lot. He described the second man as being a small, skinny looking guy, looked Arabic with a green jogging suit on. He identified the accuracy of the statement he gave to the SIU. (Exhibit 37)

Under cross-examination he stated that he has an uncle who is a police officer and he believes that there are bad officers and good officers. As he was leaving he saw a City worker cleaning the blood up. He was referred to the last paragraph on page 15 of his statement in which he had stated that he believed the officer was trying to cover it up by his statements. He was asked to review the video and he stated that he had previously seen the Windsor Star version of it as well. He believed that the mirror of his truck is visible on the video but conceded that it would be unidentifiable to the police. He also conceded that he had deliberately made himself unavailable to the police.

(The value of Mr. PRICE's evidence to this Tribunal is limited to the purpose of knowing that he made the fact that he was a witness to the assault known to staff within the medical centre and that his description of the assault largely corroborates the evidence of the eye witnesses who viewed the incident from the NovaMed Diagnostics office. He also testified that, when he was leaving his appointment, a City worker was cleaning Dr. ABOUHASSAN's blood from the sidewalk in front of NovaMed.)

Det. Kevin CROUGH (Informations Officer)

Det. CROUGH testified that he is the "Informations Officer" and his duties include the laying of Criminal Informations at Court. He explained the related processes followed in Windsor.

He did not recall laying the specific Criminal Information in this case and he was referred to Exhibit 32. If the Crown Brief is incomplete or does not disclose enough information to support the charge then he will return it to the OIC.

He testified that he usually bases his information to the Justice of the Peace on the Summary. He points out that most summaries are about one or one and a half pages long but the one he is being referred to is about four pages which is fairly unusual. He confirms that the elements in issue to support the charge are present in the Charge Summary. He does not specifically recall this one as he has probably sworn to 10,000 since then. He presented the Information to JP Susan Hoffman. He relied upon the Detailed Charge Summary prepared by Kent MCMILLAN on April 23, 2010 at 8:20. (Exhibit 39 and a fresh copy of Exhibit 27 were entered through this witness.)

Mr. Anthony BARILE (Complainant's Counsel)

The witness was retained as Counsel for the complainant, Dr. ABOUHASSAN, on Saturday, April 24, 2010. He had his initial contact with Det. MCMILLAN on April 24, 2010, when he was asked if his client would provide a statement. He told Det. MCMILLAN that he was not ready to do so and only after he had ordered and reviewed the police disclosure would he consider whether or not to provide one. He ordered the disclosure on the following Monday but did not receive it until May 10, 2010. He met Det. MCMILLAN for the one and only time on Thursday, April 29, 2010. He also met with Det. Pat KEANE (who did not testify at this Hearing) on Monday, April 26, 2010 at the Ontario Court of Justice. He also met with S/Sgt. BRIDGEMAN the same day as he met with Det. MCMILLAN. He met first with S/Sgt. BRIDGEMAN and then with BRIDGEMAN and MCMILLAN together. He knew that there was a video tape available from information that he had received and he requested it. S/Sgt. BRIDGEMAN arranged to give him a copy. He met with S/Sgt. BRIDGEMAN either in the lobby of Police HQ or Court and he took him to a third floor room where there was video equipment. He briefly viewed it after receiving a copy and then Det. MCMILLAN reviewed perhaps 20 seconds of the tape that was played back 2 or 3 times. Det. MCMILLAN pointed out that it was Dr. ABOUHASSAN who was raising his arm in a threatening manner towards Det. VAN BUSKIRK. He did not agree with Det. MCMILLAN's

interpretation. His opinion was that the doctor had done nothing to precipitate what had happened. Prior to that he had spoken with S/Sgt. BRIDGEMAN and it was a similar conversation to the one he had had previously with S/Sgt. KEANE. There was talk of not proceeding if Dr. ABOUHASSAN did not proceed against Det. VAN BUSKIRK. He had had a more detailed conversation with Det. KEANE about Dr. ABOUHASSAN's background and the one with S/Sgt. BRIDGEMAN was not so detailed but he told him that they were dealing with "a good guy." They never supplied a statement because after reviewing the police report he decided they were condemning his client and instead they decided to go to the SIU. He understood that Det. MCMILLAN was in charge of the investigation and does not recall the exact roll of S/Sgt. BRIDGEMAN but he had been told by Det. KEANE that he would be contacted by S/Sgt. BRIDGEMAN and that's how they setup the initial meeting that Thursday.

He has known Dr. ABOUHASSAN since he was a young child and knew he had overcome great odds to become a doctor. His father had committed suicide and he had a lot of problems with his eyesight. He conducted their own investigation and not much, if anything, was shared with the police.

He was involved in a previous Police Services Act Hearing. He acknowledges that Mr. PRICE called and he referred him to the SIU. Mr. BARILE contacted the SIU probably during the first week of May. They did so because they did not expect to "get a fair shake" from the police. He maintains under cross-examination that it was Det. MCMILLAN who played the video over and over. He agreed that the statements taken during his investigation did not go to Windsor Police.

He had conversation with Assistant Crown Attorney Mr. Frank SCHWALM regarding the Stay of Proceedings.

Insp. William DONNELLY (OIC of Investigations)

Inspector DONNELLY has been the OIC of Investigations – Investigation Division since March 2013. His extensive CV was entered as Exhibit 40 and revealed that he has extensive investigative experience as well involvement in preparing training course standards. He knows S/Sgt. BRIDGEMAN who comes under his command.

The Job Description of a Staff Sergeant – Investigative Branch was entered through the witness as Exhibit 41. It is dated from 2008 but he testified it is still the current description. He testified

that duties basically fall into 2 components, the Administrative component and the Investigative Supervisory component and he described the duties involved in both areas. He identified how gaps in training can be assessed and any gaps can be filled through the taking of the appropriate course to ensure that the members have the necessary training and skills to do the job required. He also testified that officers also have a duty to ensure that they remain current through a variety of means.

The witness also described the General Investigation Course (GIT) and the Course Standard was entered as Exhibit 42. The Ontario Major Case Management Course (MCM) Course Standard was also entered as Exhibit 43.

He also entered the Training Course Records of S/Sgt. BRIDGEMAN from the beginning of his career in 1986 through until June of 2012 that showed a total of 94 courses.

The Oaths of Office as both a Cadet and Police Officer in the name of the witness were also entered and he testified that S/Sgt. BRIDGEMAN's would be similar in form and structure. (Exhibits 45 and 46)

Insp. DONNELLY was aware of the Health Centre incident and at the time he was in charge of the Investigative Analysis Branch. Although he knew about the video enhancement work that was done for Det. MCMILLAN he could not recall the date. Alan WELLS, a member under his command did the work, and he encouraged him to obtain as much information from the video as possible. He also described the basic workflow involved in preparing cases.

He also introduced the Criminal Charge File Directive 841-01 (Exhibit 47) and the Criminal Investigation Management Directive 780-00 (Exhibit 48) in detail.

The witness also addressed the Conflict of Interest Directive and stated that generally officers should not investigate incidents involving their own families.

The witness knows Mr. VAN BUSKIRK well and believed him when he had been told by him that he had been assaulted. He also stated that he did not have any different information as he had been locked out of the General Occurrence. He also had no knowledge of whether there had been any action taken over the conflict. He did not agree with the position of the OIPRD with regards to the responsibility of S/Sgt. BRIDGEMAN.

Insp. John MCQUIRE

The witness is a very experienced officer who was at the time of the incident the OIC of the Major Crimes Unit. Det. VAN BUSKIRK was assigned to the Investigations Branch and had a very good reputation and a number of awards. He described the process that is followed from the taking of a report through to their investigation.

He was aware of the Dr. ABOUHASSAN incident because he was called in to work at 6:00 pm on April 22, 2010 as it might have been something falling under the mandate of the Major Crime Unit. He made notes and had an independent recollection. He found S/Sgt. Michael LAPORTE, Insp. Randy GOULD and D/C Fredericks there. He was there to monitor the situation and to determine if the SIU had to be called. He knew that the arrested person was in the hospital and was injured. He might have had a fractured orbital bone but later he learned from Sgt. Peter CROWLEY that the injuries were not sufficient, at that time, to trigger the requirement to call the SIU. He described the workflow that probably led to the General Occurrence being directed in the Criminal Investigative Branch. He updated D/C's BRANNAGAN and FREDERICKS and also Supt. POWER.

Two investigations resulted, one being the Dr. ABOUHASSAN incident and the other a suspicious male incident. The suspicious male involved in the incident where Det. VAN BUSKIRKS daughter was involved had then gone to the Ministry of Transportation office where he was located by Constable WILSON. S/Sgt. KEANE's Special Victim's Unit took care of the predator incident and S/Sgt. BRIDGEMAN's Criminal Investigations Branch took care of the one involving the doctor. He spoke very highly of Det. MCMILLAN. and he had no concerns about the case being assigned to him. He knew that both D/Sgt. BRIDGEMAN and Det. MCMILLAN had been in touch with the doctor's lawyer in an attempt to get a statement.

He had no knowledge of whether the doctor's injuries were ever reported to Windsor Police but they were to the SIU. Windsor Police sometimes asks the SIU if they can speak to a witness involved in one of their investigations. He is not aware of any cover up.

The witness reviewed the report that Det. VAN BUSKIRK filed on April 23, 2010 but never saw the video. He stated that the S/Sgt. does not have knowledge of all the investigations but when he was in that position he would, in cases that might have been brought to his attention. On April 23, 2010 he met with Det. MCMILLAN who walked by his office and he believes Insp. Perpich and Insp. GOULD were there also. He thinks that was around 9:00 am and it was

mentioned that there was a video of the Jackson Park incident. He's not sure about the time. He never did see the video and D/C's BRANNAGAN and FREDERICK were not there.

As a result of this incident he had been required by Supt. POWER to oversee S/Sgt. BRIDGEMAN work and he reviewed 10% of S/Sgt's previous year's work flow. He did not find any problems. The witness testified that the Windsor Police Service does not know who authorized the Crown Brief.

S/Sgt. BRIDGEMAN (Accused Officer)

S/Sgt. BRIDGEMAN, who is the accused officer before this Tribunal, chose to testify although he is not required to do so. He has been a member of the Windsor Police Service since 1985 at which time he joined the Service as a Cadet. He is an experienced officer who has served in various uniform roles as well as serving 5 years in the Drug Unit and the Morality Unit followed by a short time on the road after which he was promoted to the rank of Sergeant. He then spent 7 years in Major Crimes, thereafter being promoted to the rank of S/Sgt. where he spent a short time in uniform and in the Traffic Unit. For about the last 7 years he has been the senior staff sergeant in the Criminal Investigations Branch. His duties are to review every file that is not a major crime file, and decide whether it will be investigated. He then assigns cases to investigators. If the Major Crime Unit is busy he will also assist it. There are supposed to be 4 S/Sgt's and 20 investigators but they are currently down to 3 S/Sgt's and 17 investigators. His role is an administrative function.

He knows Det. MCMILLAN who started a couple of years after him. He described him as "excellent" and stated that he had come out of uniform and was so highly thought of that he was picked for an experimental position in the west end. After 4 years he also went through the Drug Unit after which he spent some time on the road and was promoted to the rank of Sergeant. He also worked in Intelligence in the Covert Operations area and was considered to be excellent there. He decided that he liked the investigative area and applied to leave Intelligence and become a CIB detective.

At the time this matter occurred he was at home and returned to work the following day. On his arrival he was advised, via a hand written sheet from left by the acting S/Sgt. from the night before, that there had been Assault Police charge; it had been looked at and the file had been delivered to his desk by Inspector MCQUIRE. He approved that file along with about 25 others and he assigned it to Det. MCMILLAN for investigation after he read it. He gave it to Det.

MCMILLAN who he described as his best and most experienced detective. It was a routine decision. He called Det. MCMILLAN up to his desk and told him, his exact words being, "Treat this file as you would any other file, look for video and look for witnesses".

At about 2:00 pm that day he received a phone call from Det. MCMILLAN who told him that he had found both a video and witnesses. Det. MCMILLAN also warned him that there were other people trying to get the video which included an investigator working for a lawyer.

Around 3:30 – 4:00 pm he saw Det. MCMILLAN return to the office. Det. MCMILLAN told him that the video was inconclusive and the witness directed Det. MCMILLAN to go down the hall and see Insp's. PERPICH, GOULD and MCQUIRE, Supt. POWER and D/C FREDERICK. He did not go to the meeting as Det. MCMILLAN had all the information.

At the time he was aware that there were 2 separate investigations, the one involving Det. VAN BUSKIRK's arrest of Dr. ABOUHASSA and the other into the attempted abduction or sexual assault by the Special Victims Branch. They had launched an investigation into the actual person who had talked to Det. VAN BUSKIRK's daughter and he was a known sexual offender and was on the Sex Offender Registry. He believed that because the Professional Standards Unit (Insp. MCQUIRE testified he was in charge of Major Crimes at the time, not Professional Standards) had delivered the file to his desk they would have reviewed it and if they considered there was any criminality it would have gone to the Major Crimes Branch not to his branch.

The witness knows that Det. MCMILLAN had taken statements from certain people. On April 29, 2010 the witness was informed by Det. MCMILLAN that he had obtained 4 independent witness statements and they were from people at the medical centre. He gave MCMILLAN instruction to get them into the system accurately and was told by Det. MCMILLAN that the witnesses were what are known as "car crash witnesses", they didn't see what happened before, their attention was drawn to it and it was only after the incident began that they saw anything.

On April 23, 2010, Det. MCMILLAN returned to the office and he was operating his computer. He saw Det. VAN BUSKIRK get up and watch what was on Det. MCMILLAN's screen. As a supervisor he was concerned about that and went to see what was happening. The video from the incident in the parking lot was playing on the screen and he didn't think Det. MCMILLAN knew that Det. VAN BUSKIRK was behind him. He placed himself in front of Det. VAN BUSKIRK and asked him, "Are your notes done?" and he replied "Yes". He then asked if his notebook was caught up and again he said "Yes". The witness wanted the notes done prior to Det. VAN

BUSKIRK ever viewing that video, "for obvious reasons." He then watched the video with himself and Det. VAN BUSKIRK standing behind Det. MCMILLAN who was seated at the computer. He thought he saw a spot when Dr. ABOUHASSAN delivered a two hand strike to Det. VAN BUSKIRK who said something along the lines "See it was right there." The video continued and Det. VAN BUSKIRK walked away and said something like, "Thank God there's a video."

The witness has known Det. VAN BUSKIRK very well since VAN BUSKIRK joined the Service and worked with him as a partner in CIB for three years. He described him as "stellar." He would never believe that he would not be truthful with him. He did not know Dr. ABOUHASSAN. He reviewed Det. VAN BUSKIRK's notes and entries in the General Occurrence.

He had asked Det. MCMILLAN to try and get a statement from Dr. ABOUHASSAN but Det. MCMILLAN did not get one. He had also been called by Mr. BARILE who had told him they were doing their own investigation and would not give one "At this time."

The witness had also called Mr. BARILE who had not called back so he thought, "I was done." However, on April 24, 2010 Mr. BARILE did call him back. He knows him and they are not friends but they are not enemies. The witness stated that Mr. BARILE gave him the entire background on the doctor including that he had had a tragic upbringing. The witness told Mr. BARILE that he ought to see the video and they arranged to meet on April 29, 2010. At that time they watched the video "perhaps 7 or 8 times" although he was not sure of the exact number. At the end, Mr. BARILE was very clear that his client would not be providing a statement. The witness stated that he was mostly with Mr. BARILE playing the video back and forth and that Det. MCMILLAN left briefly to make a copy for Mr. BARILE to take with him. Mr. BARILE indicated that his client would not make a statement at that time and was very clear about it. Det. MCMILLAN met them at the elevator and gave Mr. BARILE a DVD with the video.

The witness heard back from Mr. BARILE which resulted in a meeting taking place on April 30, 2010 during which he felt Mr. BARILE was being somewhat elusive. He told Mr. BARILE he only had the officer's side of the story without a statement from DR. ABOUHASSAN and the end result was that Mr. BARILE indicated that they were going to lay a private charge. It was left like that and he notified Supt. POWER.

Det. MCMILLAN kept working on the file and he did an analysis that contained at least 8 or 9 "it appears" and the witness stated that when it is read you can't help thinking he's standing back and being as fair as possible.

The witness was shown Exhibits 32 and 27, the Charge Sheet and Criminal Information against Dr. ABOUHASSAN. He states that the hand writing on the Charge Submission sheet which says "Det. H. MCMILLAN 2767" is not in Det. MCMILLAN's handwriting and that the badge number is not Det. MCMILLAN's. His evidence is that he did not "endorse" the document and that the "Approved By:" line is blank. When he was talking to the OIPRD he gave them the names of the people who might have been responsible for generating that document. He had never seen Exhibit 27 which he recognized was sworn to by Kevin Crough.

He agreed with the evidence of Insp. DONNELLY in regards to responsibility and not with the opinion of Mr. ZUFELT.

At the time that he was dealing with the matter and the SIU had not invoked their mandate. He did not know that DR. ABOUHASSAN's injuries were more severe until after he completed involvement in the case and was never notified of them by Dr. ABOUHASSAN. He agreed with Counsel that once the SIU invoked its mandate the Windsor Police Service had to take a back seat. He denies having committed either of the alleged charges. He did not see the complaint of Dr. ABOUHASSAN until after he was finished with the case.

He was aware that Det. MCMILLAN arranged for the enhancement of the video and he believed that the OIPRD took exception to that. The witness was aware that two Crowns authorized the "Staying" of the charge.

He stated that all of the witnesses were included in the Crown Brief and none were concealed. There was no suppression of evidence. He spoke with Supt. POWER and others. He claims that he and Det. MCMILLAN got "book ended". He believes that the video is a "powerful" piece of evidence and further stated, "The video is a great piece of evidence."

Under cross-examination regarding his notes he believed that they were all disclosed to the SIU. Before testifying, he reviewed his notes, notebook and testimony from the first trial. He also reviewed Det. MCMILLAN's and Det. VAN BUSKIRK's, the Inspector's and possibly others he can't recall. He looked at the original notes in the disclosure from OIPRD. He denied having looked at anything that had not been disclosed. He did not recall seeing Det. VAN BUSKIRK's notes and he did not recall reviewing the statement that Det. VAN BUSKIRK gave to the SIU. He did not review anything from the trial. He reviewed Insp. GOULD's and possible MCQUIRE's. He admits to having full disclosure 2 years ago.

The original file was sitting on his desk. He has taken both the GIT and MCM courses. Others look to him for guidance because he is the senior staff sergeant. He told MCMILLAN to treat it like any other file because it was of a unique nature. He put more attention to it because Det. VAN BUSKIRK was dealing with a family member. He told Det. MCMILLAN to look for video and witnesses. He denied directing Det. MCMILLAN to advise the administration. He admitted that he may have sent Det. MCMILLAN to see Insp. PERPICH. He did not really follow-up with Det. MCMILLAN. It would have been in the afternoon that Det. MCMILLAN obtained the video. He has seen the video a number of times. When asked why he thought it was a “powerful piece of evidence” when he had been told by Det. MCMILLAN that it was “inconclusive”, he stated that he believes it to show the doctor delivering a two hand shot that corroborates what was in at the time, in Det. VAN BUSKIRK’s report.

He described a “two hand shot” to be two hands hitting another object although he does not know if they hit the object at the same time. He did not elaborate further when asked to. He stated that he believed that it was in the portion that was displayed in reverse and with which he stated the OIPRD agreed. He agreed that he was referring to the June 9th Addendum Report of the OIPRD. When asked if he ever reviewed the Charge Summary he claimed never to have seen it. When shown the Crown Brief (Exhibit 29) and referred to the Charge Summary of May 3, 2010 authored by Det. MCMILLAN on April 23, 2010 at 8:30 am he stated that is the time at which it was opened. He reviewed Exhibit 38, the Will Say Statement of Shelley BENETEAU. He agreed that Det. MCMILLAN’s badge number was 2769. He did not believe that he did review it. When shown Exhibit 29 the Crown Brief he admitted that he would have read Det. VAN BUSKIRK’s report but he does not know when.

He believed that he did review the statement of Michael LAPORTE. He read it early in the investigation. He agreed that the Crown Brief would be created by Det. MCMILLAN but claimed that Det. MCMILLAN never hit the print button as he was in the process of building it. He does not think that Det. MCMILLAN completed it because the investigating officer did not hit the final print button. He knew that because Det. MCMILLAN did not print his name on the Charge Sheet and it had the wrong badge number on it (2767 which should be 2769). He admitted that he had reviewed the Supplementary Report of Det. MCMILLAN dated April 24, 2010 at 8:22 am. Det. MCMILLAN brought it to him to review the area where Det. MCMILLAN had reviewed the video tape at paragraph 6 on page 1 commencing with “The video shows...” Det. MCMILLAN put in “appears” because he wanted to be fair to all parties involved. He denies reading the Supplementary Report of Adam YOUNG in the context of overseeing the report. He did not read any of the witness statements because of his workload. Instead, he had a brief meeting

with Det. MCMILLAN who gave him a brief overview and the overview was that they were “car crash” witnesses.

He stated that they did not get into the actual details. He did read Dana VAN BUSKIRK’s statement because it came in at the beginning. He claimed that he did not hear about the others until around April 29. He disagreed with Counsel that the description of the suspect given by Dana VAN BUSKIRK does not match that of Det. VAN BUSKIRK. He thought every ones description in this matter was relatively close. He stated that he probably saw the statement of Det. VAN BUSKIRK’s daughter and she also described a white male. He did not read the statement of Casey BALMER. He also did not see the Charge Processing cover sheet or the Charge Submission form.

He does not know if there were any investigative steps being taken after April 29, 2010 on which date the last modification to the Charge Summary was made.

When being referred back to his testimony about Det. VAN BUSKIRK having watched the video he admitted that he did not make any notes about Det. VAN BUSKIRK’s responses because Det. MCMILLAN was right there and he could have if he thought it necessary as he was the OIC of the case.

The witness denied that he would “instinctively” trust Det. VAN BUSKIRK over Dr. ABOUHASSAN whom he did not know.

He claimed not to know anything about the criminal trial of Det. VAN BUSKIRK or whether he had been found guilty or plead guilty.

He had seen the video about 7 times with Mr. BARILE and 2 or 3 times with Det. MCMILLAN but qualified this by saying that he had never gone frame by frame. He claimed that he did not review the video, only watched it. He admitted that he, when asked by Mr. ZUFELT (Exhibit 21), if he believed that the information brought forward by Det. MCMILLAN supported the charge had answered “Oh without a doubt.” He was not specific about what he actually saw on the video at times.

He did meet with Mr. BARILE and Mr. BARILE set up the appointment. He admitted to telling Mr. BARILE that he thought it was a “powerful” piece of evidence. If Mr. BARILE did not agree he was entitled to his opinion. He knew that Mr. BARILE was having his own investigation done

and that he might lay a private charge. He stated that he did not know that the doctor was legally blind but at some point he had received information from someone that he had a vision problem.

He agreed that there was a considerable difference in the statures of the doctor and the detective. He stated that when he met with Mr. BARILE on April 30, 2010 the investigation was not over and he claimed that there was still a lot to do although he was unable to say what that might have been. When questioned in regards to his supervision of Det. MCMILLAN he appeared to distance himself from the investigation and said that it was entirely up to Det. MCMILLAN what was done. He implied that Det. MCMILLAN was not required to keep him updated and that he may have had other things to do.

He did not know when it was that he knew that the charge had been laid.

When the witness found out that the charge against Dr. ABOUHASSAN had been Stayed (June 15, 2010) he did not give further instructions to Det. MCMILLAN but Det. MCMILLAN told him at some point that he was having the video enhanced. Again, he stated that he didn't tell Det. MCMILLAN to do anything because Det. MCMILLAN was the OIC of the case.

He did not have any discussion with anyone about the "Staying" of the charge and the file remained active in the Versadex system. It would come back to the witness eventually and he thinks that it did in December. That would be when he marked it as completed. Again he was asked if Det. MCMILLAN had found out any further information that would allow the Stay to be lifted and he again seemed to distance himself from the case by repeating that Det. MCMILLAN was the OIC. He admitted that the only additional evidence he was aware of was the enhancement of the video obtained by Det. MCMILLAN.

He admitted that he told Mr. Zufelt that he could have stopped the charge and that he could also have made application to have the charge withdrawn if he had had the grounds to do so.

He was referred to the Addendum Report of the OIPRD (Exhibit 15) completed by Mr. ZUFELT which showed that the enhanced video was requested by Det. MCMILLAN on May 6, 2011. This is the only enhancement that Det. MCMILLAN had requested as far as he knew.

In response to what he meant by his previous statement, that the initial surveillance evidence was "a powerful piece of evidence", he replied that to a large extent it corroborated what Det. VAN BUSKIRK had put in his report.

When shown the transcript of his evidence to the SIU on May 20, 2010 and asked about his statements to them regarding the viewing of the video by Det. VAN BUSKIRK there appeared to be discrepancies between what he told the Hearing previously and what he told the SIU although the witness claimed that the details were the same, just from a different viewpoint.

In re-examination he stated that he was not aware that Det. VAN BUSKIRK was going out to conduct an investigation into the incident involving his own daughter as he was at home and he denied “endorsing” the charge to forward.

Position of Counsel and the Law

Both Counsel made detailed submissions as to their individual positions, the importance of particular witnesses and each supplied a number of cases. The Tribunal reviewed both their submissions and cases provided.

Counsel has conceded that in this case, that training, skills and ability of the officer are not in issue.

A common issue raised was with reference to the term “endorse” as it is contained within the Statement of Particulars in reference to Count #1. The Defence has consistently taken a narrow interpretation of this term and has argued that because S/Sgt. BRIDGEMAN did not “endorse” in writing the Charge Submission form (Exhibit 32) that it is impossible for the Prosecution to prove its case. The Prosecution on the other hand provided definitions of the word from several different dictionaries.

It does appear that the word has multiple interpretations, for example in the New Webster’s Dictionary; to write (esp. to sign one’ name) on the back of, and, to sanction: to confirm; to vouch for. In order to decide this issue the word must be considered in the context that it appears in the Particulars which read as follows;

*“Staff Sergeant Bridgeman acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force by **endorsing** the Assault Police Charge against Dr. Abouhassan when there were no reasonable or probable grounds to do so, thereby committing misconduct of discreditable conduct contrary to the Code of Offences Section*

2(1)(a)(xi) of the Code of Conduct, O. Reg. 123/98 of the revised Regulations of Ontario, as amended.” (emphasis added)

Had the Particulars stated something to the effect of “*endorsing the Windsor Police Service Charge Submission form*” the Tribunal would be inclined to agree with the Defence but the Particulars do not. The wording as it appears is certainly open to the second, wider interpretation as suggested by the Prosecution. In addition, no Windsor Police Service procedure was brought forward during the Hearing that uses the term in a policy document requiring that specific action for the processing of charges. It should also be noted that S/Sgt. BRIDGEMAN told the OIPRD that he agreed that the case brought forth by Det. MCMILLAN was supported by the evidence. When he testified at this Hearing he did not claim that he thought the charge should not have been laid.

Counsel did agree that the standard of proof is “*clear and convincing*” evidence defined as being weighty, cogent and reliable evidence upon which a trier of fact, acting with care and caution, can come to a reasonable conclusion that the officer is guilty of misconduct.

The Defense also noted some deficiencies in some aspects of the OIPRD investigation and/or the presentation of it but it must be stated that at the end of the day the OIPRD’s main contribution to the evidence in this matter are the statements of Det. MCMILLAN and S/Sgt. BRIDGEMAN, which fortunately were electronically recorded. The Tribunal used the transcribed versions, which were not reliable, only as an aid to locate the related audio. Otherwise, most of the OIPRD’s investigative information was received from the SIU and their involvement occurred a long time after this matter first came to light.

Counsel provided cases in respect to the concept of Discreditable Conduct explained in *Girard v. Delaney* (1995), 2 P.L.R 337 (Ont. Bd. Inq.) in the following manner;

1. The test is primarily an objective one.
2. The Board must measure the conduct of the officer by the reasonable expectations of the community,
3. In determining the reasonable expectations of the community, the Board may use its own judgement, in the absence of evidence as to what the reasonable expectations are. The Board must place itself in the position of the reasonable person in the community, dispassionate and fully appraised of the circumstances of the case.

4. In applying this standard the Board should consider not only the immediate facts surrounding the case but also any applicable rules and regulations in force at the time,
5. Because of the objective nature of the test, the subjective element of good faith (referred to in the Shockness case) is an appropriate consideration where the officer is required by the circumstances to exercise discretion.

With respect to Neglect of Duty the Tribunal was directed to the Commission's comments at page 1375 of Hewitt and Devine;

Essentially, this is a two part test. As the Commission stated in Soley and Ontario Provincial Police (1996), 3 O.P.R. 1098 (O.C.C.P.S.) at page 1100:

The charge of neglect of duty is a serious charge under the Code of Conduct. To be convicted of this charge, it must be shown that:

The member is required to perform a duty, and the member failed to perform this duty because of neglect, or did not perform the duty in a prompt or diligent manner.

Once proven, the member, to avoid discipline, must show that:

[The member] had a lawful excuse for not performing the duty in the prescribed manner.

It is also worth noting that neglect of a duty is not an absolute offence. The law is clear that there must be either "wilfulness" or a degree of neglect which would make the matter cross the line from a mere performance consideration to a matter of misconduct.

Analysis

It is important to note that the serious assault upon Dr. ABOUHASSAN was not committed or aided by S/Sgt. BRIDGEMAN, or for that matter, any other member of the Windsor Police Service. It was perpetrated by the then Det. VAN BUSKIRK alone, and he has subsequently been convicted of Assault Causing Bodily Harm and Public Mischief.

During the course of this Hearing the Tribunal has been careful to emphasize that the acts committed by Det. VAN BUSKIRK do not in any way reflect upon the conduct or character of S/Sgt. BRIDGEMAN who is blameless with respect to those offences for which Det. VAN BUSKIRK has been convicted.

A fair analysis of the manner in which the Windsor Police Service investigation into the matter of the incident involving Dr. ABOUHASSAN requires that information that could not have been known by the police investigators at the time of the investigation is not considered in measuring their responses, actions taken or actions omitted. For instance, in the case of the complainant Dr. ABOUHASSAN, the Tribunal heard his evidence which by its nature included his account of the unprovoked assault committed upon him by Mr. VAN BUSKIRK. Since Dr. ABOUHASSAN did not provide investigators with a statement, as was his absolute right, the actions of the officers must be measured with respect to the information that they could or should have been aware of, and but not all of the additional knowledge that this Hearing has imparted to the Tribunal. He also identified 9 photographs which the Tribunal accepts showed the injuries he received but these are only relevant in the context of helping to assess the eye witness evidence given Ms. PIZZUTI and Ms. BALMER as they were never available to the investigators.

Immediately after the assault of Dr. ABOUHASSAN, Det. VAN BUSKIRK was instructed by S/Sgt. Michael LAPORTE to return to Windsor Police Headquarters to complete the Arrest Report. This report is contained within General Occurrence #2010-22570.

The tribunal heard evidence from witnesses, including S/Sgt. BRIDGEMAN, indicating that it is the practice of the Windsor Police Service to assign an investigator, other than the complainant police officer, to be the officer in charge of cases involving charges of Assault Police. The purpose of this practice was stated to ensure that there is an independent review of the circumstances.

S/Sgt. BRIDGEMAN came into possession of the General Occurrence Arrest Report filed by Det. VAN BUSKIRK on the morning of Friday, April 23, 2010 at which time he received a hard copy of the report which was notated for action by the Criminal Investigation Branch. S/Sgt. BRIDGEMAN, as a supervisor in that unit, was responsible for assigning an appropriate member and he assigned it to Det. Kent MCMILLAN, an experienced investigator.

The Investigation Conducted by Det. MCMILLAN

Although the General Occurrence shows that Det. MCMILLAN was assigned the case at 10:00 am on April 23, 2010 by S/Sgt. BRIDGEMAN the report also shows that Det. MCMILLAN may have made entries to it as early as 8:20 am that morning.

The offence alleged, by Det. VAN BUSKIRK, to have been committed by Dr. ABOUHASSAN, was that he:

On or about the 22nd day of April in the year 2010 at the City of Windsor in the Southwest Region did assault David VAN BUSKIRK, a peace officer engaged in the execution of his duty, contrary to Section 270, subsection (1), clause (a) of the Criminal Code.

Section 270 of the Criminal Code reads as follows:

270. (1) Everyone commits an offence who

- (a) assaults a public officer or peace officer engaged in the execution of his duty or a person acting in aid of such an officer;**
- (b) assaults a person with intent to resist or prevent the lawful arrest or detention of himself or another person; or**
- (c) assaults a person**
 - (i) who is engaged in the lawful execution of a process against lands or goods or in making a lawful distress or seizure, or**
 - (ii) with intent to rescue anything taken under lawful process, distress or seizure.**

Punishment

(2) Everyone who commits an offence under subsection (1) is guilty of

(a) an indictable offence and is liable to imprisonment for a term not exceeding five years; or

(b) an offence punishable on summary conviction.

Essential elements of this offence are that:

- a. the person assaulted must be a public or peace officer and,
- b. the peace officer must be in the lawful execution of a duty,
- c. the person committing the assault must know or should have known that the person being assaulted was a peace officer.

On April 23, 2010 when Det. MCMILLAN was assigned the report in contained entries authored by the following officers;

Det. D. VAN BUSKIRK	Initial Officers Report	2010-Apr-22 18:54
Cst. A. YOUNG	Supplementary	2010-Apr-22 21:38
S/Sgt. M. LAPORTE	Supplementary	2010-Apr-22 23:17
Cst. Sean JONES	Witness Statement – R. LEPACK	2010-Apr-23 08:00
Cst. Sean JONES	Witness Statement – L. VAN BUSKIRK	2010-Apr-23 08:03
Cst. Sean JONES	Witness Statement – D. VAN BUSKIRK	2010-Apr-23 08:05

For Det. MCMILLAN to be satisfied that the charge was valid he had to ensure that the essential elements of the offence were present. Clearly Det. VAN BUSKIRK was legally a police officer, bringing him within the definition of peace officer, and that fact could be established simply through Det. VAN BUSKIRK's testimony in court.

To prove that Det. VAN BUSKIRK was in the lawful execution of his duties it would only be necessary for Det. VAN BUSKIRK to testify as to the information that he had received from his daughter and wife. His testimony in this regard could be confirmed through their testimony and that of the tennis club's employees if required. Mistaken identity or not, so long as he was acting in good faith and on reasonable grounds it was clearly within the scope of his duties as a

police officer to investigate matters relating to possible attempted abductions or sexual deviancy against a minor.

In order to establish that the accused knew or should have known that Det. VAN BUSKIRK, who was not in uniform at the time of the assault, Det. MCMILLAN had the "Initial Officer Report" contained within the General Occurrence report authored by Det. VAN BUSKIRK in which the following statement relating to police identification is found:

"As I approached, I called out "Windsor Police" in a loud, clear voice. My gun and badge were clearly visible. ABOUHASSAN looked at me, stopped, and turned away from me sideways facing west. I asked if he'd just been at the tennis club but saw that he had I-pod headphones in his ears. I reached out and pulled the headphone from his right ear. I repeated "Windsor Police". (Emphasis added)

It appears therefore, at least from an initial inspection of the report, that Det. MCMILLAN could be satisfied that the essential elements of the offence were present and that the Information's Officer, Det. CROUGH, would be able to satisfy himself of the existence of reasonable grounds for the laying of an Information.

However, even at this early stage of Det. MCMILLAN's follow-up investigation there are several statements contained within the General Occurrence that may be indicative of problems that would have to be addressed in order to ensure a successful prosecution of the case. There are clear indications that the person alleged to have assaulted Det. VAN BUSKIRK was, in fact, not the suspect believed to have been at the tennis club thus raising the issue of motive. This fact was confirmed through the evidence given by S/Sgt. BRIDGEMAN at this Hearing when he stated that he knew that the Special Victim's Unit had located the person who had actually spoken to Det. VAN BUSKIRK's daughter and that person was a known sexual offender who was already on the Sex Offender Registry and his evidence was confirmed by that of Insp. MCQUIRE.

The first of these is contained within the Initial Officer Report of Det. VAN BUSKIRK wherein Det. VAN BUSKIRK states:

"I called Randy and asked him to come by to confirm that I was talking to the man that had been at the club with Layne. I was cognizant throughout my dealings with ABOUHASSAN that he may not have been the man from the club and that even if he was, he may not have had any ill intentions". and,

"I saw Randy drive through the lot behind the ambulance. I approached him and he told me that he did not believe that this was the same individual that he had observed at the club." and (emphasis added)

"I returned to HQ and learned that there had been a suspicious male call in the same general area and that a man with a strikingly similar description to ABOUHASSAN and the suspect had been spoken to by a patrol officer. (see case #22573)"

and, from the report authored by S/Sgt. LAPORTE:

"I was also advised that PC R. WILSON has stopped an individual within close proximity to this occurrence about the same time that this incident occurred (See C#22573)"

Apparently the "wrong person" issue was recognized by Det. MCMILLAN who included reference to the failure of Mr. LEPACK to identify Dr. ABOUHASSAN as the suspect at the tennis club in his "Charge Summary" entered at 8:20 am on Friday, April 23, 2010 and in the "Detailed Summary" of the Crown Brief" (Exhibit 29), although there was apparently no effort made to determine what Dr. ABOUHASSAN's motivation might be for instigating a violent and unprovoked attack upon Det. VAN BUSKIRK, other than perhaps the request for a statement from Dr. ABOUHASSAN.

These observations are problematic in that the alleged conduct of Dr. ABOUHASSAN was much more likely to have occurred in the manner described by Det. VAN BUSKIRK, and as he had recognized in his Initial Officers Report:

"As a result of ABOUHASSAN's initial aggressive actions towards me I had the belief that this was in fact the male party from the incident at the tennis club and that he was attempting to physically harm me, escape or both and felt the need to defend myself."

if in fact Dr. ABOUHASSAN was really the suspect involved in the incident with his daughter. In fact, Det. MCMILLAN knew that Dr. ABOUHASSAN was a medical doctor, seen jogging towards the front doors of a medical centre, and even Det. VAN BUSKIRK had recognized in his report was not the suspect he had been looking for. Given these circumstances, including the indications of another suspect in S/Sgt. LAPORTE's report, surely any reasonable person, let

alone an experienced criminal investigator, would question why Dr. ABOUHASSAN had reacted in the manner that was alleged.

Motive can be an important issue in the prosecution of criminal cases and its relevance has been described as follows (**Lewis v. The Queen, [1979] 2 S.C.R. 821**);

1. *As evidence, motive is always relevant and hence evidence of motive is admissible.*
2. *Motive is no part of the crime and is legally irrelevant to criminal responsibility. It is not an essential element of the prosecution's case as a matter of law.*
3. ***Proved absence of motive is always an important fact in favour of the accused and ordinarily worthy of note in a charge to the jury.***
4. *Conversely, proved presence of motive may be an important factual ingredient in the Crown's case, notably on the issues of identity and intention, when the evidence is purely circumstantial.*
5. *Motive is therefore always a question of fact and evidence and the necessity of referring to motive in the charge to the jury falls within the general duty of the trial judge "to not only outline the theories of the prosecution and defence but to give the jury matters of evidence essential in arriving at a just conclusion."*
6. *Each case will turn on its own unique set of circumstances. The issue of motive is always a matter of degree.*

As the Supreme Court has observed, *"Each case will turn on its own unique set of circumstances. The issue of motive is always a matter of degree."* but in the circumstances of this case it is difficult to believe that any competent Counsel would not raise the apparent complete lack of motive in Dr. ABOUHASSAN's defence at trial.

As further noted by the Court, while motive is never an essential element of the Crown's case, proved absence of it is certainly advantageous to the accused. In this case, the original proffered motivation for the alleged assault apparently vaporized even while the participants were still at the scene when Mr. LEPACK told Det. VAN BUSKIRK that Dr. ABOUHASSAN was not the suspect from the tennis club incident. It was also known that Dr. ABOUHASSAN did not have a record and there was also the observation contained in the Supplementary Report authored by Cst. YOUNG who overheard a statement from Dr. ABOUHASSAN while guarding him at the hospital which was:

"He said he had never been in a fight before."

There is no indication that Det. MCMILLAN, or for that matter S/Sgt. BRIDGEMAN, ever engaged in enquiries into the doctor's background in order to find out, for instance, if he might be suspected by his employer or associates of substance abuse. Such a discovery might have reasonably explained the apparent anomaly and also put the Crown in a much better position if the matter went trial.

Detective MCMILLAN continued with his investigation by attending at the Jackson Health Centre, 2475 McDougall Street where he met with Mr. PORTER who has testified that he and Det. MCMILLAN viewed the surveillance video several times in the electrical closet where the recording system was located. He maintained under cross-examination that Det. MCMILLAN indicated that he wanted to see if a punch was thrown. It remains unclear exactly how many times the two men reviewed the video, both in the closet and again after it had been transferred to another computer, but it appears to be more than two or three times. Det. MCMILLAN did not have media with him at the time and had returned later in the afternoon at which time he was given a copy by Mr. PORTER.

Although Mr. PORTER was not entirely clear in his evidence, Det. MCMILLAN acknowledges in his reports (Exhibit 29) that he was directed to the employees at NovaMed Diagnostics by Mr. PORTER who knew that they had witnessed the altercation through a previous conversation. In fact Det. MCMILLAN had already left a message on the cell phone of the 911 caller to contact him, although probably, he did not know that she was employed at NovaMed when he did so.

Also, on April 23, 2010, Det. MCMILLAN left a message for one of the witnesses, Michael DIGIACOMO, at the tennis club to call him. He subsequently, on April 29, 2013 at 11:00 am, took a recorded statement by telephone from him.

He also left a message for Dr. ABOUHASSAN to call him and at about 2:20 pm received a call back. He requested a statement from Dr. ABOUHASSAN but was asked to speak with Mr. BARILE before the doctor would consent to providing one.

About 10 minutes later he spoke with Mr. BARILE who indicated to him that they had commenced their own investigation and Mr. BARILE would contact him regarding a statement pending the results of their own.

It is clear that the officers involved knew that the suspect arrested by Det. VAN BUSKIRK was a doctor and such information is noted in both the General Occurrence and Crown Brief (Exhibit

29). It was also Mr. BARILE's evidence that when he met initially with Det. Pat KEANE (who did not give evidence at this Hearing) on Monday, April 26, 2010, that he had given detailed information about Dr. ABOUHASSAN's background. When he met with S/Sgt. BRIDGEMAN on Thursday, April 29, 2010, he gave some of the same information to S/Sgt. BRIDGEMAN although in lesser detail stating that he told S/Sgt. BRIDGEMAN that "we were dealing with a good guy".

Indeed, there has been no evidence given before this tribunal that officers discovered anything negative in Dr. ABOUHASSAN's background that would explain the motivation of a legally blind and highly educated medical doctor to, without provocation, attack a much larger man who was obviously more physically capable than himself.

Such a situation seems to be unusual and not the usual type of Assault Police occurrence that the Windsor Police Service normally experiences. This was acknowledged by S/Sgt. BRIDGEMAN.

Locating Witnesses

Although it is certainly true that a statement from Dr. ABOUHASSAN might have made the investigator's job easier there are practices, such as canvassing the area of an incident, that are commonly used by police services throughout Ontario.

The video revealed that there were at least 8 vehicles in the lot at the time of the incident and we know from the evidence of Mr. PRICE that at least some of the offices in the building were open past 5:00 pm. There is however, no indication in the General Occurrence or in evidence given, that any attempts whatsoever were made to canvas the area or building for potential witnesses.

There is little doubt that some of the vehicles in the lot may have belonged to persons employed there. It would have been possible to attend the lot on a future day and attempt to match parked cars with those shown in the video. At that time the owners could have been traced and canvassed as to whether they had seen or heard about the incident.

Although Mr. PRICE deliberately made himself unavailable to the Windsor Police Service, his evidence revealed that he had discussed what he had witnessed with two ladies at his doctor's reception desk and then again with the doctor who treated him. Canvassing the offices within the building may have revealed his existence.

Permission could have been sought from Mr. PORTER to place posters in the building requesting witnesses to come forward or an appeal in the Media could have been made.

Further, statements were not taken from all of the known witnesses. In the case of the 911 caller, Ms. Waltraut (Wally) PIZZUTI, her existence was known to Det. MCMILLAN although he only had her telephone subscriber information on the same day he was assigned the report. He actually met her the following day at NovaMed Diagnostics but he did not take a statement from her. Her evidence was that Det. MCMILLAN said her statement was not required and there is no reference to her whatsoever in the General Occurrence report (Exhibit 29). She was however interviewed by the private investigator and by the SIU at which time she provided a statement that, when it was transcribed, was about 25 pages in length (Exhibit 34) and, like her testimony at this Hearing, pointed to a considerable level of violence and anger on behalf of Det. VAN BUSKIRK.

During his interview with the OIPRD on March 3, 2011 (Exhibit 16@35:13) Det. MCMILLAN told the investigators the following;

B. Ford And was Anna DELDUCA the 9-1-1 caller?

K. MCMILLAN: No it was one of her employees.

B. Ford: Okay and were you able to get a hold of [the] 9-1-1 caller?

K. MCMILLAN: She came in while I was recording the statements from these two. She just, she didn't see any of it. She was just told by Anna to call. (emphasis added)

His account also differs somewhat from the testimony of Ms. Waltraut (Wally) PIZZUTI who stated that he told her that a statement was not required because they (the police) had the 911 call. It is also consistent with what she told the SIU on May 21, 2010;

EVANS: When they took your statement, did you write it down or did they write it down?

PIZZUTI: The police?

EVANS: Yes.

PIZZUTI: *Uh, the police did not take a statement from me...*
EVANS: *Okay.*
PIZZUTI: *...um, because they said they -- I—I was the one that placed the 9-1-1 call and therefore they had that as record. It was only the lawyer for the victim that, uh (emphasis added)*

There was also the matter of the quality of the statements taken by Det. MCMILLAN. For instance, Ms. Casey BALMER (formally ZVRIC) who presented as a very credible witness at this Hearing, was interviewed (Exhibit 35 & 35B) by Det. MCMILLAN on April 24, 2010 and subsequently by the SIU on May 21, 2010 (Exhibit 36). While she did not criticize Det. MCMILLAN, stating that what he had taken down was not wrong but it also did not contain all of the details that she had given him. Again, critical information such as the detective's angry demeanor and that fact that, although she had him in sight for such a long period, she, like Ms PIZZUTI did not see anything that would identify the "man in the yellow shirt" as a police officer. The fact that it was probably her intervention by banging on the window that stopped Det. VAN BUSKIRK from delivering further blows to Dr. ABOUHASSAN, who was already dazed and on the ground, is completely lost.

In another example, the Crown Brief went to Court without the statement of Mr. Randy LEPACK ever being amended to show a critical piece of his evidence; that he had dismissed Dr. ABOUHASSAN as being the suspect involved in the incident at the tennis club.

Video

Although he reviewed the video initially in the presence of Mr. PORTER, who testified that Det. MCMILLAN wanted to see who threw the first punch, perhaps Det. MCMILLAN did not have the full text of Det. VAN BUSKIRK's report at hand then. He certainly did when he returned to his office where S/Sgt. BRIDGEMAN and Det. VAN BUSKIRK were.

Obviously Det. VAN BUSKIRK's Initial Officers Report was very important as it contained the arresting officer's description of how the incident played out and resulted in an arrest. It appears that the most important part of his Initial Officers Report starts at paragraph 5 on page 12 of 41 (Exhibit 29). This is the point at which he first observed Dr. ABOUHASSAN and

apparently thought Dr. ABOUHASSA was a suspect because he might match the description, was in the proximity of the incident and by “his suspicious behaviour”.

He continues in the second paragraph where he makes important observations (emphasis added);

1. As I approached, I called out “Windsor Police” in a loud, clear voice.
2. My gun and badge were clearly visible.
3. ABOUHASSAN looked at me, stopped, and turned away from me facing west
4. I reached out and pulled the headphone from his right ear
5. I repeated “Windsor Police”
6. ABOUHASSAN immediately reached out and grabbed me by the throat and pushed me backward
7. I grabbed at his shirt and he swung his right fist glancing off the left side of my face
8. As a result of ABOUHASSAN’s initial aggressive actions towards me I had the belief...

Different versions have been given during the Hearing and in statements to the OIPRD regarding the exact configuration and manner that all three officers viewed the video but the Tribunal finds that they did view it. The problem is that Item #1, #2, #6 and #7 simply did not happen as described in Det. VAN BUSKIRK’s report. While being confronted by the OIPRD investigators regarding the discrepancies, Det. MCMILLAN had the following exchange with them;

RZ: Okay so what we're trying, what I'm trying to do here is to reconcile the bits that support Detective VAN BUSKIRK's account based on the report that you submitted.

(???) (21:03).

KM: It could all be out of time sequence to him. When you’re in the heat of the moment, he could easily have been

RZ: That's fine.

KM: I don’t know.

This response is in itself troubling because if the acts that were claimed to have occurred, that were themselves the trigger for Det. VAN BUSKIRK to use force, did not happen immediately at the beginning then what is to be made of another of Det. VAN BUSKIRK’s statements in the Initial Officers Report;

“As a result of ABOUHASSAN’s initial aggressive actions towards me I had the belief that this was in fact the male party from the incident at the tennis club and that he was attempting to physically harm me, escape or both and felt the need to defend myself. ABOUHASSAN’s actions caught me totally off guard and I was shocked that he became so aggressive so quickly I immediately punched ABOUHASSAN with my right fist to the left side of his face.”

S/Sgt. BRIDGEMAN testified that Det. MCMILLAN told him the witnesses interviewed at the scene were what he termed “car crash” witnesses inferring that they didn’t really have much value but, in Det. MCMILLAN’s interview with the OIPRD investigators, the following exchange is recorded;

B. Ford: I see. The information that you have from the independent witnesses, did it support your interpretation of what you saw on the video?

K. MCMILLAN: Yes, pretty well.

If in fact Det. MCMILLAN did say something dismissive of these witnesses to S/Sgt. BRIDGEMAN then he was quite wrong to have done so. First, as previously mentioned, he had failed to take a statement from Ms. PIZZUTI at all, and second he had received information from a most credible witness at this Hearing, Ms. BALMER, who had described the actions of Det. VAN BUSKIRK in such a manner that Det. MCMILLAN should have been able to form reasonable grounds to believe that he had continued to punch Dr. ABOUHASSAN when the doctor was already down and incapable of defending himself, let alone escape from, or offer resistance to the detective. Such circumstances should have raised a concern that Det. VAN BUSKIRK had exceeded the degree of force reasonably necessary to detain the doctor.

Mr. BALMER’s evidence also repudiated Det. VAN BUSKIRK’s assertion that “My gun and badge were clearly visible.” and, as it would be necessary to prove that the doctor knew or should have known the “man in the yellow shirt” was a police officer in order to obtain a conviction of Assault Police, this was important to know.

Information such as these examples places considerable doubt upon the thoroughness of the police inquiry, case preparation and whether or not it was designed to determine the truth in an unbiased manner.

Involvement of S/Sgt. BRIDGEMAN

S/Sgt. BRIDGEMAN described himself as the senior staff sergeant in the Criminal Investigations Branch and he is a long serving and experienced officer. There is no dispute that it was his decision to assign the Dr. ABOUHASSAN matter to Det. MCMILLAN. When he did so he stated that he called Det. MCMILLAN up to his desk and gave the direction, "Treat this file as you would any other file. Look for video and look for witnesses." This is contrary to the statement of Det. MCMILLAN to the OIPRD on March 3, 2011 (Exhibit 16);

R. Zufeld: Uhm Were you given any specific instructions by Detective Sergeant Bridgeman when you were assigned the file?

K. MCMILLAN: No.

S/Sgt. BRIDGEMAN indicated that he expected his detectives to notify him of things that he ought to know about, saying in his examination-in-chief, that *"When something comes up that I feel I should know, I expect that they should call. This is a prime example of him doing the back and forth checking in."* and in keeping with that he had heard from Det. MCMILLAN at about 2:00 pm on April 23, 2010, at which time he was told that witnesses and a video had been located. S/Sgt. BRIDGEMAN went on to say the Det. MCMILLAN had *"also warned me that there was other people trying to gain that video, an ex-policeman who was working for a lawyer..."* On the return of Det. MCMILLAN he was informed that the video was "inconclusive" and he had sent MCMILLAN to update a number of Senior Officers who had been having a meeting nearby.

A short time later he viewed the video in the presence of Det's. VAN BUSKIRK and MCMILLAN and claims to have first ensured that Det. VAN BUSKIRK's notes and notebook were caught up and VAN BUSKIRK had stated that they were. He had done this because as the supervisor in the area and for transparency he wanted VAN BUSKIRK to have those things completed before watching the video for *"obvious reasons"*. His evidence was that he saw Dr. ABOUHASSAN deliver a 2 hand strike to Det. VAN BUSKIRK at that time. He also testified that he had read the notes and General Occurrence of Det. VAN BUSKIRK stating, *"Oh I read them, I read them over those 4 days there."*

Again, Det. BRIDGEMAN gave directions to Det. MCMILLAN in relation to attempting to obtain information about the doctor's injuries and also getting a statement.

He also acknowledges that the Service was aware of the identity of a known sexual offender and that person had been identified as the man involved in the incident at the tennis club. That investigation was being headed up by the Special Victims Unit. As was testified to by Insp. MCQUIRE, that unit was in the charge of S/Sgt. KEANE.

Upon his return from 4 days off, on April 29, 2010, Det. MCMILLAN reported to him saying; *“again this is this is a very normal course how it was done he comes up to me and and he’s reporting something he thinks I need to know.”* that he had obtained 4 statements. He asked MCMILLAN where he had got them, how he had recorded them and then Det. BRIDGEMAN directed him to check that the transcribers did the transcription from his book into the system correctly.

Further, he stated that he had reviewed Det. MCMILLAN’s video analysis in which Det. MCMILLAN repeatedly used the term “it appears ... and correct me if I’m wrong 8 or 9 times in 3 or 4 paragraphs” and further stated, *“and it’s almost to the stage that it’s irritating to read the paragraphs because it’s there but he does it for a reason. He doesn’t say this is what happened he said it appears and and he does it so much, over the top, that it, you you cannot, not be able to read that and say he’s trying to stand back and be as fair as possible.”*

Like S/Sgt. KEANE, S/Sgt. BRIDGEMAN also called and then subsequently spoke with and met with Mr. BARILE. They first spoke on April 24, 2010 and S/Sgt. BRIDGEMAN stated *“He gave me the entire background of the doctor, he had a tragic upbringing and I don’t need to get into that right now...”* He agreed to give Mr. BARILE the video surveillance and on April 29, 2010 he again met with him and along with Det. MCMILLAN, they viewed the video surveillance tape before giving it Mr. BARILE on CD. On April 30, 2010 he heard again from Mr. BARILE who informed him that his client was going ahead with a charge against the officer. S/Sgt. BRIDGEMAN made Supt. POWER aware of that.

He denied ever seeing the final hardcopy of the Crown Brief but it should be noted that during his interview with the OIPRD Det. MCMILLAN gave the following response;

R. Zufeld: You mentioned you processed the charge. Did you prepare the Crown Brief for this charge?·

K. MCMILLAN: Yes.

R. Zufeld: And what date did you prepare that? ·

K. MCMILLAN: I don't know. It is a work in progress. I don't have the Crown Brief with me. I have the general occurrence.

R. Zufeld: So at about what time or what date in time-at what point did you
K. MCMILLAN: I just turned it into Staff Sergeant Bridgeman. When he submitted it, I
couldn't tell you.
R. Zufeld: Did you give Staff Sergeant Bridgeman your assessment of your
investigation at that time.
K. MCMILLAN: We discussed it.
R. Zufeld: Okay and when did you discuss it?
K. MCMILLAN: During-he assigned it to me during my investigation.

Under cross-examination D/Sgt. BRIDGEMAN admitted that an Assault Police investigation involving a medical doctor was out of the ordinary and *"It was of a unique nature."* This was the reason he gave the initial directions that he claims to have given to Det. MCMILLAN. He stated that he *"put more attention to it"* because Det. VAN BUSKIRK had become involved in a matter involving his own family but would not accept that it rose to the level of concern.

He was asked about his assertion that the video was "powerful evidence" against the doctor when Det. MCMILLAN had told him that it was "inconclusive". He replied that when he watched it, he saw the doctor deliver a 2 handed strike to Det. VANBUSBIRK which was in VAN BUSKIRK's report. It must be noted that there is no such reference to such a strike being made by the doctor in the report of Det. VAN BUSKIRK.

Despite his previous evidence during his examination-in-chief, during cross-examination he was more circumspect regarding which parts of the report he had read during the investigation. He maintained that he did not read any of the witness statements that were directly relevant to the actual Assault Police charge although he apparently did read the witness statements that more properly belonged to the tennis club incident.

It was pointed out to him that the record shows that no further work was done after April 29, 2010. Surprisingly, he also denied knowing anything about the Det. VAN BUSKIRK case other than he had been convicted.

S/Sgt. BRIDGEMAN was referred to Exhibits 21 and 20 in relation to statements he made to the OIPRD and admitted that he said the words as shown to him in Exhibit 21. The actual words spoken in (Exhibit 20 @ 15:00) said are more accurately transcribed below;

R. Zufelt: Ahhm... Now you have reviewed the material brought forward by Detective MCMILLAN. Do you in your assessment as an investigative supervisor, do you believe that the ...it supports the charge?

P. Bridgeman: Oh without a doubt.

R. Zufelt: So you approve (?_?)

P. Bridgeman: If I didn't I would have (?_?)

R. Zufelt: Okay

P. Bridgeman: I would have shut it down immediately.

R. Zufelt: Sorry, you approved the - of the - the results of the investigation okay.

P. Bridgeman: Yes.

During cross-examination, S/Sgt. BRIDGEMAN appeared to be distancing himself from the activities of the investigation and from his earlier evidence of his expectations that officers keep him informed and that he would give necessary direction as required when he stated, *“Det. MCMILLAN is the Officer-in-Charge, I don’t instruct him to do anything. I know he reported back to me and said that he was looking to further enhance the video in regards to this.”*

He agreed with Counsel that he could, as a supervisor, prevent a charge going forward and also apply for a charge to be withdrawn if he had grounds to do so. He also stated that he had stated that the video was a “Powerful Piece of Evidence” because to a large extent it corroborated what Det. VAN BUSKIRK had put in his report.

It should be noted that S/Sgt BRIDGEMAN’s tone and demeanour while being cross-examined was markedly different than they had appeared while in examination-in-chief. He was no longer as calm and his tone had become confrontational. In-chief, he had been far more willing to appear in control of his staff. The fact is, although S/Sgt. BRIDGEMAN was only exposed to this investigation for a few days, he seems to have inserted himself relatively deeply. He frequently stressed that he was very busy in other matters and he seemed to indicate that in Windsor, Assault Police cases are fairly common. Despite the fact he had assigned his most experienced and competent investigator to the case, he apparently felt that he needed to be involved in attempting to convince Mr. BARILE to take a more cooperative stance.

Whereas there may have been nothing inherently wrong with the activities of S/Sgt. KEANE and S/Sgt. BRIDGEMAN in their meetings with Mr. BARILE, or their attempts to obtain a statement

from Dr. ABOUHASSAN. It does appear to be a heavy time investment in relation to a case for which the police were already in possession of “powerful evidence”. S/Sgt. KEANE should have had no further business with Dr. ABOUHASSAN, as the perpetrator and known sex offender of the offence to which his Unit was assigned, had been identified and located on April 22, 2010.

In assessing S/Sgt. BRIDGMAN’s credibility there cannot but be some concern in the light of his sometimes contradictory statements and activities, and their relationship when viewed in the totality of the circumstances of this case.

S/Sgt. BRIDGEMAN’s Investigative and Supervisory Responsibilities

The Windsor Police Service has directives one of which has been identified as being entitled “Criminal Charge File” No. 841-01 (Exhibit 47) which contains the following Policy Statement;

- A. **It is the responsibility of the Service to decide what charges are to be laid.**
- B. **Only reasonable charges, appropriate the facts will be laid.**
- C. **Advice as to the proper charge may be sought from the Crown Attorney in unusual circumstances.**
- D. Prior to making an offer of immunity in serious crimes, officers will contact the Crown and obtain written permission.
- E. Immunity cannot be granted until all parties sign a written agreement outlining all details of the immunity.
- F. **Charge files will contain all the relevant information regardless of whether it is inculpatory or exculpatory in nature.**
- G. Officers will submit their notebooks or copies of notebooks to the Crown Attorney upon request for disclosure purposes.

(Emphasis added)

The Duties of Staff Sergeant assigned to the Investigative Branch are contained within the positions Job Description and Insp. Donnelly testified that the current version of that document is dated 2008/09/12.

The following statements are contained within the Position Summary;

All sworn members are reminded they are responsible for preserving the peace, preventing offences and discharging all other duties as a Police Officer of the Windsor Police Service to the best of their ability, faithfully, impartially and according to law.

All supervisors are reminded they are responsible for ensuring all subordinates in the organization adhere to these standards by providing leadership through effective supervision.

(Emphasis added)

Video Surveillance Evidence Findings

The most prominent piece of evidence presented at this Hearing was the surveillance video that was obtained by Det. MCMILLAN from Mr. Brian PORTER, the property manager and General Manager of the Windsor Squash and Fitness located at 2475 McDougall Street.

Several versions of the video, including still frame images were presented, however; the only one viewed by the investigators during the period from Friday, April 23, 2010 to Wednesday, May 5, 2010 (the period of the alleged misconduct) was the original version as provided by Mr. Porter on April 23, 2010. (Exhibit 14)

That video's total length is approximately 50 minutes and 41 seconds and the view is in a northwesterly direction away from the building and across the parking lot adjacent to the medical centre. In the view of the Tribunal, it is the only video that should be considered in relation to the decision made by the investigators.

Apparently, although the Windsor Police Service has an Investigative Analysis Branch that was capable of undertaking video enhancement, as Insp. DONNELLY testified, no request was made for such work to be done until the following year. This, despite the fact that the investigators

were having difficulty convincing Mr. BARILE to adopt a more favourable view of the video's content.

The Tribunal, for the purpose of reviewing this evidence, played it using Windows Media Player on a standard business type laptop and with the video frame view box extended to about 10" when measured diagonally across opposite corners. Up until that time the Tribunal had only viewed it on the large projection screen in the Hearing room and while seated in close proximity to that screen. It was immediately apparent that the evidence given by Mr. Porter with regard to the best size at which to view the video appears to be accurate in that the definition of the picture appears considerably better at 10" on an LCD monitor than when it was projected at the Hearing. In addition, this view is far more consistent with the view that was initially available to Det. MCMILLAN, first in the presence of Mr. PORTER and then Det. MCMILLAN, S/Sgt. BRIDGEMAN and Det. VAN BUSKIRK subsequently at their office. The video does not have a date or time stamp visible and the times referred to below relate to the run time displayed in Windows Media Player are in the format M:SS. The video was allowed to play both automatically and on a frame by frame basis by double clicking quickly on the Play/Pause button.

(Only after drawing final conclusions from viewing the video in the manner described above, and in order to assist a reader to interpret the following description of the tribunal's findings with respect to the video surveillance, text from this decision has been pasted into still frames obtained from "SIU PR10-085 Request November 3rd 2010 APPENDIX A - Unmodified Footage" as contained in Exhibit 11 – "Frame by Frame video of incident at Jackson Medical Ctr.". Please refer to Appendix "A" contained on the attached CD. The CD contains a PDF file entitled "APPENDIX A_ADJUDICATORS_DECISION.pdf which is comprised of 40 consecutive individual frames extracted from the above mentioned file, introduced by the Defence on February 13, 2013. The file may be opened on any computer with an Adobe PDF player and each frame is equivalent to one page. This file is an appendix to this Decision and should not be considered to be evidence given at the Hearing.)

At the beginning, and throughout the period of the physical altercation between Det. VAN BUSKIRK and Dr. ABOUHASSAN, 8 vehicles are clearly visible in the lot. At approximately 3:22 Det. VAN BUSKIRK is seen entering the frame from the right and near to what appears to be a drain cover in the pavement of the parking lot. He appears to be wearing an un-tucked light coloured shirt and dark slacks. Dr. ABOUHASSAN becomes visible near the left lower corner of the frame at about 3:23 and moves in a southerly direction towards the north wall of the

building. At this time Det. VAN BUSKIRK continues to move in an anticlockwise arcing movement and by 3:30 he has stepped onto the sidewalk on which Dr. ABOUHASSAN is standing facing south with his head down as if looking for something. Dr. ABOUHASSAN appears to be oblivious to the approach of Det. VAN BUSKIRK. With a full frontal view of Det. VAN BUSKIRK available at that time there is nothing visible on him that resembles a badge or issued firearm. At about 3:32 Dr. ABOUHASSAN looks to his right, approximately in the direction of the approaching detective. Again, there is a clear frontal view of the detective, and he is closer to the camera but there is still nothing visible to indicate that he is a police officer. Dr. ABOUHASSAN continues to be looking in the direction of the detective and is still doing so at 3:34 when the detective's left forearm moves across the front of Dr. ABOUHASSAN's chest. Immediately thereafter the detective points briefly in a northerly direction with his index finger out stretched and his arm extended, at about 3:37. Both the detective and Dr. ABOUHASSAN are in the bottom left hand corner of the frame. Within approximately 1 second of the detective lowering his left arm Dr. ABOUHASSAN's body, which had been slightly bent forward up until this time, is straightening and he starts moving backwards and away from Det. VAN BUSKIRK. During this time there is absolutely no movement of Dr. ABOUHASSAN's hands or arms that would remotely indicate that he grabbed the detective's throat or attempted to punch him. In fact, Dr. ABOUHASSAN is moving in exactly the wrong direction to make any such contact with the detective. At about 3:40 it is Detective VAN BUSKIRK who moves in the direction of the retreating Dr. ABOUHASSAN and his left hand can be seen grabbing the back of Dr. ABOUHASSAN's neck. By 3:41 it appears that Dr. ABOUHASSAN's body is acutely forward in a manner that is consistent with both Dr. ABOUHASSAN attempting to break free of the detective's grip and with Det. VAN BUSKIRK attempting to take Dr. ABOUHASSAN to the ground. Det. VAN BUSKIRK begins to punch him with his right fist while still holding Dr. ABOUHASSAN by the scruff of his neck with his left hand.

In order to determine who the aggressor was it is only necessary to take into account this approximately 9 second period between Dr. ABOUHASSAN looking to his right at the approaching detective and the moment at which Detective VAN BUSKIRK initially assaulted Dr. ABOUHASSAN by grabbing his neck.

In addition, this initial 9 second period of contact between Det. VAN BUSKIRK and Dr. ABOUHASSAN must be viewed in light of Det. VAN BUSKIRK's Initial Officers Report contained within General Occurrence 2010-22570 (Exhibit 29). The following statements contained therein are inconsistent with the video evidence;

1. *"As I approached, ... My gun and badge were clearly visible."*
(As he walks on the sidewalk towards the camera it is clear that they are not.)
2. *"ABOUHASSAN looked at me, stopped, turned away from me facing west."*
(Dr. ABOUHASSAN did not turn away from him after initially looking in his direction.)
3. *"ABOUHASSAN immediately reached out and grabbed me by the throat and pushed me backward. I grabbed at his shirt and he swung his right fist glancing off the left side of my face"*
(There is no evidence of this at all prior to Dr. ABOUHASSAN being grabbed by the neck.)

The following statement with reference to the initial contact may be substantiated by the video;

1. *"I reached out and pulled the headphone from his right ear."*
(This appears to be that case at about 3:34 when Det. VAN BUSKIRK's left forearm moves across the front of Dr. ABOUHASSAN's chest.)

It must be concluded that when viewed by a reasonable, objective and impartial individual that it is easily determined that the surveillance video cannot support any assertion made by investigators that Dr. ABOUHASSAN was the aggressor. The attack on Dr. ABOUHASSAN was unprovoked and if Dr. ABOUHASSAN had been capable of effectively defending himself, which is unlikely given that he is visually impaired and was completely physically outmatched by his assailant, he was entitled to use force to repel the attack as permitted by Section 34. (1) of the Criminal Code.

34. (1) Everyone who is unlawfully assaulted without having provoked the assault is justified in repelling force by force if the force he uses is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself.

The video surveillance evidence alone should have been sufficient to completely exonerate Dr. ABOUHASSAN of the allegations made by Det. VAN BUSKIRK and thereafter promulgated by S/Sgt. BRIDGEMAN and Det. MCMILLAN.

Conclusions

At the commencement of the investigation and within the first couple of days the following information was available to the investigators involved in this matter:

1. Windsor Police Service General Occurrence 2010-22570 that contained a number of entries from involved officers as detailed above and of particular note it contained in the Initial Officers Report authored by Det. David VAN BUSKIRK that detailed exactly how Dr. ABOUHASSAN was alleged to have committed the offence of Assault Police.
2. The surveillance video from a camera covering part of the parking lot of the Jackson Point Health Centre at 2475 McDougall Street, Windsor and received from Brian PORTER.
3. A number of eye witnesses including, Anna DEL DUCA, Casey BALMER (formally ZVRIC) and Waultraut PIZZUTI.
4. Knowledge that another person, other than Dr. ABOUHASSAN, was actually responsible for the incident at the Parkside Tennis Club.

Det. BRIDGEMAN has correctly observed that this was an incident “of a unique nature”. It is certainly unusual that a medical doctor who has had no previous history with the police or judicial system, who is visually impaired and is simply standing outside the door of a medical health centre, would explode in violence within seconds of being approached by a detective who is seeking assistance in his investigation of a potential sex offender complaint. It is even more surprising considering that he was obviously grossly out classed by the physical characteristics of his alleged victim. The issues that these circumstances raise should have been accounted for in the investigative plan with a view to discovering what the doctor’s motivation might have been. The police knew almost immediately that he was not the potential sex offender, as they had already located that individual, and therefore escape from the detective seems a remote motive.

For the reasons enumerated earlier in this document it is clear that little real effort was expended to locate additional eye witnesses, or for that matter, to properly interview those that had been located. As previously noted Ms. PIZZUTI's name was never even entered into the report and she was not interviewed by the police at all.

The most troubling aspect of this whole affair is the manner in which the video evidence was dealt with. It is quite clear, and the Tribunal finds that Det. MCMILLAN, Det. VAN BUSKIRK and D/Sgt. BRIDGEMAN viewed the video, and, with the exception of Det. VAN BUSKIRK, on multiple occasions. They may have done so with varying degrees of attention but little viewing of it is necessary to enable any objective and reasonable person to realize that there is a specific moment at which the scene changes from two people in a conversation, to two people in a physical altercation. It is simply unbelievable that it is not that moment that should be the focus of attention to determine what the "trigger" event was. Throughout the Hearing much of the video review led by Counsel revolved around parts of the video well after the "trigger" had already been pulled and those portions are largely irrelevant in determining who pulled it.

Additional information, in the form of Det. VAN BUSKIRK's report was immediately available to assist in determining what had actually happened. As detailed earlier, certain key actions contained within the report simply did not happen. Prior to violence being perpetrated by Det. VAN BUSKIRK the doctor did not reach out, grab him by the throat and push him backward. The fact that this one statement is provably untrue is sufficient to conclude that there is a major problem with the arrest. It is provable because it is not visible in the video where it would have to be in order to be the "trigger" event. That provable lie can then be followed up with another inconsistent fact. It is quite clear in the video, and it is backed up by the evidence of multiple eye witnesses, that the detective's gun and badge, if he was even in possession of them at all, were not "clearly visible". It is incredible that these discrepancies, occurring prior to the physical reaction of Det. VAN BUSKIRK, cannot have been recognized by two very experienced criminal investigators.

Throughout the Hearing much has been made of the fact that Dr. ABOUHASSAN refused to provide a statement, although that is the right of any person accused of a crime, and it was argued that therefore, the only version available to the investigators was that of Det. VAN BUSKIRK. In fact, as all criminal investigators know, nothing is more damaging to the defence of a criminal charge than a statement made by an accused and purporting to be true on essential matters that can be proved to be untrue. Such is the case with Det. VAN BUSKIRK's Initial Officers Report in that it is provably untrue. The prudent steps to be taken by any supervisor would be to interview the reporting officer in an effort to determine the truth, but neither Det.

MCMILLAN nor S/Sgt. BRIDGEMAN asked Det. VAN BUSKIRK for any statement. In the Tribunal's view this omission, in its self, amounts to Neglect of Duty.

It must be remembered that both Det. MCMILLAN and S/Sgt. BRIDGEMAN knew the then Det. VAN BUSKIRK well. They are all close in service experience and in fact, BRIDGEMAN and VAN BUSKIRK had formally worked as partners for three years. Granted, they found themselves in the very unenviable position of, in effect, being asked to investigate the conduct of their friend and colleague. It is simply inconceivable and incredible to believe that a police officer of S/Sgt. BRIDGEMAN's experience and training did not realize that there was a problem with the arrest of Dr. ABOUHASSAN the very first time he viewed the video.

It is here that S/Sgt. BRIDGEMAN was forced to make a difficult choice. He had two options, one of which was to divest his Branch of the investigation, citing "conflict" to his Inspector and let the Major Crime Unit or Professional Standards Bureau, as the case may be, take ownership of the matter or; he could allow it to play through in the hope that the issues resolved themselves with that probability of that happening, in the particular circumstances of this case, being very long. The correct choice was to exercise the responsibilities of his oath and rank which would probably also have been a relief to Det. MCMILLAN. Unfortunately it is obvious that he chose the latter route.

The second choice was not good for several reasons, most importantly because the impact of proceeding against an obviously innocent man is devastating to that person; it seriously undermines the confidence of the public and, any reasonable person in the community is likely to consider this conduct to discredit the reputation of the Service if it were to become known.

There is no evidence that any Executive or Senior Officer of the Service saw or was told of the surveillance video's true content prior to the SIU's involvement. In fact, it appears that S/Sgt. BRIDGEMAN was the most senior member of the Service to have viewed it, but he failed to act. S/Sgt. BRIDGEMAN, himself, did not apparently personally brief a senior member of the Command Staff, Supt. POWER, until April 30, 2010 at which time Mr. BARILE had already confirmed that the matter would go to the SIU.

D/Sgt. BRIDGEMAN is a supervisor and it was his duty as described in the Investigative Staff Sergeant Position job description, to observe the requirements of Windsor Police Service Directive 841-01 and his Oath of Office. His conduct with respect to Neglect of Duty clearly exceeded beyond a mere performance issue.

Decision

For the reasons herein I find that the Prosecution has proven on clear and convincing evidence that Staff Sergeant Paul BRIDGEMAN #1777 is guilty of Discreditable Conduct and Neglect of Duty as charged.

A handwritten signature in black ink, appearing to read 'R. Finn', with a stylized, overlapping flourish underneath.

Richard Finn
Superintendent (Retired)
Hearing Officer

Attachments

APPENDIX A

Compact Disk (Attached)

Item #

Contents

1. APPENDIX A_ADJUDICATORS_DECISION.pdf
2. ADJUDICATORS_DECISION.docx

APPENDIX B

LIST OF EXHIBITS

<u>Exhibit #</u>	<u>Exhibit Description</u>
1.	Prosecutor Designation – S. Porter
2a.	Notice to Attend - MCMILLAN
3a.	Order to Conduct Hearing – (Bridgeman)
4a.	Order to Conduct Hearing – (MCMILLAN)
5.	H.O. Designation – FINN under Chief Frederick
6.	Statement of Particulars - Bridgeman
7.	Statement of Particulars - MCMILLAN
8.	Complaint to OIPRD
9.	Promise to Appear - Abouhassan
10.	Undertaking
11.	Frame by Frame video of incident at Jackson Medical Ctr.
12.	OIPRD Investigator's log notes
13.	Summons from OIPRD on SIU
14.	Video at Medical Ctr. (Unenhanced)
15.	Addendum Report dated June 9, 2011
16.	Audio interview of Det. K. MCMILLAN
17.	Transcript of audio interview by OIPRD w MCMILLAN
18.	Copy of Crown Brief
19.	R. Zufelt summary of investigation
20.	Audio interview by OIPRD of S/Sgt Bridgeman
21.	Transcript of audio interview by OIPRD of Bridgeman

22. Summary of interview of Bridgeman
23. Email dated March 1/2011 Kent MCMILLAN
24. OIPRD identifying R. Zufelt on E20101022154730562
25. Original notes of R. Zufelt
26. Additional notes of R. Zufelt
27. Information sworn to by Det. K. Crough
28. CID schedule
29. Crown Brief & WPS G.O.
30. Notes of B. Mueller
31. Enhanced Video (at Tab 21)
32. Charge sheet
- 33a. 911 Audio Recording
- 33b. 911 Audio transcripts
34. Statement of Wallie Pizzuti to SIU
- 35a. Typed statement of Casey Balmer
- 35b. Handwritten/signed statement of Casey Balmer
36. SUI statement of Casey Balmer
37. Transcript of Glen Price interview given to SIU
38. Time stamp document produced by Shelley Beneteau
39. Charge submission document – 7 pages
40. CV of Inspector William Donnelly
41. CID S/Sgt. Job Descriptions
42. GIT Standards
43. MCM Training Standards
44. Inventory of Training Record – Bridgeman

45. Oath of Office – Cadet Donnelly
46. Oath of Office – Constable Donnelly
47. Criminal Charge File Directive 841-01
48. Criminal Investigation Management Directive 780-00
49. S/Sgt. Bridgeman's Notes
50. SIU Interview of Bridgeman