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OFFICE OF THE INTEGRITY COMMISSIONER



REPORT

OF

**THE HONOURABLE J. DAVID WAKE
INTEGRITY COMMISSIONER**

**RE: THE HONOURABLE DOUG FORD,
PREMIER OF ONTARIO**

TORONTO, ONTARIO

March 20, 2019

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RE: THE HONOURABLE DOUG FORD, PREMIER

EXECUTIVE SUMMARY

This report relates to requests for my opinion made by Kevin Yarde, the Member of Provincial Parliament for Brampton North and John Fraser, the Member of Provincial Parliament for Ottawa South, under section 30 of the *Members' Integrity Act, 1994* (the "Act") regarding the Honourable Doug Ford, Premier of Ontario and Member of Provincial Parliament for Etobicoke North.

The requests dealt with the appointment of Ron Taverner, a friend of Premier Ford, as Commissioner of the Ontario Provincial Police. Mr. Yarde and Mr. Fraser alleged that Premier Ford was in a conflict of interest in regard to the appointment, that he interfered in the appointment process and that he failed to recuse himself from the decision. Collectively, they cited a breach of section 2 (conflict of interest), section 4 (influence), and sections 8 and 16 (procedure on conflict of interest).

The inquiry was conducted over a three-month period during which time 21 witnesses were interviewed in person, evidence was received from another eight individuals in writing and more than 3,500 documents were reviewed. Much of the evidence was gathered through the exercise of my powers under section 33 of the *Public Inquiries Act, 2009* to summons witnesses and to have them produce relevant documents. I was satisfied with the level of cooperation shown by all witnesses and their counsel in this inquiry in making themselves available and producing the documents being sought.

It was my opinion that on the evidence, Premier Ford did not breach any of the sections of the Act, as alleged. I found that the Premier stayed at arm's length from the recruitment process and that he believed it to be independent. However, I found that there were some troubling aspects of the recruitment process and ultimately made the finding that the process was flawed.

The report raises important questions about the appointment power of the premier and cabinet, particularly when the appointee is a friend of the premier and the position is that of the Commissioner of the OPP. I recommended that for a position of this importance and given the sensitivity of the relationship between the government and the police in general, and the OPP Commissioner in particular, there ought to be an established appointment process in place which is independent, transparent and readily activated with predetermined criteria and membership on the selection committee. I encouraged the government and all members of the legislature to consider the establishment of such a process and have it in place before the next appointment of an OPP Commissioner is required.

I. BACKGROUND

- [1] This is a report following an inquiry I have conducted under section 31 of the *Members' Integrity Act, 1994* (the “**Act**”) to determine whether Doug Ford, Member of Provincial Parliament for Etobicoke North and Premier of Ontario (the “**Premier**” or “**Premier Ford**”), breached sections of the Act dealing with conflict of interest and improper influence in the decision to appoint Toronto Police Superintendent Ron Taverner as Commissioner of the Ontario Provincial Police (“**OPP**”).
- [2] On September 5, 2018, OPP Commissioner Vince Hawkes formally announced his retirement after 34 years with the OPP. He had advised Matt Torigian, the Deputy Minister of Community Safety, the day before that he would be doing so. A series of events followed, about which there has been considerable public speculation, leading to the appointment of Mr. Taverner as OPP Commissioner on November 29, 2018 by the Lieutenant Governor in Council following a cabinet meeting that same day.
- [3] Objections to the appointment of Mr. Taverner were raised from a number of sources with allegations that he lacked the qualifications necessary to fulfill the role of OPP Commissioner; that his friendship with Premier Ford would undermine the independence of the OPP in its relationship with the government given that the OPP could be required to investigate future actions of the government and/or the Premier himself; and that the friendship between the Premier and Mr. Taverner had led to a selection process which was designed to enable Mr. Taverner to be the successful candidate.
- [4] On December 5, 2018, Kevin Yarde, Member of Provincial Parliament for Brampton North, filed an affidavit with the Speaker of the Legislative Assembly which is the process required by my Office to initiate a request under section 30 of the Act. The request was that I give an opinion as to whether Premier Ford contravened section 2 of the Act which deals with conflicts of interest. However, Mr. Yarde quoted the wording of section 4, which prohibits a member from using his or her office to influence a decision to further his or her private interest or improperly to further another person's interest.

- [5] Subsequently I sought clarification from Mr. Yarde as to which section he was relying on, and he confirmed that he was relying on both section 2 and section 4. On December 6, 2018, Mr. Yarde swore a supplementary affidavit in which he added section 16 to his request. This section requires cabinet ministers to recuse themselves if they have a conflict of interest regarding the minister's decision. He alleged that Premier Ford had a conflict of interest in the appointment of Mr. Taverner, and that the Premier failed to recuse himself from the cabinet meeting where the appointment was discussed.
- [6] On December 19, 2018, John Fraser, Member of Provincial Parliament for Ottawa South filed a statutory declaration requesting that I give an opinion in accordance with section 30 of the Act essentially on the same subject matter as that raised by Mr. Yarde. In addition to sections 2 and 4 of the Act, Mr. Fraser relied on section 3 which deals with insider information. Since there were no grounds provided to support the section 3 allegation I declined to consider it. Mr. Fraser also relied on section 8, which is similar to section 16 in that it requires members who have reasonable grounds to believe that they have a conflict of interest in a matter before the Assembly or the cabinet to recuse themselves without participating in consideration of the matter.
- [7] I have joined the two requests from Mr. Yarde and Mr. Fraser since they deal with the same subject matter, and I have dealt with the requests for an opinion as to whether the Premier contravened any or all of sections 2 (conflict of interest), 4 (influencing a decision), 8 (recusal by member if conflict of interest) and 16 (recusal by member of cabinet if conflict of interest).
- [8] Both requests rely largely on media reports, some of which I have found to be speculative and unsupported by the evidence received at this inquiry. I feel compelled to repeat what I said about the use of media reports in my report of December 8, 2016 (Chiarelli, Coteau, and Naqvi). At paragraph 62 of that report I stated the following:

At this point I should interject a note of caution concerning the use of media reports to support a complaint made under section 30 of the Act. One of my predecessors, The Honourable Gregory T. Evans, wrote the following on this subject in a report made following a complaint against then-Premier Michael Harris by an opposition MPP David Ramsay:

Much of the material presented by Ramsay to support the allegations that Harris contravened the *Members' Integrity Act* consists of newspaper and other media reports. While the material may be informative, it is hearsay and lacking in evidentiary value. 'Hearsay' is defined in Black's Law Dictionary as:

"... A term applied to that species of testimony given by a witness who relates, not what he knows personally, but what others have hold him or what he has heard said by others."

Such testimony is generally inadmissible. The very nature of the evidence shows its weakness. The reasoning for such exclusion is that the statement being offered as an assertion to show the truth of matters asserted therein, depends for its value, upon the veracity and competency of others.¹

[9] Notwithstanding this note of caution concerning the use of media reports as evidence at an inquiry I do accept that the reports can provide the reasonable and probable grounds for a member to believe that another member has contravened the Act and be sufficient for me to commence an inquiry.

[10] I noted in media articles some confusion concerning the power I have in the conduct of a section 31 inquiry. There were some suggestions that the matter be referred to a retired judge with the power to summons witnesses and documents.² In fact, the Act specifically provides at subsection 31(2)(a) that the Integrity Commissioner may conduct an inquiry and may elect to exercise the powers under section 33 of the *Public Inquiries Act, 2009*, which confers the power on me to require any person by summons to give evidence on oath or affirmation at the inquiry and to produce such documents as I may specify.

[11] Over the past three months I have exercised these powers fully and extensively, as will be recited later in this report, so I trust that it will be evident to all that there has been no impediment to my ability to gather evidence relating to this matter.

[12] I can say that I was satisfied with the level of cooperation demonstrated by all witnesses called to give evidence and their counsel in terms of scheduling their interviews and producing relevant documents in a timely way.

¹ Report re: The Honourable Bob Chiarelli, the Honourable Michael Coteau and the Honourable Yasir Naqvi, December 8, 2016, at para. 62.

² "Globe editorial: We need a full inquiry into the Ron Taverner affair", *Globe and Mail*, (December 17, 2018), online: < <https://www.theglobeandmail.com/opinion/editorials/article-globe-editorial-we-need-a-full-inquiry-into-the-ron-taverner-affair/>>.

[13] In a letter dated December 20, 2018, Andrea Horwath, Member of Provincial Parliament for Hamilton Centre and Leader of the Official Opposition, and Mr. Yarde requested that I exercise the powers under sections 33 and 34 of the *Public Inquiries Act*. I have indicated above that I have exercised the procedural powers under section 33 to compel the attendance of witnesses and the production of documents, and it was always my intention to do so. Section 34 is a special procedure which provides that all hearings are open to the public subject to certain exceptions. It provides that a person or body that has a substantial and direct interest in the subject matter of the inquiry shall be given “an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by counsel on evidence relevant to the person’s interest.”

[14] While it is open to me under subsection 31(2) of the Act to elect to exercise the powers under section 34 of the *Public Inquiries Act*, I have chosen not to do so for several reasons:

- a) although the Integrity Commissioner’s report is made public after it is provided to the Speaker, it has never been the practice of this Office to conduct the inquiry in public;
- b) I have surveyed my colleagues in other jurisdictions, who have confirmed that their inquiries are not done in public either by practice or according to the terms of their enabling legislation;
- c) I believe that a public inquiry is unnecessary for me to gather the facts required to determine the issues before me under the Act;
- d) It can be seen from the passage quoted above from section 34 of the *Public Inquiries Act* that it is a broad power, and should I elect to use it the door would be open for multiple applications by persons and entities claiming to have “a substantial and direct interest in the subject matter of the proceedings” for standing at the inquiry, including persons and entities seeking intervenor status. These determinations would be time-consuming and, if granted, their participation would inevitably extend the time required to complete the inquiry;

- e) In addition to applications for standing there is the related issue of applications for funding legal counsel who are granted standing. On this issue Professor Ed Ratushny stated in his landmark book, The Conduct of Public Inquiries, that there is nothing to prevent a commissioner from making a recommendation to the government regarding funding for parties with standing even where the terms of reference for the inquiry (or the enabling legislation as in the case here) contain no reference to funding. Professor Ratushny observes that “where recommendations are expressly invited, there may be a greater obligation on the government to accept them. In practice, they are almost inevitably accepted.”³ He further notes that in the Morin Inquiry, Commissioner Fred Kaufman found that the absence of a reference to funding “proved to be a contentious issue” and “threatened to derail the Inquiry in its earliest stages.”⁴ This issue can be avoided if I elect not to proceed with a public inquiry; and,
- f) Finally, it can be seen from the above that there are perils in embarking on a public inquiry. Professor Ratushny noted in his book that following the release of the Gomery Inquiry report, the University of Ottawa and the Institute of Public Administration of Canada sponsored a round table and produced a report entitled *Commissions of Inquiry in Canada: Lessons Learned*. The report noted that:

Launching a royal commission of inquiry is a risky process – a bit like sending a ship out to sea. You don’t know where it will go, how long it will take, how much it will cost or what it will bring back. And trying to locate a ship lost at sea and bring it back to port can be a costly experience (especially if the captain is not in a hurry to come home).⁵

[15] A public inquiry may be useful as a *post mortem* exercise where there are not the same live issues outstanding as there were here. This inquiry could not afford to be lost at sea and I, unlike the captain in the above quote, am anxious to come home.

³ Ed Ratushny, *The Conduct of Public Inquiries: Law, Policy, Practice* (Irwin Law, 2009), 191.

⁴ Report of the Kaufman Commission on Proceedings Involving Guy Paul Morin, January 2002, quoted in Ratushny, *ibid.*, 191.

⁵ Report of the Kaufman Commission on Proceedings Involving Guy Paul Morin, January 2002, quoted in Ratushny, *supra*, 130.

[16] I acknowledge that a public inquiry has the merit of enhancing public confidence in the transparency of the inquiry process but I trust that a full reading of this report will satisfy the members of the Assembly and the public that the review of the issues raised in this matter has been careful and painstaking.

[17] Nevertheless, I am mindful that this matter has attracted considerable public attention in the legislature, the media and within the public service, including the OPP itself. Since my fact gathering was not done in public I have abandoned the first rule of judgment writing which is to “reduce the statement of facts as much as possible. The only essential facts are those that are necessary to decide the legal questions at hand.”⁶ Instead, when I deal with the evidence and the findings of fact below I will forsake conciseness for the sake of completeness and transparency.

II. LEGISLATIVE FRAMEWORK AND BURDEN OF PROOF

1. The inquiry process

[18] Under subsection 30(1) of the Act, a member of the Legislative Assembly of Ontario (the “**Assembly**”) who has reasonable and probable grounds to believe that another member has contravened the Act or Ontario parliamentary convention may request that I give an opinion on the matter.

[19] When a matter is referred to me I may then conduct an inquiry and report my opinion to the Speaker of the Assembly in accordance with section 31 of the Act. Alternatively, I may refuse to conduct an inquiry if I am of the opinion that the referral was frivolous, vexatious, not made in good faith or that there are either no or insufficient grounds for an inquiry as set out in subsection 31(5) of the Act.

2. Sections of the Act relevant to the issues

[20] Mr. Yarde and Mr. Fraser have cited sections 2, 4, 8 and 16 as the basis for their complaints. Section 2 of the Act deals with conflict of interest in regard to decision-making by a member. It states as follows:

⁶ Edward Berry, *Writing Reasons: A Handbook for Judges* (Victoria, British Columbia, E-M Press, 1998), 25.

2. A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member's private interest or improperly to further another person's private interest.

[21] Section 4 of the Act addresses the use of influence by a member and provides as follows:

4. A member of the Assembly shall not use his or her office to seek to influence a decision made or to be made by another person so as to further the member's private interest or improperly to further another person's private interest.

[22] Sections 8 and 16 deal with the procedure when a member or a member of the executive council has reasonable grounds to believe that he or she has a conflict of interest. These sections provide as follows:

8. A member of the of the Assembly who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

(a) disclose the general nature of the conflict of interest; and

(b) withdraw from the meeting without voting or participating in consideration of the matter.

[...]

16. A member of the Executive Council who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the member's decision shall ask the Premier or Deputy Premier to appoint another member of the Executive Council to perform the member's duties in the matter for the purpose of making the decision, and the member who is appointed may act in the matter for the period of time necessary for the purpose.

3. Burden and standard of proof

[23] I adopt the statement of one of my predecessors, the Honourable Coulter A. A. Osborne, that "as a general proposition, a member who contends that another member has contravened the Act must establish the allegations asserted in the member's complaint.

That is to say a member who accuses another member of contravening the Act bears the onus of proving the breaches alleged in the member's complaint.”⁷

[24] Since *F.H. v. McDougall*⁸ it is clear that there is only one standard of proof in a civil case and that is proof on a balance of probabilities and the evidence must always be clear, convincing and cogent in order to satisfy the balance of probabilities test.

III. THE REQUESTS AND PREMIER FORD'S RESPONSE

[25] On December 5, 2018, Mr. Yarde sent my Office an affidavit sworn the same day (the “**Affidavit**”), with proof that it had been served on the Speaker of the Assembly, in which he alleged that the Premier contravened section 2 of the Act in relation to the appointment of Mr. Taverner as Commissioner of the OPP.

[26] The following day, Mr. Yarde sent my Office a supplementary affidavit sworn December 6, 2018 (the “**Supplementary Affidavit**”), in which he alleged that Premier Ford's conduct in relation to the appointment of Mr. Taverner contravened section 16 of the Act.

[27] On December 7, 2018, I sent Premier Ford the Affidavit and Supplementary Affidavit and invited him to provide comments, which he did on December 14, 2018 (the “**Response**”).

[28] On December 17, 2018, I wrote to Premier Ford and notified him that I had decided to conduct an inquiry under section 31 of the Act for the purpose of determining whether he breached the Act or parliamentary convention regarding the appointment of Mr. Taverner to the position of OPP Commissioner.

[29] In my letter to Premier Ford, I advised him that I would be sending his December 14, 2018 Response to Mr. Yarde and that I would provide Mr. Yarde the opportunity to make reply submissions. I indicated that I would advise Mr. Yarde to keep the Response confidential.

[30] I wrote to Mr. Yarde the same day, enclosing the Response, and I offered him an opportunity to make reply submissions. In my letter I requested that Mr. Yarde keep the Response confidential until the inquiry had concluded.

⁷ Report re: The Hon. Harinder Takhar, January 4, 2006, at para. 67.

⁸ [2008] 3 S.C.R. 41.

[31] On December 18, 2018, Ms. Horwath responded to my December 17 letter, copying Mr. Yarde. In her letter, she urged that I conduct a public inquiry under sections 33 and 34 of the *Public Inquiries Act, 2009* (the “**PIA**”).

[32] On December 19, 2018, John Fraser, Member of Provincial Parliament for Ottawa South sent my Office an affidavit sworn the same day in which he alleged that Premier Ford contravened sections 2, 3, 4, and 8 of the Act in relation to the appointment of Mr. Taverner as OPP Commissioner.

[33] Ms. Horwath wrote to me again on December 20, 2018, reemphasizing her desire that I deal with this matter by way of a public inquiry.

[34] I replied to Ms. Horwath’s letters on December 21, 2018. I advised her that I would not be conducting this inquiry in public but that my report would be filed with the Speaker for tabling in the Assembly and published on my Office’s website.

[35] On December 31, 2018, I received Mr. Yarde’s reply submissions (the “**Reply**”).

[36] I have summarized the positions of Mr. Yarde, Mr. Fraser, and Premier Ford below.

1. Kevin Yarde’s request

[37] In his Affidavit, Mr. Yarde alleges that Premier Ford used his office to seek to influence the decision of cabinet to appoint Mr. Taverner, a close personal friend of the Premier, as OPP Commissioner.

[38] In support of the allegation, Mr. Yarde cites media articles which:

- a) describe Mr. Taverner as a close friend of the Premier;
- b) report that Mr. Taverner would not have been qualified to apply for the position under the qualifications identified in the original job posting;
- c) report that the qualifications in the job posting were changed shortly after it was initially posted in a way that permitted Mr. Taverner to be considered; and,

d) quoted the Premier as saying that he did not recuse himself from the cabinet decision to appoint Mr. Taverner.

[39] Mr. Yarde states in the Affidavit that the OPP must operate independently from the government of Ontario, and that it was the police service that would most likely be required to investigate any allegations of wrongdoing by members of the government and other officials.

[40] Mr. Yarde further states that although the government had announced in a press release that Mr. Taverner's appointment by cabinet followed the unanimous recommendation of a selection committee composed of members of the Ontario Public Service (the "OPS"), supported by an outside recruiting firm, it had refused to identify members of the selection committee and what steps, if any, were taken to ensure an arm's length process.

[41] In the Supplementary Affidavit, Mr. Yarde alleges that the Premier's involvement in the process also contravened section 16 of the Act.

[42] He states that the Premier had reasonable grounds to believe that he had a conflict of interest in participating in the cabinet decision to appoint Mr. Taverner, yet failed to recuse himself from the cabinet discussion that resulted in the appointment.

[43] In his December 31, 2018 Reply, Mr. Yarde makes no fresh allegations in respect of Premier Ford, but provided me with additional media stories in support of the allegations he had already made.

[44] In particular, Mr. Yarde noted that Mario Di Tommaso, the Deputy Minister of Community Safety, had been part of the recruitment process. He referred to media articles claiming a close relationship between Mr. Di Tommaso and Mr. Taverner, and information that Mr. Di Tommaso had been Mr. Taverner's direct supervisor for a number of years.

[45] In his Reply, Mr. Yarde questions whether the Premier knew of a relationship between Mr. Di Tommaso and Mr. Taverner, and whether such knowledge was a factor in the appointment of Mr. Di Tommaso as Deputy Minister.

[46] Mr. Yarde also questioned the independence of the external firm used for the OPP Commissioner recruitment process, and further questioned Mr. Taverner's qualifications for the position. I have considered the particular information provided by Mr. Yarde in the Reply on these two matters to be irrelevant to my determination of whether Premier Ford contravened any of the allegations set out in the affidavits, which is the focus of this inquiry.

2. John Fraser's request

[47] In his affidavit, Mr. Fraser raises many of the same concerns as Mr. Yarde about the propriety of the appointment process that resulted in Mr. Taverner's appointment.

[48] He stresses the need for the OPP to be independent of politics, and states that the appointment of Mr. Taverner gives rise to a perception of improper political influence in the appointment and compromises the integrity of the office of Commissioner of the OPP.

[49] Mr. Fraser alleges that Premier Ford's conduct in relation to the appointment was apparently in non-compliance with sections 2, 3, 4, and 8 of the Act.

3. Premier Ford's response

[50] In his Response, Premier Ford confirms a long-standing personal relationship with Mr. Taverner, but denies any direct involvement in the recruitment process.

[51] Premier Ford states that the recruitment process was coordinated through the office of the Secretary of the Cabinet. He stresses his confidence in the involvement of Steve Orsini, the former Secretary of the Cabinet (referred to as the "**Secretary**" throughout) because, while the OPP is a police service which operates independently of government in respect of its law enforcement activities, it is also a division of the Ministry of Community Safety and Correctional Services, and its Commissioner has a direct reporting relationship with the Deputy Minister.

[52] Premier Ford confirms that the Premier's Office was part of the initial planning process, in so far as it insisted that an appropriately experienced external executive search firm be used. He also states that he spoke to the Secretary early in the process and requested that

all possible steps be taken to complete the selection process prior to December 2018, as he felt it essential that a permanent Commissioner be in place as soon as possible.

[53] According to Premier Ford, the Secretary consulted with the Honourable Sidney Linden, the Conflict of Interest Commissioner, concerning the involvement of an external search firm.

[54] Premier Ford says that his limited involvement in the process was directed solely at process issues and denies any discussion of any particular candidate, or that Mr. Taverner was pre-selected for the position.

[55] Premier Ford also denies any involvement in the changes made to the original job posting, denies any knowledge that his office was consulted on the change, and denies that the change was made to accommodate Mr. Taverner.

[56] Premier Ford admits his presence at the cabinet meeting during which Mr. Taverner's appointment was approved. He says that he ensured that all cabinet members were aware of his personal friendship with Mr. Taverner. He says that he did not recuse himself because Mr. Taverner was the only recommended candidate following the recruitment process.

[57] In his Response, Premier Ford argues that Mr. Yarde's Affidavit and Supplementary Affidavit impermissibly rely on hearsay and belief unsupported by evidence from any person with direct knowledge to support the allegations.

[58] Before leaving this Part of the Report dealing with the requests and the Premier's response I wish to comment on a troubling aspect of the reply process. The Premier submitted his response to me on December 14, 2018. On December 17, as is my practice, I provided Mr. Yarde with a copy of the Premier's response to allow him to make reply submissions. I requested in my letter that the response be kept confidential until the inquiry had concluded. I did not provide a copy of the Premier's response of December 14 to Mr. Fraser since he did not file his affidavit until December 19 and it contained little in the way of new information.

[59] Recently it has come to my attention that Brad Blair, former Deputy Commissioner of the OPP and a witness at this inquiry, has included a copy of Premier Ford's response in the materials for his court application against the Ontario Ombudsman. I wrote to Mr. Yarde on March 5, 2019 and asked whether he or anyone in his office had provided the Premier's response to Mr. Blair or any other person. On March 7, Mr. Yarde responded that neither he nor any member of his office provided the letter to Mr. Blair or any other person. I note that in the December 20, 2018 letter to me from Ms. Horwath calling for a public inquiry, she makes reference to the Premier's response so I take it that it must have been shared with her by Mr. Yarde.

[60] Nevertheless, I am prepared to take Mr. Yarde at his word that neither he nor any member of his office breached the confidentiality request and I take it that must include Ms. Horwath as well. I have no other evidence to the contrary. Although other jurisdictions do not provide the elected member who initiates the process any right of reply I have found in the past that reply submissions have been helpful in providing focus to the issues on which my opinion is being sought. I do not know how the Premier's confidential response to the allegations against him made its way into Mr. Blair's material in another litigation process but I am concerned that the leak of this letter from the inquiry which I am conducting had the potential to undermine the integrity of the process of this inquiry. Fortunately, the Premier's response is largely exculpatory so no damage was done and I have summarized it above so that it is now public in any event. This matter will, however, cause me to rethink the process which allows for reply submissions as part of s.31 inquiries. Removal of the ability for a member to make reply submissions in the future will, at least, eliminate any suspicion that confidential material from the inquiry was released inappropriately by the member or his office.

IV. THE INQUIRY PROCESS

[61] Extensive documentary disclosure was requested from a number of parties, including the Premier's Office, the Office of the Secretary of Cabinet, Mr. Taverner, Odgers Berndtson (the recruitment firm involved in the matter) ("**Odgers**"), and various ministries. In total, my Office received and reviewed more than 3,500 documents.

[62] An interview of the Premier was conducted on February 28, 2019. He was represented by counsel Gavin Tighe from Gardiner Roberts LLP.

[63] Twenty other witnesses were interviewed during the inquiry, some of whom attended with counsel. A list of these witnesses and their counsel, where applicable, is included at Appendix “A.” I offered to issue a summons to all of the witnesses but did so only when requested by a witness. Two of the witnesses, the Secretary and Sal Badali (a partner with Odgers), were interviewed twice so that the evidence that was provided to me from other sources after their first interviews could be addressed with them.

[64] In addition, evidence was obtained in writing from eight individuals. These individuals were not interviewed because their evidence was confined to discrete facts that needed to be verified following the interviews of other witnesses.

[65] I was assisted throughout the course of the inquiry by the following staff from my Office: Liliane Gingras (General Counsel), Luc Lamarche (Investigator) and Michael Hunziker (Investigator/Counsel).

V. EVIDENCE AND FINDINGS OF FACT

1. Background

[66] Doug Ford is the Premier of Ontario and the MPP for Etobicoke North. He was elected on June 7, 2018 and sworn in on June 29, 2018. Of relevance to this matter, Premier Ford was a Toronto city councillor for Ward 2 (Etobicoke North) from 2010 to 2014.

[67] Ron Taverner is a Superintendent with the Toronto Police Service (“TPS”). He has been a police officer for 51 years, having joined the TPS in January 1968. Mr. Taverner has held the rank of Superintendent for approximately 20 years. Since July 2017, he has been the Superintendent - Unit Commander, North West District Field Command. In this position, he is responsible for overseeing the operations of three divisions around the Etobicoke area. He administers a \$100 million budget and oversees 700 staff persons (a combination of police officers and civilians).

[68] For approximately four years, ending in October 2018, Mr. Taverner reported to Mr. Di Tommaso, then a Staff Superintendent with the TPS. Mr. Taverner and Mr. Di Tommaso each indicated that their relationship is a professional one; they do not socialize (other than at community events) and are not personal friends. I accept this evidence for reasons that follow.

[69] Mr. Taverner indicated that he has never applied for more senior roles within the TPS. Moreover, prior to the events which gave rise to this matter, Mr. Taverner had never applied for a more senior role with any other police force. He confirmed that he did not apply for the OPP Commissioner position in 2014 or at any time prior to that.

2. Relationship between Premier Ford and Ron Taverner

[70] Premier Ford and Mr. Taverner have known one another for about 15 years. Mr. Taverner explained that he met Premier Ford through Premier Ford's late father, who was the MPP for Etobicoke-Humber from 1995 to 1999. Both Premier Ford and Mr. Taverner described that they began to communicate more frequently in 2010 when Premier Ford became a Toronto city councillor for Ward 2 (Etobicoke North). Mr. Taverner was the Superintendent for a police division in Etobicoke at that time.

[71] The Premier and Mr. Taverner described one another as friends. Mr. Taverner indicated that prior to the provincial election in June 2018, the two were in contact three to four times a week, but since the election, the frequency of contact has reduced to one or two times a week. This generally accords with the evidence of the Premier who indicated that the two have been in contact a few times a week, both before and after the election.

[72] The Premier and Mr. Taverner speak on the telephone, frequently see each other at community events or meet over a meal, usually breakfast or lunch, at a restaurant. Each indicated that their discussions generally relate to community issues.

[73] Mr. Taverner knows the Premier's family, including the Premier's spouse and his children, although the Premier doubts that Mr. Taverner knows the names of his children. He also knew the Premier's late brother, Rob Ford, and has been to the residence of the Premier's mother eight or nine times. However, Mr. Taverner and Premier Ford indicated that they

do not go to one another's homes. Although Mr. Taverner has been to the Premier's cottage, the evidence of both the Premier and Mr. Taverner was that these visits were part of an annual charitable event organized by Trust 15 Youth Community Support Organization which supports youth in the Rexdale/North Etobicoke area.

[74] Mr. Yarde, Mr. Fraser and the media have raised a number of matters relating to the Premier's relationship with Mr. Taverner. For completeness, I obtained evidence from the Premier and some of the witnesses regarding a few of these matters which I describe below:

1. It was reported that in 2016, Mr. Taverner attended a hockey game in Chicago with Premier Ford and the Chief of the TPS, Mark Saunders. The Premier and Mr. Taverner each indicated that the tickets for this event were auctioned by Premier Ford during a gala for the Reena Foundation, a charitable organization. The evidence of Premier Ford and Mr. Taverner was that during the auction, the attendance of Mr. Taverner and Chief Saunders at the hockey game was included as part of the package to encourage higher bids, a strategy which was successful.
2. Photos were also published of the Premier sitting with Mr. Taverner and Mr. Di Tommaso (who was a Staff Superintendent for the TPS at the time) during an event at a golf club on June 18, 2018. Mr. Di Tommaso indicated that the Premier is an acquaintance and that the two are not friends; the Premier confirmed this. The evidence of the Premier, Mr. Taverner and Mr. Di Tommaso was that they each attended the dinner that was part of a police charitable golf tournament and were assigned to a "VIP" table where they sat together. They did not ask or choose to sit together.
3. It was also reported that the Premier met with Mr. Taverner and Chief Saunders for dinner on July 30, 2018 at Posticino, a restaurant in Etobicoke. The evidence of the Premier and Mr. Taverner was that the purpose of this meeting was to talk about issues relating to gun violence. Mr. Taverner recalled that the Premier organized this dinner, but was not entirely certain; the Premier could not confirm this as he could not recall who organized it. The Premier indicated that at the time of this meeting, he

did not know that the OPP Commissioner at the time, Vince Hawkes, would be retiring. This was speculated by Mr. Yarde in a letter to me of December 31, 2018, as the purpose of the dinner meeting. There was also a recent media report which made the same suggestion. As explained below, the Premier's evidence is consistent with the evidence of Mr. Hawkes that he first revealed his retirement plans on September 4, 2018 so the speculation to the contrary was contradicted by the evidence.

[75] It was also reported by the media that Mr. Taverner purchased his current home from Simone Daniels, Deputy Chief of Staff, HR Administration and Tour for the Office of the Premier. Ms. Daniels has worked for Premier Ford for a number of years and met Mr. Taverner through that work. She indicated that she sees Mr. Taverner from time to time at events and in the Etobicoke area where she still resides. Mr. Taverner and Ms. Daniels each confirmed that Mr. Taverner bought Ms. Daniels' home in 2017. This was done through a private sale, the arrangements for which began when Ms. Daniels ran into Mr. Taverner at Wally's Grill, a restaurant in Etobicoke. There is no evidence that the Premier was involved in that transaction.

[76] Mr. Yarde continued to provide me with media clippings, well after he had submitted his reply submissions, in an effort to establish that Premier Ford, Mr. Taverner and Mr. Di Tommaso were all friends of one another. There was no issue that Premier Ford and Mr. Taverner are friends. They each acknowledge that fact.

[77] Where Mr. Yarde is engaging in overreach is his attempt to paint a relationship between Premier Ford and Mr. Di Tommaso as being closer than I am prepared to find. Simply because they were seen seated at the same table at a charity golf tournament and they may have been in attendance at some community events is not sufficient for a finding that they were closer than acquaintances. Anyone who has ever attended a charitable event of this nature knows how transitory the socialization with others at the event can be. I think it overstates the occasion of the charity golf event by Mr. Yarde's reference to the three men "dining" together. I accept the evidence of Mr. Di Tommaso and Mr. Taverner that they are colleagues and have a professional relationship and nothing more. Similarly I accept the evidence of Premier Ford and Mr. Di Tommaso that they were merely acquaintances at

least until Mr. Di Tommaso was appointed as Deputy Minister of Community Safety. There is no admissible evidence to the contrary.

3. Position at the Ontario Cannabis Store

[78] Premier Ford's Chief of Staff, Dean French, explained that in the summer of 2018, prior to the legalization of cannabis and during the development of the Ontario Cannabis Store (the "OCS"), the Premier's Office identified the need to have someone with policing background on the OCS's executive team. This was to address the government's concerns regarding cannabis-related criminal activity.

[79] Premier Ford indicated that in August 2018, he approached Mr. Taverner about working at the OCS. Mr. Taverner confirmed this, indicating that Premier Ford asked him if he would be interested in a position at the OCS and suggested the title of "President of Community Outreach" for the position or something similar. Mr. Taverner told Premier Ford that he was interested. Mr. French's evidence was that he, too, had discussions with Mr. Taverner about the position. He explained that he was "promoting the opportunity" to Mr. Taverner, indicating that "when you attract people, you sometimes have to recruit them a little bit."

[80] On August 17, 2018, the Secretary sent an email to Greg Orencsak, the Deputy Minister for the Ministry of Finance with the subject line "Urgent: Ron Taverner." (The Ministry of Finance has jurisdiction over the OCS which presumably is why the Secretary wrote to him about Mr. Taverner.) A number of individuals were copied on this email, including Mr. French and Greg Harrington, a senior advisor to Mr. French who works in the Premier's Office.

[81] In the email, the Secretary asked Deputy Minister Orencsak to ensure that the OCS made a written offer to Mr. Taverner by noon that day as the President of Community Affairs or something to which Mr. Taverner and the OCS could agree. The Secretary suggested in his email that given Mr. Taverner's excellent law enforcement credentials, "we would be lucky to get him for \$270,000 a year (with a 10% at risk pay component in addition to this base salary)." Mr. Taverner's resume was attached to the email, a copy of which the Secretary explained had been provided to him by the Premier's Office. Mr. French did not specifically recall how the Secretary received it.

- [82] The Secretary explained that earlier during the day on August 17, he received a call from Mr. French who wanted a written offer to be made to Mr. Taverner by noon that day for a position at the OCS. He explained that Mr. French told him that “we would like Mr. Taverner appointed to the Ontario Cannabis Store.” Mr. French’s evidence, on the other hand, was that he “recommended” that Mr. Taverner be considered for the OCS position. The Secretary did not know why the offer had to be made by noon, indicating that “they” always want to move quickly on every file. Mr. French does not recall asking that the offer be made by noon but says that it is possible that he did make this request.
- [83] With respect to the salary that was offered to Mr. Taverner, the evidence of the Secretary was that it was determined by the Premier’s Office. The Secretary referenced a handwritten yellow note that was produced during the inquiry which had the \$270,000 salary amount on it, which he said that his Executive Assistant gave to him. He indicated that the information on the note would have been provided by the Premier’s Office. The evidence of the Secretary’s Executive Assistant, which I obtained in writing, was that she was in possession of that note but that she had not written it. She indicated that the Secretary alerted her to the existence of this note, which was on his desk, and that the Secretary had told her that the Executive Assistant in the Premier’s Office had provided it.
- [84] Mr. French denied having set the salary amount for the position. Although not entirely clear, he seemed to suggest that there was a “healthy discussion” with the Secretary about the salary which was based on information regarding comparable positions in other Crown corporations. His evidence was that the salary was based on the requirements of the position rather than on the individual to whom it was being offered. The Premier’s evidence was that he did not set the salary for the position.
- [85] There was a flurry of emails during the morning of August 17 between the Premier’s Office, the Secretary, the Secretary’s Office and the Ministry of Finance to finalize the terms of the offer and to locate contact information for Mr. Taverner. In one of the emails, the Executive Assistant to Mr. French confirmed that Mr. French agreed with the proposed reporting structure for the position and the length of the contract (i.e. four years).

- [86] The OCS made an offer of employment to Mr. Taverner on August 17 for the position of President of Community Partnerships. Mr. Taverner was offered a four-year contract with an annual salary of \$270,000 plus a potential performance bonus of up to 10 per cent of his salary.
- [87] Mr. Taverner did not accept the offer. His evidence was that he was “getting cold feet” after he received it. He knew that it was a very good offer but explained that he was struggling with leaving policing in light of his 50-year career in that field. As he put it, “[i]t really wasn’t about the money. It was more whether I could get my head around not being a cop.” He indicated that he spoke to the Premier before Labour Day (September 3, 2018) about his concerns and had a similar discussion with Mr. French a couple of days after Labour Day.
- [88] On September 5, 2018, the Secretary’s General Counsel sent an email to public servants in Deputy Minister Orencsak’s office indicating that the Secretary had heard “that the person being considered for VP Community Affairs (Ron?) Does [sic] not want to pursue the position.” The Secretary explained that Mr. French had advised him that Mr. Taverner may not accept the offer. Mr. French indicated that he had called Mr. Taverner because some time had passed since the offer had been made. Mr. French’s evidence was that he spoke to Mr. Taverner twice but the timing of these discussions is unclear. During the first call, Mr. Taverner told him that he needed more time and during the second, that he was going to go in a “different direction” and that he “wasn’t going to take the job.”
- [89] On September 10, 2018, Mr. Taverner advised the Director of Human Resources (“**HR**”) at the OCS that he was declining the offer. Mr. Taverner’s evidence was that he told the Director of HR that there “might be other opportunities” but did not tell her what those opportunities were. On that date, Deputy Minister Orencsak sent an email to the Secretary’s General Counsel and other public servants at the Ministry of Finance to tell them that the OCS had informed him that day that Mr. Taverner would be declining their offer of employment and would instead be taking another offer with a firm (he was not sure which one). Further to a request that I made, the Director of HR confirmed in writing that she could not recall whether Mr. Taverner had told her that he had another offer or opportunity (she could not recall which word Mr. Taverner had used).

[90] Later that day, Derek O’Toole, a Senior Policy Advisor in the Premier’s Office, sent an email to Mr. French to advise him that Mr. Taverner had declined the offer from the OCS. Mr. French advised Mr. O’Toole that Mr. Taverner had told him this the previous week (i.e. the week of September 3, 2018) and he, Mr. French, had told Mr. Taverner to “email his notice in.”

4. OPP Commissioner Vince Hawkes announces retirement

[91] Before Mr. Taverner declined the offer from the OCS, on September 4, 2018, OPP Commissioner Vince Hawkes notified Mr. Torigian, then Deputy Minister of Community Safety, that he would be retiring from the OPP. This decision was announced publicly the following day, on September 5. The Secretary’s evidence was that Mr. Torigian advised him on September 4 that Mr. Hawkes had announced his retirement and that he, the Secretary, then advised Mr. French of this that evening. Mr. French does not recall being advised of the resignation on September 4 but does recall reviewing a memo that had been sent to him on September 5.

[92] Mr. Hawkes explained to me that he made a decision to retire after more than 34 years in policing based on his personal interests and his family circumstances. He confirmed that Premier Ford did not ask him to leave and that issues that arose during the summer relating to the Premier’s OPP security detail (which I will describe in another section of this report) had nothing to do with his decision to retire since they had been resolved amicably at a meeting between the two men on July 25 at which time there was no discussion of his retirement; he indicated that he had made the decision to retire long before the issue surrounding the security detail ever arose. Premier Ford’s evidence was that Mr. Hawkes told him that he was retiring for personal reasons and assured the Premier that he had not done anything to cause Mr. Hawkes to retire. According to both Mr. Hawkes and Premier Ford, they parted on good terms.

[93] Mr. Hawkes confirmed that he did not tell anyone prior to September 4 that he was thinking of retiring or that he would be retiring. The evidence of several other witnesses, including Premier Ford, the Secretary, Mr. French, Mr. Torigian, Mr. Blair and Michael

Tibollo, then Minister of Community Safety and Correctional Services, is consistent with this as they each indicated that they did not know that Mr. Hawkes was thinking of retiring.

[94] Given the timing of Mr. Hawkes' resignation, there is a question about whether the Premier or his office encouraged Mr. Taverner to decline the OCS offer so that he could apply for the OPP Commissioner position. The remainder of this section addresses that question.

[95] Mr. Taverner's evidence was that neither the Premier nor Mr. French told him that Mr. Hawkes had resigned; he said he heard it on the news. Mr. Taverner also indicated that neither the Premier nor Mr. French encouraged him to apply for the OPP Commissioner position and that he is the one who approached the Premier about the position after the job advertisement for the OPP Commissioner position was posted. It was Mr. Taverner's evidence that he told the Premier that he would be applying and that the Premier had said to him that "there will be a process to go through, that certainly there was no promise of anything at the end of the process."

[96] Premier Ford indicated that he had no discussions with Mr. Taverner about declining the OCS position so that he could apply for, or obtain, the OPP Commissioner position. The Premier's evidence was that Mr. Taverner told him around the time that Mr. Hawkes resigned that he would be applying for the position at the OPP. Mr. French indicated that when Mr. Taverner spoke to him about declining the OCS position, he was not aware that Mr. Hawkes had resigned.

[97] It is apparent from the evidence that Mr. Taverner was having serious second thoughts about the OCS offer some time before Commissioner Hawkes announced his retirement. I accept his evidence that he wanted to remain in policing and that it was this reason that motivated him to decline the offer and not the possibility of being appointed as the OPP Commissioner which required him to enter a process. Unlike the OCS offer, there is no evidence that he was given any assurance that he would be successful in this process.

5. Planning for the recruitment process begins

[98] On September 7, 2018, shortly after Mr. Hawkes' retirement was announced, the Secretary had a discussion with the Conflict of Interest Commissioner, Sidney Linden, about the recruitment process. (Under the *Public Service of Ontario Act, 2006*, the Conflict of Interest Commissioner is the ethics executive for the Secretary of the Cabinet and in that capacity, may provide conflict of interest advice.) The Secretary suggested that he had concerns about his own involvement, or the involvement of the OPS, in the recruitment process given the OPP's independence. He was concerned about what would happen if the OPP later had to investigate the OPS. The Secretary stated that Commissioner Linden told him that there was no reason why he could not be involved but that he recommended "building as much third-party independent validation [...] into the process." The Secretary's description of this exchange is consistent with Commissioner Linden's notes, which I requested as part of the inquiry.

[99] It was the Secretary's evidence that, around this time, Mr. French asked that a proposed recruitment process plan be put together. The Secretary indicated that Mr. Torigian then worked with the Public Service Commission (the "PSC") to prepare it. (The PSC is "the governance body that provides enterprise-wide direction for the effective management of human resources (HR) in the Ontario Public Service."⁹ It comprises the Secretary of the Cabinet, some deputy ministers and the Chief Talent Officer, who is appointed as the Chair.)

[100] A draft plan appears to have been sent to the Secretary on September 12 (there is no evidence about who sent it to the Secretary). It set out the various steps that needed to be completed in the process, who was responsible for each and the relevant timelines. The process contemplated a March 2019 start for the new OPP Commissioner. The Secretary sent the draft plan to Mr. French, Mr. Harrington and Mr. O'Toole in the Premier's Office that same date. The Secretary acknowledged in his email to the Premier's Office that the process seemed long but that "folks think a robust process that would include consulting with front line officers would reflect well on the government."

⁹ 2017 Public Service Commission Annual Report.

[101] In the evening of September 12, Mr. Torigian sent an email to the Secretary indicating that he had spoken to Minister Tibollo (then Minister of Community Safety and Correctional Services) who indicated that he did not have any concerns with the proposed process. Mr. Torigian also indicated in his email that the Minister was “very pleased where things are” and added that “the Premier would like to be involved in the selection, as would he.” Mr. Torigian confirmed during his interview that Minister Tibollo told him this. Minister Tibollo did not recall this discussion and the Premier’s evidence was that he never indicated that he wanted to be involved in the selection process.

[102] On September 13, the Secretary wrote to Mr. Torigian to advise him that “the PO would like to have your Ministry retain an executive search firm to recruit the new Commissioner. The PO would like a group that is experienced in recruiting chiefs of police.” He asked that Mr. Torigian work with Diane McArthur, Chief Talent Officer, to draft a request for proposals. The Secretary indicated during his interview that it was he who had made a suggestion to Mr. French to use a recruitment firm and that Mr. French had approved this course of action. Mr. French’s evidence was that he himself recommended that a recruitment firm be used. A request for recruitment services (“RFS”) was issued on September 26 with a submission deadline of October 5.

[103] Also on September 26, at 10:34 p.m., the Secretary sent an email to Ms. McArthur, Mr. Torigian and Paul Boniferro, Deputy Attorney General, which indicated that he had just received a call from the Premier who had indicated to him that he would “like to land the OPP Commissioner before December.” The Secretary then indicated that the RFS for the executive search firm needed to be issued that Friday (i.e. September 28, 2018) so that a firm could be selected the next week. He asked Ms. McArthur to provide a draft RFS the following day and indicated that he would like Mr. Torigian and Mr. Boniferro to review the bids.

[104] Later that same evening, Mr. Torigian sent the Secretary a copy of the RFS. The Secretary forwarded it to Mr. French, Mr. Harrington and Mr. O’Toole and advised them of his discussion with Premier Ford that day. In his email, the Secretary relayed the Premier’s concerns about the length of the recruitment process and indicated that he, the Secretary, shared those same concerns. He advised that by “going outside, we have shorten [sic] the

process by a couple of months.” The Secretary confirmed during his interview that he thought that the length of the process that had been suggested was long.

[105] Mr. French replied to this email the same evening indicating that “[i]deally, a 30 day [sic] search process would be helpful.” The Secretary replied to this email almost immediately, indicating that he would “meet with folks to accelerate the process” and that they “would get it done quickly.” Mr. French wrote back: “Much appreciated.”

[106] The following morning, on September 27, the Secretary sent an email to Mr. French to tell him that they were “speeding up the RFP closing date to Monday [i.e. October 1, 2018]”, indicating that “[a]ny competent search firm can respond in four days.” The Secretary stated during his interview that he did not have any concerns about giving proponents a short period to respond to the RFS and that no concerns had been raised with him about the timeline. He also stated that the PSC advised him that a recruitment firm could prepare a proposal in four days, indicating that such “proposals are off the shelf.”

[107] The RFS was re-issued that day, on Thursday, September 27; the deadline to submit the proposal was amended to Monday, October 1. Mr. Boniferro’s evidence was that three firms submitted responses which he and Mr. Torigian evaluated using an “independent scoring process with criteria.” On October 5, Mr. Torigian advised the Secretary that Odgers was the successful vendor; the Secretary advised Mr. French of this that same day.

[108] Odgers was notified of the decision on October 9 and there appears to have been a kick-off meeting that day which included Mr. Torigian, Mr. Badali, and Tanya Todorovich (a partner at Odgers). Mr. Torigian’s evidence was that he provided Odgers with the names of chiefs and deputy chiefs as potential candidates for the position. Mr. Badali confirmed that Mr. Taverner’s name was not mentioned during this meeting.

[109] This was not the only occasion that Mr. Torigian would communicate with Mr. Badali about potential candidates. On October 16, Mr. Torigian sent a list of 30 potential candidates to Mr. Badali. The candidates on this list were active or retired senior police officers who had each achieved the deputy chief or deputy/acting commissioner rank. Mr. Blair, who was a Deputy Commissioner for the OPP at the time, was included on this list. Mr. Taverner was not.

[110] Mr. Torigian's evidence was that around October 16 or October 17, he also had a call with Mr. Badali who was in Greece at the time. (The call likely happened on October 16 given that in the email of the same date described above, Mr. Torigian thanked Mr. Badali "for the call.") Mr. Torigian indicated that during this call, he told Mr. Badali that it would be wise to reach out to the deputy chiefs or chiefs of the "Big 12" police forces in Ontario. He explained that Mr. Badali then pressed him about whether there was anyone he could think of and described the rest of the exchange as follows:

"Well, there's one other name obviously out there that you're not going to get from me, because they're not qualified, but I'm sure you've heard there's interest in having this person apply, too." And, I didn't give him the name. And, [Mr. Badali] half-chuckled and said, "Well, we all know Ron is going to get an interview, and we'll see where it goes."

[111] Mr. Badali confirmed that he was in Greece on October 16 but could not recall this discussion. He did not recall suggesting that Mr. Taverner was going to get an interview and explained that he did not receive Mr. Taverner's name until the Secretary sent him a text message with a link to Mr. Taverner's LinkedIn profile on October 19 (this text will be described in further detail in a section below.)

[112] I have some difficulty resolving what to make of this call between Mr. Torigian and Mr. Badali while the latter was in Greece. I am fairly certain, as indicated, that there was a call and that it likely happened on October 16 and that it concerned names of potential candidates for the OPP Commissioner position. It is clear that Mr. Torigian confined his suggestions to those persons who met rank requirements, which will be discussed later. As a former chief of police himself his view on the matter is not altogether surprising. As part of the discussion that will follow it will be clear that Odgers and Mr. Badali do not share this view and looked for candidates who are not restricted by rank.

[113] The difficulty I have with the call is the reference to Mr. Taverner. As Mr. Badali stated in his testimony, he did not know of Mr. Taverner until he received his name from the Secretary on Friday, October 19. Ordinarily I might consider that Mr. Torigian was simply confused as to when the call occurred with reference to Mr. Taverner. However, the evidence shows that October 21 was Mr. Torigian's last day as Deputy Minister and there were no other calls between him and Mr. Badali. Given the onus of proof in this matter I

am unable to find that one version of what transpired in the October 16 call is more likely than the other so that is where I must leave it.

[114] Before moving forward with the timeline of events, there is one additional important piece of evidence that I need to highlight. During his interview, Mr. French indicated that he recommended to the Secretary that Mr. Taverner be considered for the OPP Commissioner position. Given its importance, I have reproduced Mr. French's evidence on this point in its entirety:

Q. And, did you at this point during the planning phase – did you and the Premier discuss Mr. Taverner as a potential candidate for the position?

A. Yes. We both recommended that he be considered.

Q. And, you recommended to who?

A. Actually, I – I should speak for myself. I recommended to Secretary Orsini that he be considered.

Q. And, do you remember when you did that?

A. I don't remember when I did it exactly, no.

Q. Was it on the phone? Was it by email, text?

A. I think it was probably in person, but I definitely recommended it. Just like I recommended Ron Taverner for Ontario Cannabis Store, I recommended he be considered.

Q. Did you recommend any other candidates for the position?

A. I didn't. I didn't. Ron Taverner is the only person that I've been associated with sort of at that level. I do know some other police officers, but not at the level or the reputation that Ron Taverner has in the police.

Q. Okay. And, was it a recommendation or was it a direction to the Secretary that he be either considered or appointed?

A. It was a referral.

Q. A referral.

A. It was a referral.

Q. Like, in the sense of here's a person that you might want to consider?

A. Yes, which I've done in other cases before, including the example I brought up a few times with the deputy minister from British Columbia that missed – that Secretary Orsini didn't think was the right fit.

[115] Mr. French indicated later during his interview that the Secretary had asked him whether he had any candidates to recommend. He stated that he had “limited experience with the police, so Ron Taverner was the one [he] had experience with. And, [he] knew that the Premier held him in high regard.”

[116] Mr. French thought he remembered telling Mr. Taverner that he had recommended him for the OPP Commissioner position; he does not recall when this discussion took place. Mr. French's evidence was that “with the tone of the conversation” he would have been encouraging Mr. Taverner to apply.

[117] The Secretary did not recall Mr. French recommending Mr. Taverner as a candidate for the OPP Commissioner position.

[118] Premier Ford's evidence was that he could not remember Mr. French telling him that he was referring or recommending Mr. Taverner for the position.

6. Announcements regarding Deputy Minister of Community Safety

[119] While the preparations for the recruitment were under way, it was announced by the Secretary on September 24, 2018 that Mr. Torigian would be leaving the OPS. The Secretary's communication indicated that Mr. Torigian had accepted a position as a Distinguished Fellow of the Munk School of Global Affairs and Public Policy, at the University of Toronto.

a) Matt Torigian's departure

[120] Mr. Torigian indicated that on September 10, he had a meeting with the Secretary during which the Secretary suggested to him that he “give consideration to a career change.” He said that the Secretary told him that Mr. French “did not have confidence in [his] leadership.” Mr. Torigian offered to speak to Mr. French but the Secretary did not agree to this.

[121] Mr. Torigian had a second meeting with the Secretary on September 17 during which the Secretary advised more directly that Mr. Torigian “needed a career change.” He understood that Mr. French had “an overall lack of confidence” in his abilities and that there had been a series of comments made by Mr. French during the transition about Mr. Torigian’s performance. The Secretary told him that deputy ministers serve at the pleasure of the Premier (i.e. all deputy minister appointments have to be approved by the premier) and Mr. Torigian understood “that where [he] heard Dean French, [he] took that to mean the Premier.” Mr. Torigian found new employment and his appointment as Deputy Minister of Community Safety expired on October 22, 2018.

[122] Mr. French said that he did ask the Secretary to consider whether “Mr. Torigian was the right fit for government.” He described some concerns about Mr. Torigian’s performance, as did the Secretary during his interview. I raised these concerns with Mr. Torigian who vehemently denies that there were issues with his performance. He suggested, through his counsel, that there may have been a misunderstanding by Mr. French over a comment made by Mr. Torigian at a meeting that was taken out of context.

[123] Minister Tibollo, who was the Minister of Community Safety and Correctional Services, indicated that he was shocked when Mr. Torigian told him he was leaving. The Minister described Mr. Torigian as “dedicated” and said that he never raised any concerns about Mr. Torigian’s job performance with the Premier’s Office.

[124] Premier Ford indicated that he did not direct that Mr. Torigian be asked to leave and in his interview, honestly appeared to have difficulty recalling who Mr. Torigian was. He said that he did not raise any concerns about Mr. Torigian’s job performance, indicating that he does “not get involved in that.”

[125] I find that it is unnecessary for the purposes of this inquiry for me to delve deeply into the employment situation of Mr. Torigian so I make no finding on the matter. There was no evidence to suggest that Premier Ford was involved in the employment matters relating to Mr. Torigian or that such matters were connected to the recruitment for the OPP Commissioner position.

b) Steps taken to replace Mr. Torigian

[126] The Secretary's evidence was that early in September, before a decision had been made about Mr. Torigian's job, the Premier's Office provided him with Mr. Di Tommaso's name; he could not recall exactly who had given him the name. Given that no decision had been made about Mr. Torigian at the time, the Secretary was asked during his interview about the context surrounding the discussion with the Premier's Office. The Secretary's evidence on this point was unclear. He indicated that he does not recall telling the Premier's Office that he would be ending Mr. Torigian's appointment, indicating that he was "looking for talent."

[127] Mr. French confirmed that he provided Mr. Di Tommaso's name to the Secretary as a candidate for the deputy minister position. He could not recall if the Secretary had asked him for a name or if he had volunteered it. He indicated that he got Mr. Di Tommaso's name from Chief Mark Saunders from the TPS when he asked the Chief to identify the strong performers in his organization (he specified that the question was asked of the Chief not knowing that the deputy minister position was open at the time). Mr. French stated that he then passed Mr. Di Tommaso's name along to the Secretary. He indicated that he did not direct the Secretary to hire Mr. Di Tommaso, which is consistent with the evidence of the Secretary.

[128] The Secretary advised that he sought a list of names from Mr. Badali, with whom he had worked on other recruitments, for the deputy minister position. Mr. Badali confirmed that Odgers was not formally retained to recruit for this position but that he did have a discussion with the Secretary and a partner at Odgers about potential candidates.

[129] It also appears that the Secretary asked Mr. Torigian about potential candidates for the position on September 19. Mr. Torigian said that during this discussion, the Secretary confided in him that he felt pressured to hire "a friend of the Fords" and that he mentioned Mr. Taverner and another name (unrelated to this matter). Mr. Torigian indicated that the Secretary told him that he was "getting pressure" to hire Mr. Taverner and that a position had been offered to Mr. Taverner which he had turned down. The Secretary did not tell him from whom he was getting pressure. Mr. Torigian went on to explain that during this

discussion, the Secretary raised Mr. Taverner's name in relation to the deputy minister role, indicating that the Secretary expressed his strong opposition to hiring Mr. Taverner for that position. Mr. Torigian said that the Secretary then made a comment about "Ron Taverner perhaps being somebody that could be the Commissioner of the OPP, and that might satisfy whoever it was that was giving [the Secretary] pressure to hire a friend of Ford." Mr. Torigian indicated that the Secretary used the term "dangle the OPP Commissioner" and that it was very clear to him at that time that the Secretary meant that he could use the OPP Commissioner position as an option so that he did not have to hire Mr. Taverner as the Deputy Minister of Community Safety.

[130] Mr. Torigian made notes of his meeting with the Secretary on September 19 which stated, in part, as follows: "Getting pressure to hire 'friend' of Ford: [other individual] & Taverner." This note was shown to the Secretary who indicated that he did speak to Mr. Torigian about Mr. Taverner and the other individual but not during the same discussion. In relation to Mr. Taverner, the Secretary's evidence was that he had a discussion with Mr. Torigian to tell him that he was considering Mr. Di Tommaso for the deputy minister position and that he wanted to "move fairly quickly" because he did not want Mr. French to start "throwing ideas around" like "Taverner." The Secretary said that he told Mr. Torigian that Mr. Taverner "would not be deputy material", indicating to Mr. Torigian that he was "looking for someone that is administrative, that can handle our [...] budget-planning process."

[131] The Secretary, on the other hand, said that Mr. Torigian was the one who raised Mr. Taverner's name as a potential candidate for the OPP Commissioner role and that he, the Secretary, told him that Mr. Taverner would be more appropriate for that role but that he would have to go through a competitive process. The Secretary denied that he told Mr. Torigian that he felt pressure to hire Mr. Taverner and he confirmed that the Premier's Office never raised Mr. Taverner's name with him for the deputy minister role. Given that Mr. Torigian subsequently submitted a list of 30 names for consideration as OPP Commissioner, which I will deal with later, and that Mr. Taverner's name was not included on that list I find it unlikely that Mr. Torigian would have suggested Mr. Taverner's name to the Secretary at this meeting.

[132] The Deputy Attorney General, Mr. Boniferro, indicated that he too had a discussion with the Secretary regarding Mr. Taverner's suitability for the deputy minister role. It was Mr. Boniferro's evidence that the Secretary had talked to him about being on the hiring panel for that position. The Secretary told him that the Premier's Office had suggested Mr. Taverner for a role at the OCS in the summer and that he thought that the Premier's Office would also suggest Mr. Taverner for the deputy minister role. Mr. Boniferro stated that the Secretary thought that it would be more appropriate for Mr. Taverner to apply for the OPP Commissioner position.

[133] The Secretary advised that he also sought names of potential candidates for the deputy minister position from the PSC. This is consistent with an email exchange that he had with Ms. McArthur on September 26. In the initial email on that date, the Secretary indicated that he had been meeting with potential candidates to replace Mr. Torigian and referenced a prior discussion with Ms. McArthur about tying the recruitment for the deputy minister position to the recruitment of the OPP Commissioner. The Secretary advised Ms. McArthur that he would be proceeding with the recruitment of the new deputy minister as soon as possible as he felt that the skill set for the two positions was sufficiently different and that the timing did not work. He then proceeded to ask her to provide the names of potential candidates to "make sure these are considered" before he made a final decision.

[134] Ms. McArthur replied to this email, indicating that she had sent the Secretary "our top internals" and that they would be going through the OPP list to "cull it to the couple who might work and add some others." She asked the Secretary whether a panel was required. The Secretary replied, indicating that he had gone through the OPP list with Mr. Torigian and confirmed he recalled the discussion with Ms. McArthur on internal candidates. He wrote to Ms. McArthur that a panel was not required and that he was "comfortable with [his] leading candidate at this time" and that he had wanted to "redouble" his efforts to make sure that he had not overlooked anyone.

[135] The Secretary's evidence was that there was no competition to fill the position, which he said was not unusual. He, in fact, specified that more often than not, there is no competition for deputy minister positions. The evidence of Ms. McArthur was consistent with this. Mr. Di Tommaso was the only candidate whom the Secretary said he interviewed

for the position. The Secretary stated that he interviewed Mr. Di Tommaso once on the phone and once in person. He provided some information about why he liked Mr. Di Tommaso:

[...] I spent a lot of time in the interview testing for a couple of things. One is, do they use evidence when they give an opinion? Two, do they tell what you want -- do they tell you [what] they think you want to hear?

So, if the Premier was opposed to Safe Injection Sites, and Mario was not shy to totally disagree with that position, argued that they save lives and gave me a great explanation as to why, but say we don't do enough, we don't provide wraparound services and all that. I look to deputies that will not challenge the government's thinking, but would provide an alternative view.

[136] Mr. Di Tommaso's evidence was that he did not know how the Secretary knew of him. He indicated that he had one discussion with the Secretary in August about issues relating to "guns and gangs." The Secretary did not tell Mr. Di Tommaso that the deputy minister position was available but Mr. Di Tommaso did tell the Secretary during this call that he was interested in working for the OPS. The Secretary asked him (either during this discussion or thereafter) to send him his resume, which Mr. Di Tommaso did in late August or early September. Mr. Di Tommaso said that he found out in mid-September that the deputy minister role was available. Mr. Di Tommaso indicated that he had an interview with the Secretary and that the Secretary asked him a number of questions over the phone after that (the timing of this is unclear). He also said that the Secretary asked for a list of references, which he provided. The position was formally offered to him in September.

[137] Mr. Di Tommaso also stated that he did not speak to Premier Ford about the position or with anyone in the Premier's Office. As I have found above, Premier Ford and Mr. Di Tommaso are only acquaintances.

[138] On October 1, 2018, the Secretary announced that Mr. Di Tommaso would be appointed to the position of Deputy Minister of Community Safety effective October 22.

7. Communications between the Secretary of the Cabinet and Mr. Taverner

[139] On October 17, 2018, before the job advertisement for the OPP Commissioner was posted, the Secretary sent Mr. Taverner a request on LinkedIn to connect. A message from the Secretary accompanied the connection request which read as follows:

Hi Ron,

Just want to connect with one of our finest law and order officers in the province.

Steve

[140] In response, Mr. Taverner suggested that the two meet for coffee. The Secretary provided his government email address to Mr. Taverner so that Mr. Taverner could contact him to make an appointment.

[141] On October 19, Mr. Taverner sent the Secretary an email asking to meet for coffee. The Secretary stated that he did not know why Mr. Taverner had sent him this email. At the time he gave that evidence, the LinkedIn exchange referenced immediately above had not yet been produced by Mr. Taverner (for clarity, it was never produced by the Secretary). After the LinkedIn exchange surfaced, I asked the Secretary to clarify his evidence about the October 19 meeting request. The Secretary indicated that he did not recall the LinkedIn exchange and maintained that he did not know why Mr. Taverner wanted to meet for coffee.

[142] The Secretary's evidence was that he thought Mr. Taverner's request to meet was likely related to the OPP Commissioner position but that he would not discuss the position with Mr. Taverner if it was raised during their meeting. He did not think that it "would influence him" to meet with Mr. Taverner, explaining that he knew Brad Blair and another candidate from the OPP¹⁰ who later became one of the three finalists for the position. This strikes me as an after-the-fact justification since neither Mr. Blair nor the other OPP candidate had yet applied. He went on to say that he attended a lot of functions with the OPP and had discussions with senior officers. I think the point he was trying to convey was that given

¹⁰ For privacy reasons, I have not included the name of this candidate in the report.

his contacts with the OPP, from which there were likely going to be candidates for the Commissioner position, he did not think it would be unfair to them if he met with a potential candidate from outside of the OPP.

[143] Mr. Taverner's evidence was that he did not know that the Secretary would be reaching out to him, indicating that he had never met him before. He said that he asked the Secretary for coffee because it would be nice to meet him, indicating that he had heard from a community member that the Secretary was a "sound leader." Mr. Taverner's evidence was that at the time, he was thinking about applying for the OPP Commissioner position but that he had not yet made up his mind. He indicated that he did not know that the Secretary would be involved in the recruitment process and that it had not "crossed his mind." He stated that the Premier did not tell him to meet the Secretary.

[144] The Secretary replied to Mr. Taverner's email that morning indicating that he would ask his scheduler to book a meeting for the following week. The meeting was scheduled for October 25.

[145] Almost immediately after replying to Mr. Taverner's October 19 email, the Secretary sent a text to Mr. Badali which stated as follows: "Sal, this person is interested in applying for the OPP Commissioner. Please consider adding him to the list." The Secretary then sent a second text message which contained a link to Mr. Taverner's LinkedIn profile. Later that morning, the Secretary sent an email to Mr. Badali marked "Private" with the subject line, "Phone Message." The email simply said, "Did you get my message?" Mr. Badali wrote back, "if you mean your text of this morning, yes I got it and responded; have a call into RT." Mr. Badali's evidence was that this was the first time that he had heard about Mr. Taverner.

[146] These exchanges between the Secretary and Mr. Badali were not discussed during the Secretary's initial interview as Mr. Badali had not yet produced them and the Secretary did not include them in his productions. The Secretary was asked to address this in his second interview. With regard to the text, the Secretary indicated that the information from his mobile device was erased as a result of a technical issue on or about November 16. One of the keys malfunctioned which resulted in the information being automatically erased when

he typed the password incorrectly too many times. This was confirmed by the Secretary's General Counsel and a public servant from IT services.

[147] However, there was no explanation as to why the Secretary's email exchange with Mr. Badali on October 19 was not produced. When asked whether it was possible that he deleted these emails, he said that it was not. A search was undertaken following the second interview and I was subsequently advised by the Secretary's counsel that the emails could not be located.

[148] With respect to the substance of the exchange with Mr. Badali, the Secretary was asked what prompted him to send Mr. Taverner's LinkedIn profile to Mr. Badali. He said that he assumed, after he received Mr. Taverner's email of October 19, that Mr. Taverner was interested in the OPP Commissioner position. He indicated, however, that no one had told him that. The Secretary was asked why he used text messaging rather than email to convey the message about Mr. Taverner. He did not recall and indicated that he may have been on his mobile device at the time and that perhaps, the "firewall" prevented him from "pasting" an external link into his email. He denied using text to avoid having his staff see the exchange.

[149] The Secretary confirmed that emails marked "private", such as the email of October 19, would not be forwarded to his staff automatically like all of the non-private emails he received (he had an automatic rule set up in his email so that some of his staff, like his General Counsel and his Executive Assistant, received all of his non-private emails automatically.) He could not explain why the email was marked "private" indicating that he sometimes did this for emails relating to job competitions. However, most of the emails relating to the competition that the Secretary produced were not marked as such.

[150] The meeting between the Secretary and Mr. Taverner did take place on October 25. The Secretary's evidence was that the OPP Commissioner role was not discussed during this meeting. Mr. Taverner's evidence on this point differed as he indicated that at the end of the meeting, the Secretary asked Mr. Taverner about his career "intentions" and that he told the Secretary at that point that he would be applying for the OPP Commissioner position. The Secretary said that could not recall this exchange with Mr. Taverner.

[151] Immediately after this meeting, the Secretary had a pre-scheduled meeting with Mr. Di Tommaso. The Secretary's evidence was that he told Mr. Di Tommaso that he had just met with Mr. Taverner and that Mr. Di Tommaso told him that Mr. Taverner had reported to him for four years.

[152] What troubles me about the Secretary's evidence is that he first maintained that the meeting came at the request of Mr. Taverner "out of the blue" in the Secretary's words. This struck me as odd and I asked the Secretary about it at his first interview and he said he would get requests to meet people all the time. Subsequently, when the LinkedIn messages emerged, it became evident that it was the Secretary who initiated the contact with Mr. Taverner resulting in the meeting of October 25. This is consistent with Mr. Taverner's testimony, which I accept as to how the meeting came about.

8. Advertisement

[153] On October 15, the Secretary sent an email to Mr. Torigian indicating that he had spoken to Mr. Badali that morning and that Mr. Badali would be developing the job advertisement for the OPP Commissioner position.

[154] On October 16, Mr. Badali sent the Secretary a draft job advertisement (the "**Draft Odgers Advertisement**"); Mr. Torigian and Ms. Todorovich (Mr. Badali's partner from Odgers) were copied on this email. Mr. Badali believed that the wording of the Draft Odgers Advertisement was based on the job advertisement that Odgers had prepared for the 2010 OPP Commissioner recruitment process in which it had been involved (the "**2010 Advertisement**"). The 2010 Advertisement in fact contained wording that is very similar to the wording in the Draft Odgers Advertisement. Importantly, neither the 2010 Advertisement nor the Draft Odgers Advertisement specified that a certain police rank was necessary to apply for the position.

[155] On October 17, Odgers sent the Draft Odgers Advertisement to Maritha Peens, a public servant who works in the Executive Recruitment Office of the Treasury Board Secretariat.

[156] On October 19, Ms. Peens sent Mr. Torigian (who was still Deputy Minister of Community Safety at the time) a draft job advertisement (the "**2018 Advertisement**") along with what

she called a “vendor’s brief”, which was actually the Draft Odgers Advertisement. The 2018 Advertisement, which was two pages in length, was significantly different from the Draft Odgers Advertisement, both in form and substance. Importantly, under the heading “Executive Leadership Requirements”, the 2018 Advertisement specified that a certain police rank was required to apply for the position:

A track record and demonstrated ability to provide executive leadership in a complex policing organization at the rank of Deputy Police Chief or higher, or Assistant Commissioner or higher in a major police service[.]

[157] Mr. Torigian replied to this email on October 20, indicating that the documents (i.e. the advertisement and the vendor’s brief) “look good from his end” and requested a small editorial change to one of the headings in the 2018 Advertisement. Mr. Torigian confirmed during his interview that he did not have any concerns with this advertisement and that he was “very pleased to see the level of experience that was articulated in this job.” He indicated that he would not have “supported anything lower than that.” Since he himself had been a police chief, as I indicated earlier, I do not find his position to have been altogether surprising.

[158] Several emails were exchanged about the advertisement on October 22, which was the day that it was posted. At 10:58 a.m., Ms. Peens sent the 2018 Advertisement to Mr. Badali and Ms. Todorovich, indicating in her email that it would be posted “on our career site.” Ms. Peens’ evidence, which she provided in writing, was that she was the one who had prepared this advertisement. She indicated that she had drafted it based on the advertisement for the 2014 OPP Commissioner position, in which Odgers was not involved (the “**2014 Advertisement**”). The 2014 Advertisement contained the same rank requirement as the 2018 Advertisement that Ms. Peens prepared. Under the “Executive Leadership” heading, the 2014 Advertisement stated as follows:

You have performed in and demonstrated the ability to provide executive leadership in a complex policing organization at the rank of Deputy Police Chief or higher, or Assistant Commissioner or higher in a major police service.

[159] Ms. Peens advised that she did not speak to anyone about including the minimum rank requirement as such a requirement had been included in the 2014 Advertisement. She

stated as follows: “[a]s it had been required in the previous competition, I assumed that it was still required and therefore included it in the draft advertisement for review by the Deputy Minister.”

[160] At 1:19 p.m., Mr. Badali replied to Ms. Peens’ email to thank her for providing the advertisement. He indicated that it would be posted on Odgers’ site that day and suggested other sites on which it could be posted.

[161] After Mr. Badali wrote back to Ms. Peens, internal emails were exchanged at Odgers between Amanda Bugatto (National Director, Search Delivery) and Mr. Badali about the advertisement. Ms. Bugatto had reviewed the 2018 Advertisement and suggested removing some text to abbreviate it; she sent a revised version of the 2018 Advertisement to Mr. Badali. Of note, the language setting out the rank requirement had not been removed. Mr. Badali sent the abbreviated version of the 2018 Advertisement to Ms. Peens at 3:30 p.m. who wrote back shortly after to indicate that she agreed with the revised version.

[162] The 2018 Advertisement was posted late in the day on October 22 on the OPS careers website, Odgers’ site, LinkedIn and on the websites for the Canadian Association of Chiefs of Police and the Ontario Association of Chiefs of Police. The 2018 Advertisement which was posted on these sites contained the minimum police rank requirement set out above. The Draft Odgers Advertisement, which had been sent to the Secretary, was never posted. The Secretary’s evidence is that he did not review the 2018 Advertisement before it was posted and Mr. Badali said that “he did not have a good read” of it given the time pressures.

[163] The Secretary’s General Counsel was advised on October 23 at 7:09 a.m. by a public servant from the Ministry of Community Safety and Correctional Services that the 2018 Advertisement had been posted. The General Counsel forwarded this email to the Secretary at 7:41 a.m. At 8:02 a.m. on October 23, the Secretary sent an email to Mr. French, Mr. Harrington, Mr. O’Toole and others in the Premier’s Office advising them that the 2018 Advertisement had been posted. He provided a link to various sites on which it was posted.

[164] There are inconsistencies in the evidence about what happened next. There is no question that the 2018 Advertisement was amended on October 24 to remove the minimum police

rank requirement. The reason for that amendment is a significant issue in this matter and has been the subject of much speculation.

[165] The Secretary's evidence is that Mr. French called him on October 23 after the Secretary had sent him the links to the advertisement to ask him why the advertisement was "so restrictive." The Secretary described their interaction as follows:

A. [...] It was – I can't recall precisely, but a few hours later, I get a call from Dean. My secretary comes in and says, you know, "Dean is on the line."

And, he doesn't normally call. Normally, he uses his cell phone. So, I picked it up. And, he asked, "Why is the ad so restrictive?" And, he, kind of, alluded to some of the categories. And, I had said ---

Q. Like, the rankings? The ranking requirement?

A. The rankings, yes.

Q. Yes.

A. I said, "I don't know. I hadn't even read them." And, he asked, "Well, can they be changed?" And so, I said, "Well, I need to call Sal. He's running the whole process."

[166] Mr. French's evidence about how the Secretary became aware of the issue with the advertisement differed. He provided the following evidence when asked whether he had any involvement in the change to the advertisement:

Q. Did you have any involvement in [the change to the advertisement]?

A. No, I did not.

Q. No involvement at all?

A. It was brought up to – well, yes, the involvement would have been a call from the Secretary, I believe, or the deputy minister – yes, the Secretary saying the job description was not the one that the executive search firm was recommending.

[167] Mr. French indicated that the Secretary's telephone call was simply to alert him that there was a problem and that the job advertisement would be changed; the Secretary was not asking for his approval to make the change. Mr. French confirmed that there were discussions internally in the Premier's Office about the fact that the Secretary had

mentioned that there was a correction being made. Mr. French indicated that he was “led to believe that it was the executive search firm or someone inside the ministry that had figured that out, and I brought it up to them.” He specified that “them” meant Mr. O’Toole and Mr. Harrington.

[168] When asked about who specifically “inside the ministry” had identified the issue, he replied that, “[He] was told it was the executive search firm that saw there was a difference.” He indicated that the Secretary told him that it was Odgers who had flagged the problem. Mr. French stated that he was told that the executive search firm was making the change to reflect “the way they had done it before”, two recruitment processes before (i.e. in 2010).

[169] Mr. O’Toole provided a different version of the events. He stated that after the Secretary sent him the links to the posted advertisement on October 23, “we noticed that the requirements for chief and deputy chief only didn’t meet the objectives of a wide net.” When asked who specifically he was referring to, he indicated that he was referring to himself and that he could not “speak to the other people that may or may not have looked at the link.” Mr. O’Toole explained that there had been a discussion “at the beginning, and the goal was to try to recruit as many wide-ranging members of the law enforcement community, both locally as well as nationally as possible.” He clarified that this discussion would have been with the Secretary, Mr. French, “possibly Mr. Harrington, maybe the Deputy Attorney General or the Deputy of Community Safety.” Based on this discussion, it was his view that the 2018 Advertisement “wasn’t wide enough.”

[170] Mr. O’Toole said that he then walked over to the Secretary’s office (their offices are on the same floor) to highlight the issue to the Secretary. He indicated that he did not have a discussion with Mr. French before speaking to the Secretary but briefed him thereafter. Mr. O’Toole’s evidence was that the Secretary agreed a “wider net” should be cast. Mr. French denied that it was Mr. O’Toole who first raised the issue with the Secretary.

[171] Mr. Harrington had very limited evidence regarding the advertisement. He recalls having a discussion with the Secretary during which the Secretary stated that “with this current ad

description, only OPP officers would be eligible, which would exclude highly-experienced people from police forces across the country, RCMP, et cetera, et cetera.”

[172] Following the interviews, I wrote to the Secretary’s General Counsel and his Executive Assistant to ask them whether they had any knowledge about why the advertisement was amended. The General Counsel indicated that around the time that the 2018 Advertisement was posted, he was not aware of the circumstances surrounding the amendment. Although he did become aware more recently of information relating to the circumstances of the change, he indicated that this information was subject to solicitor-client privilege.

[173] The Executive Assistant indicated that she too was not aware of the circumstances surrounding the change at the time it was made. However, she indicated that she became aware of information more recently:

In January 2019, my recollection is that the Secretary of the Cabinet told me that he received a call Mr. French [sic] after the job was posted, indicating that the job advertisement was too restrictive due to the rank requirement and asked that it be changed to remove the rank requirement. He told me that he subsequently reached out to Sal Badali to remove the rank requirement from the job ad.

During that conversation in January, I recall the Secretary telling me that he suspected that Mr. Taverner called Mr. French to notify him that he would not be able to apply to the job with the rank requirement.

[174] With respect to the Executive Assistant’s last comment, it was the Secretary’s evidence that at the time Mr. French called him, he did not suspect that the request was being made because of Mr. Taverner.

[175] Premier Ford indicated that he had no involvement in the amendment of the advertisement and that he had no discussions with Mr. French or with Mr. Taverner about the advertisement. There is no evidence that contradicts this. Mr. Taverner confirmed that he did not contact the Premier or the Premier’s Office to alert them that he did not have the required rank to apply.

[176] Going back to the series of events on October 23, the Secretary and Mr. Badali provided consistent evidence that it was the Secretary who called Mr. Badali about the advertisement, rather than the other way around. The Secretary indicated that he said to

Mr. Badali that “some folks think the ad is restrictive” and were asking whether it could be changed. The Secretary stated that Mr. Badali was in immediate agreement with the suggestion to remove the rank requirement. Mr. Badali indicated that he recommended that the advertisement be amended, stating that it is not “best practice” for there to be restrictions because they “want the best candidates, regardless of their level, to come forward.” He specified that Odgers does not typically include rank requirements. As noted above, the 2010 Advertisement which Odgers drafted and the Draft Odgers Advertisement did not contain a rank requirement. Mr. Badali did not have the impression that the request for the change was being made to accommodate one particular candidate. He stated that Mr. Taverner’s name was not raised during this call.

[177] At 5:34 p.m., Mr. Badali sent an email to the Secretary indicating that the Odgers site would “have the revised wording in the next few minutes” and that he would be “in touch with the Ministry rep in the morning to make the change on the government site.” The Secretary replied to Mr. Badali’s email at 7:31 p.m.:

Sal,

Thanks. We want to be an inclusive employer and reduce excessive credentialism wherever possible (see link to article below).

Thanks

Steve

<https://wp.nyu.edu/dispatch/2017/11/17/the-curse-of-credentialism/>

[178] It was the evidence of both the Secretary and Mr. Badali that they had discussed “credentialism” during their call (neither could recall specifically who initially used the word). With respect to a link to the article that he provided, the Secretary stated that “[he] just Googled it to make sure that my understanding that that is something that people have been moving away from, and that just confirmed it for me.” The American article focuses on the effects on those entering the work force of employers asking for qualifications (for example, a bachelor’s degree) for which such qualifications were not previously required.

[179] The Secretary explained that the OPS had, as a matter of policy, moved away from using credentials unless they were required (e.g. for legal counsel). Ms. McArthur confirmed this.

[180] After sending the email to Mr. Badali, the Secretary forwarded his exchange with Mr. Badali to Mr. Di Tommaso (who was now the new Deputy Minister of Community Safety) to ask him to ensure that the advertisement be updated on two of the sites where it was posted. This email was marked “Private.” Mr. Badali was copied on this email and replied on October 24 at 9:09 a.m. that the new wording was the following: “A track record and demonstrated ability to provide executive leadership in a complex policing organization.” This wording appeared in the revised version of the 2018 Advertisement (the “**Revised 2018 Advertisement**”) and the rank requirement was removed. Carrying out this direction which Mr. Di Tommaso received would seem to have been his only involvement in the change to the advertisement.

[181] On October 24, a public servant from the Ministry of Community Safety and Correctional Services sent an email to the Secretary’s General Counsel with the links to all of the sites on which the Revised 2018 Advertisement was posted. There is no evidence that these links were sent to the Premier’s Office.

[182] The following day, on October 25, the Secretary sent an email to Mr. Di Tommaso to alert him to the fact that the advertisement had not been amended on one of the sites. He provided a link to the Ontario Association of Chiefs of Police website. The Secretary indicated that it was Mr. O’Toole who raised this issue; Mr. O’Toole had some recollection of this. The Secretary then sent an email to Mr. O’Toole to which was attached the revised job advertisement. The Secretary’s evidence was that this was in response to the concern that Mr. O’Toole had raised.

[183] To summarize and conclude on this section dealing with the advertisement I note that the change in the job posting from October 22 to October 24 is one of the most significant factors which gave rise to this inquiry. Mr. Yarde raised it in his affidavit of December 5. Mr. Blair raised it in his letter to the Ombudsman a few days later and Mr. Fraser raised it in his affidavit of December 19.

[184] The evidence demonstrates that Odgers never suggested that there should be a rank requirement and, in fact, this would be contrary to their practice. This is consistent with the recruitment process for which they were retained in 2010 that resulted in the appointment of Chris Lewis as OPP Commissioner. In fact, the original Draft Odgers Advertisement submitted by Mr. Badali did not specify a rank requirement. The draft was sent to a public servant who, without direction, prepared the job advertisement. On her own she drafted it based on the most recent advertisement used in 2014 which did have a rank requirement for the competition in which Odgers was not retained.

[185] At this point in the odyssey of the advertisement I am prepared to find that it was simply an action by a public servant based on an incorrect assumption. Unfortunately the error was not picked up by either the Secretary or Mr. Badali due to time pressures.

[186] The reaction of the Premier's Office and the Secretary is difficult to follow since none of them agree as to what happened next. On a positive note I suppose that their differing accounts do not suffer from collusion, but there is confusion. One plausible explanation is that Mr. O'Toole went down the hall to the Secretary's office to point out the restrictive nature of the advertisement, followed by the Secretary's call with Mr. Badali and a follow-up call to Mr. French to advise that there had been a problem with the first advertisement which was now being corrected after his discussion with Mr. Badali. The problem with this scenario is that the Secretary does not recall it happening this way, and Mr. French does not recall Mr. O'Toole briefing him on the matter.

[187] Regardless of the differing accounts as to how the mistake was detected and how it was corrected, the central issue for the purposes of this inquiry is whether the effort to change the advertisement was motivated by a legitimate concern that the first posting would not cast a wide enough net or whether it was done for another sinister and unrevealed purpose. Undoubtedly partisans will line up on either side of these options; however, I am satisfied from Mr. Badali's evidence that there is a good argument for removing rank requirements for competitions such as these which would limit the number of candidates. Otherwise the recruitment process for the appointment of an OPP Commissioner would be less of a competition and more of a coronation. I find that the members of the Premier's Office may have had a defensible desire to see that the competition was a broad one. It is certainly

consistent with the evidence of Diane McArthur as to the direction the OPS has been going in for some time and it makes sense.

[188] There were problems with the recruitment process which I will deal with later but I am unable to find on the evidence that the change in the job advertisement was one of them. Furthermore, whatever view may be taken of the role played by the Premier's Office on October 23, I am satisfied that there is no evidence that the Premier himself played any role in changing the advertisement.

9. The application process

[189] After Mr. Badali received the Secretary's text message of October 19, he reached out to Mr. Taverner and left him a voice message. He did not hear back so he asked one of his colleagues who was assisting with the recruitment to reach out to Mr. Taverner, which she did via LinkedIn. Mr. Taverner then returned Mr. Badali's call and the two made an appointment to meet at Mr. Badali's office. There was no evidence about the exact date of the meeting but Mr. Taverner did recall that it was before the formal interviews.

[190] Mr. Badali's evidence was that during this meeting, the two discussed Mr. Taverner's interest in the position, what he would do if he got the position and matters of that nature. He stated that Mr. Taverner had definite views about what he would do in the position and that he was favourably impressed by Mr. Taverner, indicating that Mr. Taverner was articulate and in great shape. Mr. Badali said that he asked Mr. Taverner whether he knew Premier Ford, to which Mr. Taverner replied, "we're friends." Mr. Badali's evidence was that he asked him this because he noticed the police division in which Mr. Taverner worked and thought that he would probably know the local politicians. Mr. Taverner could not recall discussing his relationship with the Premier with Mr. Badali.

[191] Mr. Badali stated that Mr. Taverner was not the only candidate from the OPP Commissioner competition with whom he had met; he referenced a video call which he had with one other candidate.

[192] On October 31, Mr. Taverner sent an email to Mr. Badali with his cover letter and resume in application for the OPP Commissioner position. In his reply email of the same date, Mr.

Badali asked Mr. Taverner to call him, indicating that he had “a few minor suggestions.” Mr. Taverner confirmed that he then spoke to Mr. Badali who identified some “minor” grammatical and spelling issues. Mr. Taverner could not recall if he had asked for feedback; his email to Mr. Badali of October 31 made no such request. The two emails of October 31 were not discussed initially with Mr. Badali as they were not included in Mr. Badali’s productions.

[193] During his second interview, Mr. Badali was asked about helping Mr. Taverner with his application package. He could not recall doing so in this specific case but did indicate that he reads every cover letter from candidates and will often “pick out grammatical errors or suggestions and make it to them.” It was his evidence that this was part of his normal practice. Mr. Badali was also asked why the emails had not been produced. His counsel advised following the interview that these emails had been omitted through inadvertence as they appeared to be the same as an email that was sent by Mr. Taverner on November 1 (discussed immediately below) with his amended application package. Counsel provided the October 31 emails with his letter.

[194] As indicated above, Mr. Taverner sent his revised application package to Mr. Badali on November 1. After the close of competition on November 5, there were a total of 27 candidates who had applied for the position, although some of the applicants had no qualifications whatsoever for the position (i.e. non-executives who were not in the policing field).

10. Selection of candidates and the interview panels

[195] From the list of 27 applicants, Odgers created a “long list” of 15 applicants which Mr. Badali sent to Mr. Di Tommaso on November 7 in advance of a meeting that was scheduled for the following day to create a “short list” of candidates. The long list included Mr. Taverner.

[196] The next day, on November 8, Mr. Badali met with Mr. Di Tommaso and HR representatives from Treasury Board Secretariat and the Ministry of Community Safety and Correctional Services to review the application packages of the candidates on the long

list. According to Mr. Di Tommaso, this is when he first found out that Mr. Taverner had applied for the position; Mr. Taverner had not advised him of this.

[197] A discussion about each of the candidates ensued. Mr. Di Tommaso said that he disclosed that Mr. Taverner had reported to him for four years. Mr. Badali's recollection was that Mr. Di Tommaso did not disclose this but that he was aware that the two knew one other. He said that he knew of their reporting relationship because he knew "of the policing system and a superintendent will report to a staff superintendent."

[198] The long list was narrowed to a "short list" of eight candidates during the meeting. The list included Mr. Taverner. Mr. Badali stated that Mr. Taverner was on this list because of his 50 years of policing and his experience in a very difficult division. Mr. Di Tommaso stated that there was no discussion about Premier Ford's relationship with Mr. Taverner during this meeting.

[199] On November 9, there was a meeting of the PSC and the Executive Development Committee ("EDC"), the purpose of which was to approve the short list of candidates and the composition of the interview panel. (The EDC is responsible for executive-level talent management for the OPS. It comprises the same members as the PSC but its Chair is the Secretary of the Cabinet. It meets at the same time as the PSC.) Mr. Badali and his colleague joined part of the meeting via telephone to explain the recruitment process.

[200] It appears that during this meeting, there was some interest in Mr. Taverner's years of service, his age and retirement plans. It was in the context of this discussion that Mr. Di Tommaso says that he disclosed the fact that he had a prior work relationship with Mr. Taverner. According to the Secretary, no concerns were raised about Mr. Taverner during the meeting and there was no discussion about any potential conflicts of interest if he was appointed. The PSC/EDC approved the short list of candidates, which included Mr. Taverner.

[201] The PSC/EDC also approved the composition of the two interview panels. The Secretary stated that this was done on his recommendation. For the first round of interviews, it was decided that the following three individuals would sit on the panel: Mr. Di Tommaso, Mr.

Boniferro and Mr. Badali. For the second round, it would be the following individuals: Mr. Di Tommaso, the Secretary, Mr. Badali and Mr. French.

[202] The composition of the panel that was approved is consistent with an email that the Secretary sent to Mr. Torigian on October 15 in which he set out who should take part in the interviews, except that in the email, Mr. Torigian had been identified as a panellist. Mr. Torigian's understanding was that the Minister of Community Safety and Correctional Services respected his experience and wanted him to be part of the process, even after Mr. Torigian was to leave the government. The October 15 email was the first time he had heard that he would be a panellist. However, Mr. Torigian was never contacted after he left and did not participate in the interviews.

[203] The Secretary was asked why Mr. French was selected as a panellist; his evidence was that Mr. French had asked to participate "early in the process" and that no one raised any concerns about this at the PSC/EDC meeting. Mr. French confirmed that he had made this request. He said that he had assumed that he would be on the panel based on other processes in which he had been involved (for example, Hydro One). Premier Ford's evidence was that he did not know that Mr. French was supposed to be on the panel; he appeared to be genuinely surprised to learn this during the course of his interview.

[204] The Secretary was also asked about Mr. Di Tommaso's involvement in the interview process given that he had a prior work relationship with Mr. Taverner. The Secretary indicated that he did not seek conflict of interest advice from Commissioner Linden regarding Mr. Di Tommaso's involvement. However, the Secretary stated that deputy ministers, for example, often sit on panels for an interview process in which one of their direct reports is an applicant. Ms. McArthur confirmed this, indicating that this scenario is not unusual. She stated:

The public service at 65,000 people sounds really big, but it's actually pretty small. And, the odds that you haven't been working with or for someone that's on a hiring panel, I would say at least half of the time, is very unusual.

So, you know, moving down that pathway of saying, if you've ever worked with someone, you can't bring them forward as a candidate and interview them to hire would be impractical. However, you do make sure in that process, as a hiring executive, you listen very carefully to the other people who are on the panel and

the advice you are given, because you do need those other lenses on what you may have seen very different than what everybody else will see. And, that's part of our job as a recruiter, to help make sure that that's what's happening, to provide that advice and counsel to you as a hiring executive. And, the head hunters do that as well. There's no question about that.

You should disclose it always to everybody else on the panel; right? It's like anything -- when you sit on a board, you know, to disclose your conflicts if you have them, recuse yourself if you must. Now, I would recuse myself if I had a strong personal friendship with someone, like that would put me in such a conflict position.

[205] After the meeting on November 9, the Secretary sent a text message to Mr. French to provide him with an update. The exchange of text messages is the following (the indented texts are Mr. French's responses):

We just went through the applications for the OPP Commissioner. Ron Taverner has made the short list for interviews. He will be interviewed on Monday. I will keep you posted every step of the way.

Wonderful. Best news all day.

I need to work harder to be able to give more good news!!

LOL...you are working hard enough already !

[206] The Secretary was asked during his second interview why he sent this text message to Mr. French. He said that it was because Mr. Taverner "was one individual that they were interested in." When asked to clarify the meaning of "they", he indicated that he was referring to Mr. French and that he did not know whether the Premier had the same interest. The Secretary indicated that he knew that Mr. French was interested based on the "experience [he] had with the Ontario Cannabis Store." The Secretary denied that Mr. French had asked him to keep him updated on Mr. Taverner's progress specifically, indicating that Mr. French wanted updates on the overall process. The Secretary added that he had anticipated that Mr. Taverner's progress would be of interest to Mr. French. The evidence of Mr. French was that he had not asked the Secretary to keep him updated about Mr. Taverner's progress. He also said that the Premier had not asked for updates about Mr. Taverner. The Premier confirmed this.

[207] With respect to Mr. French's text response to the update on Mr. Taverner's progress, Mr. French indicated that he welcomed the news because the recruitment process was moving along and because he was the one who had recommended Mr. Taverner. He said that his recommendation was a bit of a "dark horse" because he was an external candidate and he, Mr. French, was curious to know how Mr. Taverner would do on his own merits. The Secretary agreed that at least from this point on, he knew that Mr. French was supportive of Mr. Taverner's candidacy.

11. First interview

[208] The first round of interviews was conducted on November 12 and November 13, 2018 at Odgers' offices. Mr. Di Tommaso, Mr. Boniferro and Mr. Badali conducted the interviews. Mr. Badali clarified that his role on the panel was not to be a decision-maker; he was a "facilitator" and an "advisor", which he indicated was typical of his involvement in recruitment processes.

[209] Each of the panellists asked the eight interviewees, including Mr. Taverner, questions which had been prepared in advance by Odgers. Mr. Boniferro confirmed that all candidates were asked the same questions. He also said that there was no score or points assigned for each of the answers given by a candidate, which Mr. Badali confirmed. The intention of the panel was to pick the top candidates who would move on to the next round, which they did after the second day of interviews.

[210] Mr. Di Tommaso's evidence was that he and Mr. Boniferro selected Mr. Taverner, Mr. Blair and another candidate from the OPP to advance to the second round of interviews. Mr. Badali agreed with the selection of these candidates and indicated that each had done well.

[211] Regarding Mr. Taverner, Mr. Boniferro stated that he was in favour of advancing him. Mr. Boniferro's notes from the interviews show that out of the eight candidates, he ranked Mr. Taverner second behind Mr. Blair; he confirmed that this was purely his own ranking. When asked why he ranked Mr. Blair ahead of Mr. Taverner, Mr. Boniferro disclosed that he had a professional relationship with Mr. Blair and the other OPP candidate because of previous labour relations work in which he had been involved.

[212] In terms of the quality of Mr. Taverner's interview, Mr. Boniferro indicated that he was the candidate who was the most prepared to answer the question about why he wanted to be the Commissioner of the OPP. Mr. Boniferro explained that what impressed him the most about Mr. Taverner was that he was able to bring his 50 years of policing together to develop a vision for the OPP. However, he did indicate that he had some concerns about Mr. Taverner relating to his age, the stage at which he was at in his career and the fact that he did not have executive-level management experience. Mr. Boniferro admitted that he raised questions about Mr. Taverner's ability to do the job but that he had no hesitation recommending that he proceed in the process as he believed that Mr. Taverner was "a capable candidate to do the job." He stated that he was going to leave it to the psychometric testing (described below) and the second round of interviews "to cipher out whether he was the best candidate." It was also Mr. Di Tommaso's assessment that Mr. Taverner was well-prepared for his interview.

[213] Mr. Boniferro and Mr. Di Tommaso confirmed that Mr. Taverner's relationship with Premier Ford was not discussed at all during the interview. Mr. Boniferro indicated that he in fact did not know of their personal relationship until it was reported by the media after the appointment.

[214] Mr. Di Tommaso's relationship with Mr. Taverner was, however, discussed as Mr. Di Tommaso disclosed to the other panellists that Mr. Taverner had worked for him at the TPS.

[215] On November 13, the second day of the interviews, the Secretary sent a text to Mr. French to provide him with another update on the process. It stated as follows:

Okay.

Great news. There are three candidates that cleared the first for the OPP: Ron Taverner, Brad Bair [sic] and [a third candidate]. Rom [sic] did an excellent job and the first round is of the view he can do the job. It is now up to the second panel of you, Mario, Sal and I to recommend to the Premier.

We are conducting the interviews this Monday to take a recommended decision to Cabinet on Nov 21.

[216] The Secretary stated that he specifically gave an update about Mr. Taverner because of the three candidates, “they” knew Mr. Taverner. He stated: “of the three candidates, the one they had high regard for was in it” and that he thought that “the fact that somebody they had high regard for would be viewed, in their view, as positive news.” Mr. French’s evidence about this text was that neither he nor Premier Ford had asked for an update about Mr. Taverner’s progress.

[217] Following the first round of interviews, the three successful candidates were each required to participate in psychometric testing, the results of which were compiled by Odgers. The psychometric testing assessed each candidate on a number of attributes, including strategic clarity, execution savvy, stakeholder management, people and team development and resilience and adaptability.

[218] Mr. Badali sent a summary of the results to Mr. Di Tommaso and subsequently, to the Secretary on November 16. The Secretary forwarded this email to Mr. French on November 18. Attached to the email was the second round interview guide, the psychometric assessment for each candidate and a chart comparing the psychometric results of all three candidates. I do not intend to summarize the test results but do find, based on the comparison chart, that no candidate’s results were significantly better or worse than the results of the other candidates.

12. Second interview

a) Dean French recuses himself from the interview panel

[219] The second round of interviews was scheduled for Tuesday, November 20, 2018. The day before the interviews, on November 19, there was a meeting that was attended by Mr. Badali, Mr. Di Tommaso and the Secretary and by Mr. Harrington, Mr. O’Toole and Mr. French from the Premier’s Office. Although Mr. Badali could not recall Mr. French being there it was the evidence of Mr. Harrington, Mr. O’Toole and Mr. French that Mr. French attended a portion of this meeting.

[220] Mr. French indicated that the purpose of the meeting was for the others to brief him on the recruitment process. He indicated that there was also a discussion about each of the

candidates. This evidence is consistent with Mr. Harrington's recollection and notes of this meeting and Mr. O'Toole's recollection. Mr. Badali could not recall there having been a discussion about each of the candidates. Mr. Di Tommaso's recollection was that in addition to the discussions regarding the process and the candidates, there was a discussion about what the process would be if a successful candidate was identified the following day.

[221] There is inconsistent and confusing evidence about whether there was a discussion during this meeting about Mr. French withdrawing from the interview panel. Mr. Badali indicated that at the time the meeting was held, it had already been determined that Mr. French would withdraw and that accordingly, this was not discussed. Mr. O'Toole recalls there being a discussion about Mr. French recusing himself and that he, Mr. O'Toole, recommended that the Premier's Office not be involved given that from "Day 1" the Premier's Office had not been involved (other than to understand the process). Mr. Di Tommaso knew nothing about the recusal decision.

[222] Mr. Harrington could not recall discussing the recusal at this specific meeting but did recall a discussion about Mr. French recusing himself; he is unsure as to the timing of that discussion. He indicated that it arose in the context of a discussion about the change to the job advertisement but could not recall whether the job advertisement had been amended at the time of the discussion; he speculated that the discussion took place in November. The reason for the recusal was not clear but he did refer to the fact that their "government is eager to get things done" which sometimes "bumps up against process" and stated that "sometimes it's best to let process happen, because then things like this happen." He clarified that by "things like this" he meant the perception of interference.

[223] The Secretary believed that there had been a meeting scheduled on the afternoon of November 19 to brief the interview panel but that Mr. French did not participate given that he had withdrawn from the interview process. The Secretary's evidence is that on the morning of November 19, he had an in-person discussion with Mr. French and Mr. O'Toole during which Mr. French decided to withdraw from the interview panel. The Secretary explained that there was media attention about "Dean and the police" relating to

an alleged request for raids of illegal cannabis shops.¹¹ The Secretary indicated that he did not know how much this factored into Mr. French's decision but that Mr. French then disclosed that he knew Mr. Taverner well and questioned whether he should be on the panel. The Secretary stated that his advice to Mr. French was that he should withdraw if he was having doubts. He indicated that Premier Ford's relationship with Mr. Taverner was not raised during this discussion.

[224] Mr. French explained that he confirmed during the meeting that he would not be involved in the interview. He said that his decision was based on his own busy schedule and "comparables" he had been given in September which showed that there was no political staff on the panel for the 2014 OPP Commissioner recruitment process (there is documentary evidence that the Secretary sent that information to Mr. French in September). Mr. French alluded to a possible discussion with the Secretary around the time that he received information about the composition of the 2014 panel. He does not recall having any other discussions with the Secretary.

[225] He did recall a discussion with Premier Ford about withdrawing from the interview panel, recalling that he had told the Premier that he had reviewed the "comparables" and that there had not been a chief of staff "on prior selections." As noted earlier, the Premier was not aware when we interviewed him that Mr. French was supposed to be on the panel and does not recall having had a discussion with Mr. French withdrawing from the panel.

[226] Mr. French indicated that the decision was not related to the media coverage about the direction he is alleged to have given about the raids of illegal cannabis shops. He did not recall questioning whether he should withdraw given his relationship with Mr. Taverner. He stated that he does not consider Mr. Taverner a close friend, explaining that he has known him for just over a year. This is consistent with Mr. Taverner's evidence who described Mr. French as an "acquaintance."

¹¹ The Toronto Star published the initial story on November 20, the day of the second-round interviews. See, Rob Ferguson, "Ford's unelected chief of staff wanted officials to order police to raid pot stores, sources say", *Toronto Star* (November 20, 2018), online: <<https://www.thestar.com/politics/provincial/2018/11/19/fords-unelected-chief-of-staff-wanted-officials-to-order-police-to-raid-pot-stores-sources-say.html>>

[227] Given that Mr. French had known since September that no political staff had been involved in the 2014 process, he was asked why he waited until the evening before the second round of interviews to withdraw. He says that it was because he had reflected “on the comparables.”

[228] At 5:17 p.m. on November 19, the day before the second round of interviews, Mr. French sent an email to the Secretary replying to the Secretary’s email of November 18, described above, in which a summary of each of the candidates was provided. Mr. French stated the following in his email:

Steve,

Thank you for the update on the hiring of the new OPP Commissioner.

To be consistent with the approach I have used throughout this entire process to date, I do not wish to be part of any candidate interviews as the selection committee undertakes its work.

I have always believed in the integrity of having a separate committee of talented individuals meet with candidates, and to provide Cabinet with their professional opinion on who best should be the new commissioner of the OPP.

Once again, I wish you and the entire selection committee all the best in your upcoming candidate interviews and final deliberations before making a recommendation to Cabinet.

Dean

[229] A few minutes later, at 5:19 p.m., Mr. French declined the calendar invitation for the second-round interviews which were to occur the following day.

b) The interviews and selection of successful candidate

[230] The interviews took place on November 20 in the boardroom of the Secretary in Whitney Block (a government building). The panel was comprised of the Secretary, Mr. Di Tommaso and Mr. Badali, who was there in an advisory capacity.

[231] It was Mr. Badali’s evidence that there was no preferred candidate coming into this interview and that the candidates were “all tied.” The Secretary’s evidence was that Mr. Taverner and Mr. Blair were tied and that the third candidate may have been slightly

behind given that this individual was a civilian. The Secretary confirmed that preference was not being given to external candidates.

[232] Mr. Blair was one of the three candidates who was interviewed on this date. Prior to his interview, he entered Whitney Block and someone from the Secretary's office came to escort him to the interview. As he began to walk with his escort, he witnessed Mr. French with his coat, heading towards the exit. Mr. French's evidence on this point is that his office is located in Whitney Block (it is in fact located on the same floor as the Office of the Secretary of the Cabinet). Mr. Blair indicated that he was advised by his escort about 10 minutes before his interview that Mr. French would not be participating. No reason was provided to Mr. Blair for this change.

[233] The interviews were conducted in the same manner as the previous round; an interview guide with questions was prepared by Odgers and each panellist took turns asking questions. An additional question was added by the Secretary for each of the candidates regarding the independence of the OPP from government. The Secretary denied having added the question because of Mr. Taverner, and indicated that it was added because the independence of the OPP was a "long-standing issue." The Secretary also denied that, at that time, he knew the extent of the relationship between Mr. Taverner and Premier Ford. He indicated that prior to the second-round, Mr. Badali had raised with him that there was "some social media with Mr. Taverner and the Premier." The Secretary explained that after Mr. Badali told him this, he had done a Google search of the two men which showed pictures of them "in suits." He said that this was consistent with his view that the relationship "looked professional" and that he was not surprised by these pictures given the Etobicoke connection. His evidence was that he did not realize until after the announcement that Mr. Taverner and the Premier were personal friends.

[234] Mr. Badali's assessment was that Mr. Taverner gave the most direct answer to the question regarding the OPP's independence which was "if there's any perceived conflict, you call another force in, like the RCMP." The Secretary agreed that Mr. Taverner's answer was the most comprehensive. It was also Mr. Badali's evidence that Mr. Taverner's interview generally was excellent. He indicated that Mr. Taverner was "articulate, he was polished, he was calm, cool, collected. He gave terrific answers." He thought Mr. Taverner was the

strongest candidate and had no concerns about him. His evidence was that the Secretary and Mr. Di Tommaso asked him whether he agreed that Mr. Taverner was the best candidate; he told them that he did.

[235] Mr. Di Tommaso agreed that Mr. Taverner's interview went "very well" and indicated that Mr. Taverner was chosen because "of his vast experience." He also stated that he thought that Mr. Taverner was "a phenomenal change agent that would bring a fresh perspective to the role of Commissioner of the OPP."

[236] The Secretary thought that Mr. Taverner answered each question with "heart and passion." He touched on a number of substantive points which Mr. Taverner raised during his interview which he liked, including Mr. Taverner's inclusive approach to creating a vision for the OPP. When asked about whether there were concerns about Mr. Taverner's rank, he said that it was "a bit of a strength" because "he was actually closer to the community and to frontline officers." The Secretary's evidence was that Mr. Badali said that Mr. Taverner's interview was the best and that he and Mr. Di Tommaso agreed.

[237] After leaving the interview, on the way out of the building, Mr. Taverner indicated that he ran into a reporter (Travis Dhanraj from Global TV) who confronted him to ask whether he was coming from the Premier's Office. Mr. Dhanraj asked Mr. Taverner if he was there to become the "guns and gangs tsar." Mr. Taverner asked him if he would "not mention anything, because [he] felt the process was still going on." He told Mr. Dhanraj that if "something were to happen, [he] would grant him the first interview." Mr. Taverner confirmed that he did not meet Premier Ford that day and had never been in his office. His evidence was that he never spoke to the Premier or Mr. French about his interview. In fact, he indicated that from the date that the advertisement was posted on October 22 to November 29 (the date of the appointment) he had no discussions with Mr. French or the Premier about the process. The Premier confirmed this.

[238] A few days after the interview, Mr. Taverner received a telephone call from Mr. Badali who told him that the panel had selected him as the successful candidate. Mr. Badali advised him that it would go to Cabinet that week but Mr. Taverner indicated that he never

heard back. He recalled that Mr. Badali may have contacted him to let him know that “it didn’t make Cabinet for that particular day.”

13. Validity of the recommendation to Cabinet

[239] I accept Premier Ford’s evidence that he stayed at arm’s length from the recruitment process and that he believed it was independent. In fact, the process was not independent as the Secretary stated in his evidence. The Secretary correctly noted that he was deputy minister to the Premier which is a position he held at pleasure. It was for that reason that he objected to public announcements that the selection process was independent and insisted that it be referred to as a hiring recruitment process (this evidence is reviewed in more detail further below).

[240] I find that there were some troubling aspects to the process that may have led, perhaps unintentionally, to a preference being given to one candidate. In coming to this conclusion I have considered the following:

1. As a result of his interactions with the Premier’s Office over the offer of a position with the OCS, the Secretary was made aware that the Premier thought highly of Mr. Taverner;
2. Mr. Torigian’s evidence that the Secretary told him that he felt “pressure” to hire Mr. Taverner cannot be ignored even though the Secretary does not believe he was under any pressure from the Premier or his office. To some extent, Mr. Torigian’s evidence is supported by Mr. Boniferro, who stated that he first heard of Mr. Taverner’s name when the Secretary made a comment that the Premier’s Office might suggest that he be offered a deputy minister role but that the Secretary thought it would be more appropriate for him to apply for the OPP Commissioner position. It does at least suggest that the Secretary was aware of the interest that the Premier and his office had in Mr. Taverner early on in the process;
3. The fact that the Secretary reached out to Mr. Taverner on LinkedIn on October 17 before the OPP Commissioner position had even been advertised demonstrates an elevated interest in Mr. Taverner;

4. This same level of interest was evident two days later when the Secretary sent Mr. Taverner's name to Mr. Badali as someone who might be interested in the position of OPP Commissioner without having first met him; and
5. According to the Secretary, Mr. French revealed his friendship with Mr. Taverner, if it was not already known, on November 19, the day before the second round of interviews. Although Mr. French disagrees that this was the basis for his recusal, the point is that the Secretary believed that Mr. French had a sufficiently close relationship with Mr. Taverner that he had to recuse himself from the same interview panel as the Secretary. At the very least there existed a potential for the Secretary to be predisposed favourably towards Mr. Taverner as a result of this belief.

[241] What I found most disconcerting in all the evidence were the text messages from the Secretary to Mr. French as to Mr. Taverner's progress throughout the process. There seemed to be a tacit acknowledgement by the Secretary that Mr. French was rooting for Mr. Taverner's success. Anyone examining these messages would have serious doubts as to the fairness of the process to the other candidates.

[242] I appreciate that the principles of natural justice, including the duty of fairness, may not apply to a recruitment process for a cabinet appointment. This will be discussed later in the "Opinion" section of this report. At this stage I am making findings of fact. After considering all of the evidence immediately above I find that I have a reasonable apprehension that the recruitment process was flawed.

14. Cabinet decision of November 29, 2018

a) Arrangements for Cabinet meeting

[243] Initially, there were discussions about the appointment going before Cabinet the week of November 18 (i.e. the week in which the second-round interviews took place). However, this did not occur. The Secretary's evidence was that Mr. Taverner's references needed to be checked before the decision could go before the Cabinet.

[244] In the meantime, Odgers contacted six references for Mr. Taverner and on November 22, sent Mr. Di Tommaso a report summarizing the feedback they had received about Mr. Taverner. It was all very positive. In fact, Mr. Badali said that it was the “best reference check he had seen on anybody in [his] 10 years in the business. It was an excellent reference check.”

[245] In making preparations to have the appointment considered by Cabinet, the Secretary’s office identified a concern about Premier Ford being involved in the appointment given “the social media.” The Secretary indicated that his office decided that the Premier should not be involved and he then conveyed that to Mr. French. The Secretary’s evidence was that Mr. French was “okay” with that. There is a text message exchange between the Secretary and Mr. French on November 20 which accords with the Secretary’s evidence that he raised the Premier’s involvement with Mr. French (the indented text is Mr. French’s reply):

Dean, Ron Taverner is our recommended candidate for OPP Commissioner. IT was an [sic] unanimous decision. We are now doing reference checks today. I suggest that we do a walk around on Thursday or Friday and exclude PDF and yourself. If you agree, I will arrange the walk around through Cabinet Office.

Yes, that makes sense but let me verify.

OK. Thanks.

[246] Mr. French indicated that he did not know why the Secretary was suggesting that he and Premier Ford (referred to as “PDF” in the text) be excluded from the process. He indicated that he had no prior discussions with the Secretary about excluding the Premier and that the Secretary did not tell him or recommend that the Premier be excluded from the appointment process. He responded, “makes sense” to the Secretary’s text because what made sense to him was that the meeting be convened by walk-around for “timeline purposes.” He said that by “verify”, he meant “verify in [his] own mind.” He said that for every decision, “we have to verify, you know, is it the right way to do things [sic]?” and that he wanted to verify his own calendar and when Cabinet was supposed to meet.

[247] The Secretary indicated that his office began to make arrangements to have the appointment before Cabinet by “walk around.” (This is a process that is used to obtain

approval from Cabinet ministers without convening a Cabinet meeting. I will explain the process further below in the Opinion section of this report.) The Secretary's evidence was that they then found out that there was a Cabinet committee meeting on the morning of November 29 in which eight or nine ministers would participate. The Secretary's evidence was that he told Mr. French, "Let's put it on that agenda and they can deal with it there. The Premier doesn't sit on Cabinet Committee." His evidence was that "we all agreed." James Scott-Vickers, Deputy Clerk & Manager, Cabinet Operations, Government, understood at the time that the appointment would get done by walk-around and that the walk-around would not involve Premier Ford. He did not know why the Premier would not be involved. Mr. Scott-Vickers also recalled being part of a discussion about bringing the appointment forward to a Cabinet committee meeting (of which the Premier was not a member).

[248] On the evening of November 28, at 6:40 p.m., Mr. Harrington from the Premier's Office sent an email to the Secretary and the Associate Secretary of the Cabinet indicating that, "We need a special Cabinet meeting tomorrow morning after caucus tomorrow at 8:30AM. OPP commissioner to be the only agenda item, half an hour should do it." The Secretary said that he took this as a "rebuff" of his idea to exclude the Premier from the appointment. He said that this was a conscious decision and that when "they" went against his advice, Mr. Harrington or Mr. O'Toole would deliver the message.

[249] With respect to the reference to the OPP Commissioner being the only item on the agenda, the Secretary indicated that an additional item was later added. In an email from the Secretary's Executive Assistant to the Secretary on November 29 at 6:07 a.m., she confirmed that there would be a full Cabinet meeting which "will consider the OPP commissioner and changes to PAs." I understand that to mean a change to "parliamentary assistants" and a reference to the fact that an MPP from the PC Caucus who served as the Parliamentary Assistant to the Minister Responsible for Francophone Affairs was leaving caucus and a new appointment was required to replace her.

[250] Mr. French's evidence was that a meeting of the full Cabinet was convened because they were calling an emergency caucus meeting on the morning of November 29 and everyone was already there. Mr. French indicated that it was "logistically convenient." He indicated

that the Premier left the arrangements to Mr. French. The Premier confirmed that he did not ask for a full Cabinet meeting or request that he be involved in Mr. Taverner's appointment.

b) The Cabinet meeting

[251] On the morning of November 29, the appointment of Mr. Taverner was approved via telephone by the PSC. (I understand that this parallel appointment is necessary to ensure that the OPP Commissioner has authority over the employees of the OPP.) The relationship between Premier Ford and Mr. Taverner was not discussed during this call. The only concern raised at the PSC related to the salary that was being proposed for Mr. Taverner which was higher than the bottom of the salary range for the position. Mr. Boniferro, who was one of the two PSC members who raised concerns, indicated that the bottom of the range was a significant increase for Mr. Taverner and would be more appropriate given government financial constraints (which included a salary freeze for management pay in the OPS).

[252] After the appointment was approved by the PSC, there was a Cabinet meeting during which the appointment was considered. There are three individuals who appear to have participated in the "formal" presentation of the appointment by describing the candidate and the process that was followed. These were Minister Sylvia Jones (Community Safety and Correctional Services), Mr. Di Tommaso and the Secretary.

[253] There is consistent evidence that Premier Ford made a comment in support of Mr. Taverner's appointment, although there is some variance about what the Premier actually said. The Premier indicated that he told Cabinet that he knew "Ron" and that he believed him to be qualified. The Secretary stated that the Premier said, "I know Ron. He's a good guy." The Premier said he "probably" could have said that Mr. Taverner was a "good guy." Mr. Di Tommaso said that the Premier told Cabinet "that he knew Superintendent Taverner, that he knew him for a long time, and that he felt that he was a great police officer serving with distinction for 51 years." Mr. French stated that the Premier disclosed that "Mr. Taverner was a friend and that he'd known him for a long time. Many of our cabinet members know that already."

[254] There is also consistent evidence about the following: there were no discussions during the Cabinet meeting about Premier Ford recusing himself from the meeting; no concerns were raised by any Cabinet members about Mr. Taverner’s appointment; and no vote taken.

[255] The Order-in-Council (“OIC”) was then signed by the Chair of the Cabinet meeting, Minister Christine Elliott, and Minister Jones. The OIC was presented to, and signed by, the Lieutenant Governor on the morning of November 29 following the Cabinet meeting.

15. Reaction to the appointment

[256] The reaction to the appointment was swift. There was immediate and extensive media coverage about the appointment, including the depth of the relationship between Premier Ford and Mr. Taverner, the change to the job advertisement and Mr. Taverner’s qualifications.

[257] A former OPP Commissioner, Chris Lewis, spoke publicly about his opposition to the appointment, indicating that the “fix was in because of Taverner’s ties to Ford” and that he thought that it was a “travesty that this occurred.”¹²

[258] Mr. Yarde submitted his request for an inquiry on December 5 and 6 and Mr. Fraser on December 19.

[259] Significant portions of Question Period in the Legislature were spent on the appointment of Mr. Taverner. In fact, in December, the issue was raised every day that the Legislature was in session. Ms. Horwath and Mr. Yarde and other MPPs vigorously questioned the government about the appointment.

[260] On December 3, the Secretary sent the following text message to Mr. French

The messaging in today’s legislature on the OPP Commissioner uses the term “independent” selection panel. Independent of who? I’m the Deputy Minister to the Premier and Ron reported to Mario when he was at TPS. I would drop the word independent and just call it “recruitment selection panel” where no political staff were involved.

¹² Betsy Powell, “NDP questions appointment of Premier’s friend to head OPP”, *Toronto Star* (December 1, 2018), online: <<https://www.thestar.com/news/gta/2018/11/30/ndp-questions-appointment-of-premiers-friend-to-head-opp.html>>

[261] There was no response to this text. With respect to his involvement in the process, the Secretary explained that although he gives independent advice, he is not at arm's length given that he is appointed by the premier and serves as the premier's deputy minister. Mr. French indicated that he too believes that the panel was not independent because it was accountable to Cabinet. Premier Ford's evidence was that the panel was independent. When asked why he thought it was independent, he answered, "Because I have all of the faith in the world in Steve Orsini. He's a straight shooter."

[262] The Secretary also raised concerns with Mr. French around this time about Mr. Taverner's interaction with the media. He had the following exchange of text messages with Mr. French on December 8 (Mr. French's responses are indented):

[12:26 p.m.]

Could you please call me when you can

Ron Taverner needs to say that he has lots of friends, but they will never, never affect the independence of the TPS or OPP. His briefs comments on CP24 was not good [sic]. He needs media training fast!

I will get Chris Froggatt on rthis [sic]

Great!

[4:23 p.m.]

You may want Chris to develop a proactive communications plan with video interviews for when Ron takes office on Dec 17

Yes, that's exactly what we will do. Chris is calling him Tuesday.

[263] Chris Froggatt is Mr. French's friend. He was the vice-chair of Premier Ford's election campaign and a member of the Premier's transition team thereafter. Mr. Froggatt is the founding partner of Loyalist Public Affairs, a firm that specializes in government relations and strategic communications. Mr. French stated that he referred Mr. Froggatt to Mr. Taverner and that he knows that Mr. Froggatt reached out to Mr. Taverner. However, Mr. Taverner could not recall dealing with Mr. Froggatt other than around December 15 (this is described below).

[264] Around December 12, Mr. Blair made public a letter that he had sent the day before to the Ontario Ombudsman Paul Dubé asking that Mr. Taverner's appointment be reviewed for potential political interference. The letter was written on OPP letterhead in Mr. Blair's capacity as the OPP Commissioner (Mr. Blair had been appointed to the position on an interim basis after Mr. Hawkes' departure) and his personal capacity as a candidate in the interview process. The letter is lengthy and I do not intend to describe it in detail given that it is publicly available but I do wish to highlight the following points that Mr. Blair raised together with my comments:

- the qualifications in the posting were changed such that candidates who would not have qualified under the initial posting, such as Mr. Taverner, were able to apply; I have found that the change to the advertisement may have been done for legitimate and defensible purposes;
- there was a last-minute change to the interview panel such that Mr. French was no longer on the panel. Mr. Blair witnessed Mr. French leaving the building in which the interviews were being held. The circumstances surrounding Mr. French's recusal are fully set out above. He had taken the decision to withdraw the previous day and was merely leaving his office building, which is at the same location as the Secretary's where the interviews were taking place – it did not mean, as Mr. Blair testified, that the final decision concerning the successful candidate had already been made by the hiring panel before his interview had taken place;
- the hiring panel had questionable authority as Mr. Badali informed Mr. Blair on numerous occasions that he had no influence on either the process or the outcome of the interviews. Mr. Badali does not recall these conversations and they would have been brief since he only walked a short distance with Mr. Blair at the time of his interviews to accompany him in and out of the interview room. He explained his role in the process which was more than that of an observer;
- the selection of the new OPP Commissioner had been made on November 20, 2018, prior to Cabinet meeting on either November 21 or November 28. Yes, the selection committee had made its decision concerning whom it would recommend

but it could not get onto the agenda for cabinet on the 21st because references needed to be checked. I am not sure what turns on this;

- Mr. Taverner told Mr. Blair that a reporter accused Mr. Taverner of having left the Premier's Office on the day of the second interview. Mr. Taverner has explained his interaction with the reporter, which Mr. Taverner shared with Mr. Blair, and I accept Mr. Taverner's evidence that he had not met with Premier Ford in his office on that occasion or on any other occasion. He was simply being discreet and respecting the process; and
- there is a concerning history between the Premier's Office and the OPP. In this respect, Mr. Blair referenced requests that were alleged to have been made by Premier Ford or his office regarding his security detail and vehicle:
 - Security detail: Mr. Blair's evidence was that Premier Ford had some uneasiness regarding his security detail and asked that certain operational changes be made. Premier Ford's position concerning his personal security detail was valid and accepted by Commissioner Hawkes, who noted that there had been "pushback" from some OPP officers when the Premier asked for a permanent detail as opposed to rotating units. Commissioner Hawkes and the Premier worked it out to the Premier's satisfaction at their only meeting on July 25. This information may not have been communicated to Mr. Blair. The Premier and Commissioner Hawkes parted on good terms at their meeting and upon the Commissioner's retirement.
 - Van: Mr. Blair indicated that Mr. French requested that a large camper type vehicle be purchased and modified to specifications that the Premier's Office would provide the OPP. Mr. Blair indicated that Mr. French provided specifications and asked that the costs associated with the vehicle be kept "off the books." The Premier's evidence was that to save costs, he does not want to use the "Premier's plane" and prefers to travel by road; he asked the OPP whether there was a used van that could be retrofitted to make it more suitable for long distance travel. With respect to the cost of the van, Mr.

French strenuously denies the comment attributed to him of keeping the purchase of a van off the books. Suffice it to say that I do not intend to attempt to resolve the issue concerning the van and what was said to whom since it is well beyond the scope of this report and is subject to litigation in another forum.

(The Ombudsman subsequently declined to investigate the appointment. Mr. Blair has made an application to the Ontario Divisional Court to have this decision reviewed. This matter is scheduled to be heard next month.)

[265] Earlier I found that there were problems with the recruitment process; however, I am not persuaded by Mr. Blair's letter that any of the points he has raised contribute to the problems I have identified.

[266] Mr. Taverner confirmed that around this same date, he made comments to the Toronto Sun about Premier Ford's alleged request for a specialized security vehicle.¹³ He is reported to have said that "it was not a camper van, but an extended-size van that would provide more room for [the Premier] and his team to work on the road."¹⁴ Mr. Taverner's evidence was that he learned this information when he was at the OPP general headquarters in Orillia, rather than from the Premier.

[267] There is evidence that on December 12, there was a meeting/call between the Secretary, Mr. French, Mr. Di Tommaso and other public servants regarding Mr. Taverner's appointment. The Secretary stated that there were discussions about whether Mr. Taverner wanted to postpone the appointment and said that Mr. French stepped out to make a call. When Mr. French returned, he indicated that Mr. Taverner was not "delaying" the appointment. Mr. French recalls stepping out of the meeting to make a call but does not remember whom he called.

¹³ The Toronto Sun article in which the quotation was reported cannot be referenced as it appears that it was later amended such that the quote was no longer attributed to Mr. Taverner. See Marieke Walsh, "Ombudsman sued for not investigating new police commissioner", *iPolitics* (December 14, 2018), online: <<https://ipolitics.ca/2018/12/14/ombudsman-sued-for-not-investigating-new-police-commissioner/>>

¹⁴ *Ibid.*

[268] Mr. Taverner was asked about his interactions with the Premier during the first few weeks of December. He indicated that close to December 17, which was to be Mr. Taverner's first day as OPP Commissioner, he may have had two or three discussions with Premier Ford. His evidence was that the Premier told him to "stay strong." Mr. Taverner indicated that he told the Premier that he was thinking of postponing the appointment and that the Premier's response was that he would "support whatever decision." He said that he did not feel any pressure from the Premier. The Premier's evidence was that he spoke to Mr. Taverner one to two times, but that he did not want to speak to him unless it was "an issue in the area or crime." The Premier indicated that he did not speak to Mr. Taverner about whether he still wanted the job or his desire to postpone the appointment.

16. The Secretary's resignation

[269] The Secretary indicated that on December 14, he met with Mr. Di Tommaso and Mr. Badali (i.e. everyone who sat on the second interview panel). The Secretary's evidence was that Mr. Badali told them that Mr. Taverner wanted to delay the appointment. Mr. Badali's evidence was that he may have communicated with Mr. Taverner two or three times in December but denied being the intermediary between Mr. Taverner and the government. Mr. Taverner said that he may have had a discussion with Mr. Badali about delaying the appointment but could not recall exactly.

[270] In any event, the Secretary's evidence was that the panel agreed that they should support Mr. Taverner's decision to delay the appointment. The Secretary indicated that he then went to Mr. French's office to communicate this to him and that he told Mr. French it would be very "hard for [him] to work here" if Mr. French could not support the delay. The Secretary said that Mr. French agreed with this course of action. Mr. French recalled this meeting, indicating that the Secretary appeared to be under "a lot of stress." He said that the Secretary told him that Mr. Taverner wanted to "do the right thing" and that he, the Secretary, would resign if the appointment was not postponed. Mr. French said that he was taken aback by this.

[271] The Secretary and Mr. French each indicated that after they met, Mr. French told the Secretary that he accepted the recommendation. Mr. French does not recall having had a

discussion with Premier Ford before communicating his position to the Secretary. However, it was Mr. French's evidence that he did brief the Premier once the Premier became available. Mr. French said that the Premier was "multitasking in the back of an OPP SUV" and probably said, "Let me think about it."

[272] The Secretary indicated that after receiving the go-ahead from Mr. French, he directed that an OIC be prepared to appoint an interim OPP Commissioner. At 3:01 p.m., Mr. Scott-Vickers sent an email to the Secretary and Mr. French to confirm that Cabinet was being convened by walk around; he indicated that he had received a direction from the Secretary's Office that Cabinet would be convened in this manner. The following items were on the agenda:

1. An order to recall the House for December 17;
2. An OIC to appoint an interim OPP Commissioner; and
3. Various OICs for deputy minister appointments.

[273] Mr. Scott-Vickers indicated that items #1 and #3 required Premier Ford's signature while the OPP Commissioner appointment did not. He specified in his email that arrangements were being made between the Executive Council Office and staff from the Premier's Office on "arranging the ministers for this walk around and on getting the Premier's signature for the House and DM orders." Mr. Scott-Vickers explained that four ministers are required for quorum when Cabinet convenes by walk around unless the premier is involved, in which case only two ministers in addition to the premier are required.

[274] The Secretary's evidence was that after the two ministers signed the orders he received a call from Mr. French directing him not to obtain any more signatures because the Premier "wanted to sign." Mr. French and Mr. Scott-Vickers had no knowledge of this.

[275] At 4:15 p.m., the Secretary sent an email to the Premier with an attached letter. In this letter, the Secretary recommended to the Premier that "the installation of Mr. Taverner be delayed until the matter can be reviewed by the Integrity Commissioner." The Secretary stated, in part, as follows:

The recruitment process for the OPP Commissioner was developed in consultation with the Conflict of Interest Commissioner, my Ethics Advisor, the Honourable Sidney B. Linden, and was designed to ensure third party scrutiny and validation by an outside executive search firm experienced in recruiting senior police leadership.

However, **circumstances since the recruitment was completed have called the appointment into question**, including Mr. Taverner's own public comments on matters related to police operations. Important questions of integrity and independence have been raised, and it is my best **advice that Mr. Taverner withdraw from the position** until this matter can be further reviewed by the Integrity Commissioner. This would be befitting of such an accomplished police officer with more than 50 years of experience.

[...]

If you feel that the installation must proceed, it is with a heavy heart that I recommend the appointment of a new Secretary of the Cabinet who will fully support your decisions as the Premier of Ontario. While I am deeply saddened to make this recommendation, I feel it is the only appropriate course of action in the circumstances. I would, of course, be prepared to remain in office of any period you may require to ensure a smooth transition. [Emphasis added.]

[276] At 4:39 p.m., Mr. Scott-Vickers sent an email to the Secretary and Mr. French indicating that the signatures from two ministers (Ministers Laurie Scott and Greg Rickford) had been obtained and that he was "on route to the Premier." Mr. Scott-Vickers then met the Premier at a Perkins restaurant near the Toronto Pearson Airport, where he signed the orders recalling the House and for the deputy minister appointments. However, Mr. Scott-Vickers indicated that the Premier expressed surprise that the OIC for the interim OPP Commissioner appointment was being presented to him (he clarified that the Premier was not angry or blaming him). Premier Ford did not sign the OIC; he indicated that "he was caught off guard" and that he needed more time to consult with his team before approving it.

[277] Mr. Scott-Vickers indicated that after his meeting with the Premier, he communicated with the Secretary's Office to let them know what had transpired.

[278] At 5:43 p.m., the Secretary sent an email to the Premier resigning from his position, indicating that he understood that the Premier was "not prepared to sign the OIC regarding the OPP Commissioner." The Secretary attached the letter that he had initially sent at 4:15

p.m. which had been modified to indicate that he was resigning. It appears that Mr. French and the Secretary had a discussion after the Secretary sent the email. The Secretary's evidence was that Mr. French asked him to wait until Monday (December 17), indicating that they would talk about it over the weekend. Mr. French's evidence was that he asked the Secretary whether he "really wanted to do this." He also said that he asked the Secretary about his timeline and that the Secretary had replied, "The weekend."

[279] Mr. Scott-Vickers sent an email at 6:17 p.m. indicating that items #1 and #3 had been approved but that the appointment for the interim OPP Commissioner had not. A minute later, at 6:18 p.m., the Secretary sent an email to Mr. French to advise him that he would be sending his notice of resignation to the deputy ministers, which he then did via email. The Premier said he was "shocked" that the Secretary had resigned; he thought that the two of them would have sat down to talk.

[280] At 8:21 p.m., Mr. French replied to the Secretary's resignation email of 5:43 p.m. He indicated that, "[a]lthough the Premier wasn't prepared to sign the OIC this afternoon he has always respected and valued the advice that you provide" and that "Premier Ford will be acting on your recommendation to sign the OIC tomorrow (Saturday)." Mr. French indicated that the Premier was "trying to get his head around things."

[281] I accept Premier Ford's evidence that he was caught off guard when presented with the OIC to appoint an interim Commissioner and that he wanted an opportunity to discuss the matter with his staff. This seems like a reasonable position for him to have taken in the circumstances given the timeline of how things transpired that evening. Ultimately the Premier did follow the Secretary's advice and signed the OIC the following day, but not in line with the precipitate position upon which the Secretary was insisting.

17. Appointment is postponed and new OPP Commissioner appointed

[282] Mr. Taverner indicated that he advised Mr. French that he wanted the appointment to be postponed while I completed this inquiry. He asked Mr. French about the logistics of communicating his decision and Mr. French suggested that Mr. Taverner get in touch with Mr. Froggatt. The exact timing of this discussion is unclear but Mr. French denied having spoken to Mr. Taverner on December 14.

[283] On December 15, Mr. Froggatt sent Mr. Taverner the wording of an email that Mr. Taverner sent to Minister Jones soon thereafter asking that the appointment be postponed. On that same date, the Lieutenant Governor signed the OIC to appoint an interim OPP Commissioner and revoke the November 29 appointment of Mr. Taverner.

[284] On March 6, 2019, Mr. Taverner announced that he had requested that his name be withdrawn from consideration for the OPP Commissioner position. On March 11, the government announced that it had appointed Deputy Chief Thomas Carrique of York Regional Police as the new OPP Commissioner.

VI. THE ISSUES

[285] I framed the issues raised by Mr. Yarde as follows:

1. Did Premier Ford make or participate in making a decision where there was an opportunity to further his private interest contrary to section 2 of the Act?
2. Did Premier Ford make or participate in a decision or did he seek to influence a decision to be made by another person improperly to further another person's interest contrary to sections 2 and 4 of the Act?
3. Did Premier Ford have reasonable grounds to believe that he had a conflict of interest at the meeting of the Executive Council where the appointment of Mr. Taverner as OPP Commissioner was approved and, if so, should he have recused himself from the meeting pursuant to section 8 of the Act?
4. Should Premier Ford have asked the Deputy Premier to appoint another member of the Executive Council to perform his duties in relation to the approval of Mr. Taverner as OPP Commissioner pursuant to section 16 of the Act?
5. Could Premier Ford's government have proceeded with the appointment of Mr. Taverner in spite of my finding that the recruitment process was flawed?

VII. OPINION

[286] It is alleged that Premier Ford breached one or all of sections 2, 4, 8 and 16 of the Act in relation to his involvement in the appointment of Mr. Taverner as the OPP Commissioner. I propose to review the legal requirement underlying each of those sections and then apply those requirements to the evidence as I have found it.

1. Section 2 – “private interest”

a) Legal principles

[287] For the sake of convenience, I have reproduced section 2 here:

2. A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member’s private interest or improperly to further another person’s private interest.

[288] I propose to deal only with the “private interest” aspect of the provision under this sub-heading. I will deal with the interpretation of the term “improperly” under a separate sub-heading together with section 4 where the term is also used as “improperly to further another person’s private interest.”

[289] Unfortunately, because the term “private interest” is defined only by way of exclusion, the definition in section 1 provides little guidance:

“private interest” does not include an interest in a decision,

- (a) that is of general application,
- (b) that affects a member of the Assembly as one of a broad class of persons,
- (c) or that concerns the remuneration or benefits of a member or an officer or employee of the Assembly;

[290] The best interpretation of the term “private interest” is one that includes pecuniary and purely personal interests and excludes the broader political interest of the member’s party or the government of the day.

[291] The ordinary meaning of the qualifier “private” includes “belonging to an individual; one’s own; person” (Oxford English Reference Dictionary). This suggests that broader types of interests were not intended to be captured by the terms “private interest.”

[292] I also note that when amendments were made to the Act in 1994, the Chair of the Management Board of Cabinet and the Government House Leader described the “highlights of the amendments” as:

Broadening the scope of the act to deal with parliamentary tradition as well as issues of conflict of interest in the economic sense. [Emphasis added]

[293] This suggests that “private interest” was intended to focus on pecuniary interests.

[294] This interpretation is consistent with how other integrity, ethics and conflict of interest commissioners across Canada have ruled on the matter (e.g. see the British Columbia Conflict of Interest Report on Moe Sihota).¹⁵ I acknowledge that “private interest” may extend beyond pecuniary interests in exceptional circumstances but it must be accepted that there would be practical difficulties if “private interest” were interpreted to include political or partisan interests which are inherent in the very nature of political appointments. This leads to a conclusion that the interpretation of the term should be restrained and be driven by the text, context and legislative history of the provision to restrict its meaning to pecuniary interest and purely personal interests.

b) Application

[295] Applying these principles to the facts, I have found in this matter that there was no evidence to suggest that the appointment of Mr. Taverner engaged an opportunity to further Premier Ford’s pecuniary or personal interests. Whether the appointment was improper within the meaning of the Act will be considered separately below under the next sub-heading.

¹⁵ Report re: Moe Sihota, March 24, 1997.

2. Sections 2 and 4 – “improperly to further another person’s private interest”

a) Legal principles

[296] Section 2 is set out under sub-heading 1(a) above. Section 4 is set out below:

4. A member of the Assembly shall not use his or her office to seek to influence a decision made or to be made by another person so as to further the member’s private interest or improperly to further another person’s private interest.

[297] I have already determined that Premier Ford’s private interest was not engaged in the sense that he had no opportunity to further his own personal interest in the appointment of Mr. Taverner as Commissioner of the OPP. There is no issue that Mr. Taverner’s private interest would be furthered by his appointment as OPP Commissioner so it remains to be determined whether the second branch of sections 2 and 4 has been contravened by Premier Ford improperly furthering Mr. Taverner’s private interest.

i. Prior interpretation of “improperly furthering”

[298] In a 2001 report of this Office, *Re Harris*, the Honourable Gregory T. Evans, Acting Integrity Commissioner, noted:

Black’s Law Dictionary defines “improperly” as:

*“ ‘Improper’. Not suitable; unfit; not suitable to the character, time, and place, ... Not in accordance with fact, truth or right procedure and not in accord with propriety, modesty, good taste, or good manners. ”*¹⁶

[299] Integrity Commissioner Osborne also took a broad approach in *Re Flaherty*:

It appears to me that the qualification “improperly” is intended to convey a sense that the decision made (section 2) or influence exercised (section 4) was objectionable, unsuitable or otherwise wrong (see Black’s Law Dictionary definition of “improper”).¹⁷

¹⁶ Report re: The Honourable Michael D. Harris, May 16, 2001, 8.

¹⁷ Report re: The Honourable James M. Flaherty, February 8, 2002 [“Flaherty”], 8.

[300] While these broad definitions are helpful they may not assist in sifting through the facts and circumstances of each case to determine whether a member has drifted over the line between conduct that is proper and conduct that is not.

[301] It may be more useful to examine some of the factors used to analyze conduct in other cases from across Canada.

[302] A review of the jurisprudence points to five factors to determine whether a member's conduct improperly furthers another person's private interest. I will review each of those factors separately below.

ii. Five factors

[303] Briefly stated the five factors are:

- the relationship between the member and “another person”;
- the degree of the member's involvement in the decision at issue, or the process leading to it;
- whether the member acted for an improper purpose;
- the process used for the decision; and
- whether there was an objective basis for the decision.

A. Relationship between the member and “another person”

[304] Close friendship – in and of itself – is insufficient to establish impropriety. In *Re Redford #1*, Alberta Ethics Commissioner Neil Wilkinson concluded that Premier Alison Redford had not improperly furthered another person's interest when she was Minister of Justice.¹⁸ The other person was her ex-husband, with whom she was on good terms. In fact he had co-chaired her leadership campaign to become premier. His law firm was retained by the Ministry of Justice as part of a consortium to defend the province's interest in multi-billion dollar tobacco litigation. Ms. Redford made the final decision on which firm or consortium

¹⁸ Report re: The Honourable Alison Redford, Q.C., December 4, 2013 [“Redford #1”].

of firms would be retained. In this case other factors outweighed any concern arising out of the relationship between Ms. Redford and her ex-husband.

[305] Similarly in *Re Fonberg*¹⁹ and *Re Watson*,²⁰ both discussed below, federal Ethics Commissioner Mary Dawson dismissed allegations that senior public office holders furthered the interests of their friends. In each case other factors overcame the objection based solely on friendship.

B. Degree of member's involvement in the decision

[306] Concerns about impropriety often centre on the role played by the member in making or influencing the decision. In *Re Fonberg*²¹ it was alleged that Robert Fonberg, Senior Associate Secretary of the Treasury Board, had agreed to fund a non-profit organization that was headed by his friend and former colleague. The Commissioner concluded that there was no evidence that Mr. Fonberg acted in any way to influence or modify the process that led to the decision concerning the grant in question. In fact, his email exchanges indicated “that he did not seek any particular outcome on behalf of” his friend and the charity involved. The employees in Treasury Board responsible for the grant decision testified that “at no time did they feel any pressure from Mr. Fonberg to reach any particular result.” His involvement was found to have been limited to questions to “his staff about the appropriate interpretation to be applied to the terms of the conditional grant.”

[307] Similarly in *Re Redford #1*, Commissioner Wilkinson found the following:

I find that the Honourable Alison Redford, Q.C., as Minister of Justice, directed Ministry of Justice officials to devise an objective process for determining which firm or consortium of firms would be recommended for engagement on the tobacco litigation. I find this was done within the Ministry of Justice; and that she had no involvement in the design of the process, its application, or the resulting Memorandum (briefing Note AR 39999) containing the Selection Committee's advice to the Minister.²²

¹⁹ The Fonberg Report, April 30, 2013 [“Fonberg”].

²⁰ The Watson Report, June 25, 2009 [“Watson”].

²¹ Fonberg, *supra*, 16.

²² Redford #1, *supra*, at para. 87.

[308] This finding was confirmed in *Re Redford #2*²³ by Acting Commissioner Paul Fraser. This was a re-investigation that arose when some privileged documents were subsequently leaked to a news outlet. Although the leaked information was relevant to the decision to re-investigate the matter it did not alter the original conclusion that Premier Redford had not improperly furthered another person's private interest.

C. Whether the member acted for an improper purpose

[309] In 1946, the Premier and Attorney General of Québec, Maurice Duplessis, ordered the general manager of the Québec Liquor Commission to revoke Frank Roncarelli's liquor licence for a restaurant Mr. Roncarelli owned in Montreal. The reason for this action was that Mr. Roncarelli had posted bail for a number of Jehovah Witnesses who had been arrested for their religious activities.

[310] In 1958, after a lengthy legal odyssey Mr. Roncarelli's action for damages against Premier Duplessis finally reached the Supreme Court of Canada which decided in Mr. Roncarelli's favour in a 6-3 decision. Although four judges on the majority based their decision on the finding that Premier Duplessis had not acted in the exercise of his official powers it is the ringing statement of Justice Rand writing for himself and Justice Judson in a separate majority decision concerning the rule of law which is most often quoted:

In public regulation of this sort there is no such thing as absolute and untrammelled "discretion", that is that action can be taken on any ground or for any reason that can be suggested to the mind of the administrator; no legislative Act can, without express language, be taken to contemplate an unlimited arbitrary power exercisable for any purpose, however capricious or irrelevant, regardless of the nature or purpose of the statute. Fraud and corruption in the Commission may not be mentioned in such statutes but they are always implied as exceptions. "Discretion" necessarily implies good faith in discharging public duty; there is always a perspective within which a statute is intended to operate; and any clear departure from its lines or objects is just as objectionable as fraud or corruption. Could an applicant be refused a permit because he had been born in another province, or because of the colour of his hair? The ordinary language of the legislature cannot be so distorted.

"Good faith" in this context, applicable both to the respondent and the general manager, means carrying out the statute according to its intent and for its purpose;

²³ Report re: The Honourable Alison Redford, Q.C., March 29, 2017.

it means good faith in acting with a rational appreciation of that intent and purpose and not with an improper intent and for an alien purpose;²⁴

[311] It is difficult from the perspective of 2019 to imagine a more egregious set of facts than those dealt with in *Roncarelli* to establish an improper purpose behind the conduct of a member. I think it would be wrong to confine an interpretation of “improperly” to the rule of law principle enunciated by Justice Rand. In my view that principle is at the extreme end of a sliding scale of conduct which might be regarded as improper.

[312] The principle in *Roncarelli* was applied by Justice Binnie for the majority of the Supreme Court of Canada in *CUPE v Ontario (Minister of Labour)*²⁵ over the statutory power of the Minister of Health to make appointments. The governing statute (the *Hospital Labour Disputes Arbitrations Act*) conferred a broad discretion to appoint arbitrators which the Minister was accused of exercising to achieve an improper purpose by influencing an outcome rather than process.

[313] The minister in this case was concerned by the delay in arbitrations and wanted to appoint “[p]eople who had spent their professional lives as neutrals.”²⁶ He appointed four retired judges to several arbitration boards. The union objected.

[314] Justice Binnie quoted Justice Rand’s statement in *Roncarelli* that the exercise of a discretion “is to be based upon a weighing of considerations pertinent to the object of the [statute’s] administration.”²⁷ Justice Binnie concluded that “although the s.6(5) power [to make arbitrator appointments] is expressed in broad terms, the legislature intended the Minister, in making his selection, to have regard to relevant labour relations expertise as well as independence, impartiality and general acceptability within the labour relations community.”²⁸ The union’s challenge was upheld.

[315] A final case in this discussion of “improper purpose” is the federal Ethics Commissioner’s decision in *Re Watson* which was referred to earlier. The allegation was that a Governor-

²⁴ *Roncarelli v. Duplessis*, [1959] S.C.R. 121 [“*Roncarelli*”], 140.

²⁵ [2003] 1 SCR 539 [“*CUPE*”].

²⁶ *Ibid.*, at para. 92.

²⁷ *Ibid.*, at para. 171.

²⁸ *Ibid.*, at para. 111.

in-Council appointee of the Toronto Port Authority (TPA) Board of Directors, Colin Watson, was in a conflict of interest by participating in the TPA's decision to acquire a new ferry. The ferry would further the interests of Porter Airlines Inc., which was owned by Robert Deluce, who was a friend of Mr. Watson. Although there were questions raised about the thoroughness of the decision-making process, the Commissioner believed Mr. Watson was acting in the interests of the TPA rather than being influenced by his relationship with Mr. Deluce:

With respect to Mr. Watson, there was no evidence to suggest that he had a separate agenda or motivation from the four Board members who voted with him. I believe that Mr. Watson exercised his duties both as a Director of the Toronto Port Authority and as Chair of the Audit & Finance Committee with the genuine conviction that the new ferry was a good thing for the TPA as a whole and for the Airport's primary user, Porter Airlines. I do not believe that Mr. Watson was motivated by a desire to further the private interests of Mr. Deluce. I am therefore satisfied that Mr. Watson did not "improperly" further the private interests of Mr. Deluce.²⁹

D. Process used for the decision

[316] If the decision at issue was the result of a fair and open process, then it reduces the likelihood of a finding that the decision improperly furthered the private interests of another person, even if the ultimate result is the appointment of someone who is a friend of the decision maker.

[317] An example of a process that was held to have been fair and open can be found in *Re Flaherty*. The Ontario finance minister had entered into a deal with Sears Canada Inc. (Sears) to promote the government's child credit program in 2001. The government issued one-time payments of \$100 per child to middle and low income families. Sears would exchange any \$100 government cheque issued under this program for \$110 worth of Sears' gift certificates. Since the promotional deal had been offered to other retailers as well it was found that Minister Flaherty had not improperly furthered the interests of Sears:

As I have said Sears involvement was a part of the promotion of the program, and at the same time worked to enhance the value of the program to recipients of the one-time payment if they chose to spend their \$100.00 per child cheque at Sears. **If other retailers had been excluded from participation, it might well be that the Minister's arrangement with Sears might have resulted in the Minister**

²⁹ Watson, *supra*, 18.

improperly furthering Sears' private interest. But other retailers were not excluded. [Emphasis added].³⁰

[318] By contrast where a member establishes a process that provides preferential treatment to the member's preferred candidate it may be a conclusive indicator of impropriety. That was the case in *Re Paradis*³¹ where Commissioner Dawson found that the Minister of Public Works and Government Services Christian Paradis had provided preferential treatment to Rahim Jaffer, a former colleague in the House of Commons, by awarding a contract to Jaffer's company to install solar panels on the roofs of federal buildings. The Commissioner noted:

Although Mr. Paradis said that he was motivated by his interest in an innovative idea, he also said that he did not have a clear understanding of its details. Despite this, he did not ask his staff to review it as he did in the other cases we were made aware of. I am of the view that **he afforded special treatment to Mr. Jaffer because of his past relationship with him. I have already found under section 7 that Mr. Paradis gave preferential treatment to Mr. Jaffer and Green Power Generation. I am of the view that giving "preferential treatment" is in and of itself improper.** [Emphasis added].³²

E. Objective basis for the decision

[319] If there is no objective basis for a decision this will be a factor leading to a conclusion that the decision was made for an improper purpose. To take an extreme example, if a minister were to appoint their best friend as the OPP Commissioner, when that friend has never before had any experience with policing or held any kind of police post, then the decision would point towards impropriety.

[320] This factor dovetails with the third factor above which considers whether the member acted for an improper purpose. Appointing a friend with no qualifications for the job would certainly strengthen a conclusion that the appointment was made to further the interests of the friend improperly.

³⁰ Flaherty, 8.

³¹ The Paradis Report, March 22, 2012

³² *Ibid.* at 23.

b) Application of the five factors to the facts of this case

i. Relationship between the member and “another person”

[321] Although the nature of their friendship may have been exaggerated in some media reports there is no issue with the fact that Premier Ford and Mr. Taverner are friends of long standing. Both men acknowledge that fact.

[322] From the analysis above it can be seen that the fact of friendship does not of itself lead to a finding of impropriety.

ii. Degree of member’s involvement in the decision at issue or the process leading to it

[323] The only admissible evidence of Premier Ford’s involvement in the recruitment process for the position of OPP Commissioner was his direction to the Secretary that he wanted the position filled by December. The Premier believed that the timeline in the original proposal for the recruitment process received from the public service, which would take the process into March, was too long.

[324] I find that this was an entirely appropriate direction for the Premier to give and the Secretary agreed with his assessment.

[325] Beyond the interjection concerning the timeline I find that Premier Ford was at arm’s length with the process that was developed by the Secretary, members of the public service and the executive search firm hired to oversee the process. Mr. Torigian’s evidence that he was told that the Premier wanted to be involved in the selection is hearsay, inadmissible and not supported by the evidence.

[326] While the Premier’s Chief of Staff, Mr. French, did have some involvement in the process and expected to be kept apprised of how it was proceeding, there is no evidence that Premier Ford had any contact with any of the panellists who conducted interviews of candidates except for the Secretary who continued to maintain contact with the Premier as part of his duties as the Secretary of the Cabinet but not in relation to the recruitment process.

[327] Mr. French did have contact with the Secretary during the process and was even supposed to have been a panellist for the final interview. Mr. French requested to be on the panel as he thought it was similar to the situation where he had sat on a recruitment panel for the appointment of the Chair of Hydro One.

[328] At this point I pause to note that there is nothing necessarily sinister about having a representative from the Premier's Office be part of a recruitment panel for an appointment. The federal government routinely includes a representative from the Prime Minister's Office in interview panels for the appointment to leadership positions in federal agencies, boards and commissions. In fact, the government's priorities for the agency in question may be a legitimate consideration for the selection committee.

[329] It was evident from the Secretary's email to Mr. French dated November 18 that the Secretary was searching for this type of policy direction when he stated:

According to my discussion with Sal on Friday, any one of the three can do the job. The key question for the second round panel is, what type of leadership would be best for the OPP given government priorities. For example, is visionary leadership with a strong community focus a greater priority than familiarity with OPP operations?

[330] That input was not forthcoming when Mr. French recused himself the following day from the interview process. In my interview with the Premier, he was genuinely surprised to learn that it had ever been contemplated that Mr. French would be on the panel. I found the Premier's reaction quite credible and consistent with his having been at arm's length to the recruitment process.

[331] Although there may have been contact between Mr. French and the Secretary during the process concerning the timelines of the process, the need to change the original job posting, updates on the process and Mr. French's participation on the panel for the second interview there is no evidence that Premier Ford, as in *Re: Redford #1*, had any involvement in the design of the recruitment process, its application or the resulting recommendation from the final interview panel that Mr. Taverner be appointed as the OPP Commissioner.

iii. Whether the member acted for an improper purpose

iv. Fair and open process

[332] I will consider both of these factors together for the sake of convenience. I find that Premier Ford had every right to assume that the recruitment process initiated by the Secretary was a fair and open process and that the Cabinet was simply approving the result of that process similar to the situation Premier Redford found herself in when, as Minister of Justice, she accepted the recommendations of a selection committee.

[333] The need for a fair and open process is elevated when a friend of the minister or premier is a candidate for an appointment. Other factors may obviate the need for a process depending on qualifications of the candidate. Premier William Davis and Arthur Maloney were political and personal friends when Premier Davis appointed Mr. Maloney, without any process, to be Ontario's first Ombudsman. The appointment was received with widespread acclaim due to the high regard for Mr. Maloney in legal and political circles. There are limitless other examples where this has been the case. In fact a requirement that an appointment of a friend can only be made if a fair and open process is conducted may be too rigid and impractical, however it may serve to blunt criticism of the appointment when it is made. This is particularly so in the case of the appointment of the OPP Commissioner given the relationship between the government and the OPP.

[334] In Mr. Yarde's December 5, 2018 affidavit he states the following:

The Commissioner of the Ontario Provincial Police must operate completely independently from the Government of Ontario.

[335] Statements of this nature as noted in the Report of the Ipperwash Inquiry³³ can be misleading, no matter how well intentioned. In fact, under the *Police Services Act*, the Solicitor General (now known as the Minister of Community Safety and Correctional Services) has very broad powers to direct the OPP. In section 17(2) the Commissioner has the general control and administration of the OPP and the employees connected with it subject to the Solicitor General's direction. This is an express recognition of the principles of ministerial accountability for the actions of the police.

³³ Hon. Sidney B. Linden "Report of the Ipperwash Inquiry", May 30, 2007, 310.

[336] As Larry Taman, the Deputy Attorney General at the time of Ipperwash testified:

In my view, it's very important to keep up front the notion that the government is accountable for the actions of the police and when I hear people talk about the independence of the police or the police are independent, I think it's a statement that is too broad. I think that it's right to say that with respect to certain kinds of issues, that the government had best stay out of it and let the police do their job. For all I know, there may even be one or two issues where there is some legal impediment to the government being involved. But it's important to remember that overall, the police work for the government.³⁴

[337] In its submission to the Ipperwash Inquiry the OPP agreed that “one must avoid oversimplifications that deny government’s legitimate policy role in operational matters.”

[338] In my interview with Julian Fantino, who served as OPP Commissioner from 2006-2010, he described his reporting relationship with the deputy minister as akin to the division between church and state. There would be some information at times concerning an ongoing investigation that he felt he was unable to share.

[339] Following the publication of the Report of the Ipperwash Inquiry, the Minister of Community Safety and Correctional Services issued a guideline pursuant to paragraph 3(2)(u) of the *Police Services Act* which set forth some principles and practices that govern the relationship between police and government.

[340] I take Mr. Yarde’s point to the extent that the relationship can be a sensitive one, particularly, as he points out, since the OPP can be called upon to investigate governments or elected officials.

[341] The importance of having a fair and open process which might result in the appointment of a friend of the minister or the Premier as OPP Commissioner cannot be understated. Later in this opinion I will deal with the process in place for the appointment of judges, who also have a sensitive relationship with the government, which allows qualified candidates for appointment to come forward without fear that their personal relationship with the Attorney General may be seen as some form of impediment to their appointment.

³⁴ *Ibid.*, at p. 321.

[342] In the present case a recruitment process was put in place which, unfortunately, I have found to have been flawed through no actions of Premier Ford. This was a fact not known to him at the time the appointment was made. In these circumstances I find that Premier Ford's conduct was not improper in relation to the recruitment process and that he could not have had any improper purpose in the approval of the selection committee's recommendation on the basis of what he knew at the time.

v. Objective basis for the decision

[343] In the extreme example I gave of a minister appointing their best friend with no experience in policing I held that this would be an indicator pointing towards impropriety. In the instant case I find that there are several indicators pointing away from impropriety. This requires an examination of the actual qualifications of Mr. Taverner.

[344] It is unfortunate that due to the confusion surrounding the job posting, which I have dealt with above, there is a perception that Mr. Taverner was not qualified for the position. He would have been qualified under the 2010 competition and, in 2006 there was no competition at all. It was only under the rank-based terms of the 2014 competition, which significantly limited the pool of candidates for the position, that Mr. Taverner did not qualify.

[345] Once the rank-based qualification requirement was removed his candidacy could be assessed on its merits. I find that there are many positive indicators, when viewed objectively, that suggest Mr. Taverner was qualified to be the Commissioner of the OPP:

1. Mr. Taverner has more than 50 years of service in policing;
2. He has held the rank of Superintendent with the TPS for many years and currently commands more than 700 police and civilian members in three divisions;
3. The area covered by those three divisions contains almost a half million people;
4. That area is a particularly challenging one in policing terms;

5. Mr. Taverner was responsible for implementing an annual budget of \$100 million;
6. The experience, duties and responsibilities of Mr. Taverner compare favourably to some of those who could apply on a strictly rank-based qualification such as existed in 2014 and the first job advertisement in the present situation;
7. The result of Mr. Taverner's psychometric testing was comparable to the other candidates; and
8. Mr. Taverner impressed Mr. Boniferro as the best-prepared candidate for the first round of interviews on the question concerning his vision for the OPP and he recommended him to be one of the three candidates for the final interview. I find that Mr. Boniferro was wholly objective in his assessment and this strengthens my belief that Mr. Taverner was qualified for the position.

[346] In addition to the indicia raised above I have had the opportunity to interview Mr. Taverner at length. I found him to be a credible witness, thoughtful, soft-spoken with a gentle sense of humour, who cares deeply about his work in policing and his community. I had the opportunity of reviewing a sample of the testimonials sent to him on the announcement of his appointment from current and retired OPP officers, fellow police officers and members of the community. They are glowing in their assessment of him as a man and as one who has dedicated himself to his profession and his community.

[347] During his interview I asked Mr. Taverner about his friendship with Premier Ford and how he would go about assuaging public concerns with respect to his appointment undermining the independence of the OPP in its relationship to the government. He was alert to those concerns and replied that he had been privy to much information with respect to investigations of Mayor Rob Ford (the Premier's late brother) and that he had never shared that information with anyone. He asserted that there were never any leaks of information he received concerning those matters.

[348] He went on to state that decisions concerning investigations of politicians are not made in isolation. He stated:

I don't believe there would be any way to silence that type of investigation, whether you are the Commissioner or not, that it is not something that could go away. It would have to be investigated and investigated properly with Crown Attorneys involved.

But I guess more to your point...how could it make members of the public feel. I think that would have to be through the integrity that I could show to provide that I am not going to be swayed by any type of interference. I am going to stay strong to my beliefs and my profession.

[349] While I have confidence in Mr. Taverner's personal integrity, the difficulty for him if he were to become Commissioner of the OPP is that he may be subject to conflict of interest situations which are more broadly defined than the conflict of interest provision applicable to members under the *Members' Integrity Act, 1994* as I will discuss later in this opinion.

[350] Mr. Taverner would have to endeavor to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it.

[351] The Secretary and Mr. Badali testified that at the second interview Mr. Taverner had given the most direct answer to the question regarding OPP independence, which was, according to Mr. Badali, "if there's any perceived conflict, you call another force in, like the RCMP."

[352] Mr. Hawkes described a situation where this was done the other way round, where it was the OPP who were called in to investigate the shooting at Parliament Hill where the RCMP and the City of Ottawa Police Services had different and overlapping roles.

[353] Mr. Torigian described a protocol between police forces for compensation where one is called in by another to deal with a conflict, but he acknowledged that the compensation provision is rarely, if ever, used.

[354] Calling in another police force might go a long way to avoiding the appearance of preferential treatment, but I suspect Mr. Taverner would be exposed to some criticism for whatever action he took or did not take if the matter related to Premier Ford.

[355] Mr. Taverner was asked in his interview whether he still wanted the job. He acknowledged, with a smile, that it was the toughest question of the afternoon and that he had also struggled with answering it in his own mind. He was encouraged by the communications he had received from current and retired officers and their cry for a need for change in some areas of the force. He believed that he could effect that change.

[356] In his words he concluded:

I care deeply about the officers, particularly the front-line officers, in my mind, are sometimes not recognized for the great things that they are doing out there and getting the respect that they need to get from not only their superiors, but the public.

I think my role if I was to take this position or get this position [it] would be one of my priorities. To answer your direct question I think I would still take the role.

[357] Mr. Taverner changed his mind and on March 6, 2019 announced that he was withdrawing his name from consideration. During this inquiry, as I have sifted through the evidence I am satisfied that Mr. Taverner has done nothing ignoble in this affair. If it is any solace to him I believe that he would have tried to be true to his oath. He can withdraw from this recruitment process with his head held high.

[358] After considering the five factors set out above I find that the Premier did nothing improperly to further Mr. Taverner's private interest. The allegations under sections 2 and 4 of the Act are not made out.

3. Section 8

a) Legal principles

[359] Section 8 is reproduced below:

8. A member of the of the Assembly who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

(a) disclosure the general nature of the conflict of interest; and

(b) withdraw from the meeting without voting or participating in consideration of the matter.

[360] The phrase “conflict of interest” as used in section 8 must be informed by the wording used in section 2 under the heading “conflict of interest.” I appreciate that headings to a section are not part of the legislation itself but are inserted to provide assistance in identifying the subject matter of the provision in question.

[361] As I have stated above in the analysis of section 2 the definition of a private interest has been confined to a pecuniary interest and, in exceptional circumstances, purely personal interests. It would not make sense for there to be a different and broader definition of the phrase in section 8 than the one under the legislative heading in section 2 unless there was express language to that effect.

[362] If legislators wish to broaden the interpretation of the phrases “conflict of interest” and “private interest” then it is within their power to do so when the Act is next reviewed. Until then I will interpret both phrases as being limited to pecuniary or purely private interests. This is similar to the position I took in a previous report³⁵ where I followed precedent from this Office and elsewhere to the effect that the Act applied only to an actual conflict of interest and not to a perceived conflict of interest. I called on legislators to review the section and alter its interpretation if they so wished.

b) Application

[363] Since I have found that Premier Ford’s private interest was not engaged by the appointment of Mr. Taverner it follows that he did not have a conflict of interest for the purposes of section 8.

[364] Alternatively I find that even if Premier Ford’s friendship with Mr. Taverner could be considered a conflict of interest under a broader interpretation of that phrase than what the Act suggests, I would not find a breach of section 8 on the facts. When the Minister of Community Safety and Correctional Services presented the draft OIC to Cabinet on November 29 she recommended only one candidate as selected by the interview panel. The

³⁵ Report re: The Honourable Bob Chiarelli and The Honourable Charles Sousa, August 9, 2016.

process was explained to Cabinet. The Premier openly confirmed that Mr. Taverner was a friend followed by something unremarkable to the effect that he was a great guy.

[365] Thereafter he effectively withdrew from the meeting as he made no further comments. There was no debate, vote or objection taken to the Minister's recommendation so the Chair of the Cabinet meeting, Minister Elliott, referred the OIC draft to the Lieutenant Governor for signature and completion. I do not believe that on these facts there was any actual contravention of section 8 even given a broad interpretation of the phrase "conflict of interest."

4. Section 16

a) Legal principles

[366] Section 16 was raised by Mr. Yarde in his supplementary affidavit. It is reproduced below.

16. A member of the Executive Council who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the member's decision shall ask the Premier or Deputy Premier to appoint another member of the Executive Council to perform the member's duties in the matter for the purpose of making the decision, and the member who is appointed may act in the matter for the period of time necessary for the purpose.

[367] Although similar to section 8 there is a difference in that section 16 is designed to deal with matters where the member's decision is required and the member is a member of the Executive Council. A situation can arise where section 16 would apply, for instance, where a statute requires a designated minister to make an appointment. An example would be a judicial appointment which must be made on the recommendation of the Attorney General pursuant to the *Courts of Justice Act*.

b) Application

[368] The appointment of the OPP Commissioner did not require Premier Ford to make a decision on the matter. His signature was not required on the OIC formalizing the appointment and he did not, in fact, sign the OIC.

[369] The appointment in this case could have been accomplished by a “walk around”, a procedure in place since 1917 under an OIC where as few as four ministers other than the Premier could have given their approval to the OIC.

[370] Since the matter did not “require” the Premier’s decision section 16 did not apply and there was therefore no contravention.

5. Could Premier Ford’s government have proceeded with the appointment of Mr. Taverner in spite of my finding that the recruitment process was flawed?

[371] Prior to the withdrawal of Mr. Taverner’s candidacy I had intended to address at some length the situation concerning the appointment of an OPP Commissioner in light of my finding that the process that was used for the appointment of Mr. Taverner was flawed. I believe that my opinion on the matter may still be of some assistance so I will set it out, although part of the opinion is now moot given Mr. Taverner’s decision to withdraw and the recent appointment of Thomas Carrique as OPP Commissioner.

[372] There is some authority for the proposition that the government could have done so. The Supreme Court of Canada in *Thorne’s Hardware Ltd. v. R.*³⁶ stated:

Decisions made by the Governor in Council in matters of public convenience and general policy are final and not reviewable in legal proceedings. Although, as I have indicated, *the possibility of striking down an Order in Council on jurisdictional or other compelling grounds remains open, it would take an egregious case to warrant such action. This is not such a case.* [Emphasis added.]

[373] The Court noted that the government’s action may have been moved by considerations of a political, economic, social or partisan nature and not on the basis of jurisdiction so it declined to interfere.

[374] Similarly, with respect to the legislative power, the Supreme Court of Canada has stated that “legislative decision making is not subject to any known duty of fairness. Legislatures are subject to constitutional requirements for valid law-making but within their

³⁶ (1983), 143 D.L.R. (3d) 577 (S.C.C.) at p. 4581 per Dickson, J.

constitutional boundaries, they can do as they see fit. The wisdom and value of legislative decisions are subject only to review by the electorate.”³⁷

[375] This principle was applied recently in *Democracy Watch v. Canada (Attorney General)*³⁸ by Justice Strickland of the Federal Court of Canada. The case involved a challenge to the appointment of the federal Conflict of Interest and Ethics Commissioner in part on the basis that the appointment process leading to the Governor in Council (GIC) appointment was procedurally unfair in that the process selected by the GIC for appointment of the Ethics Commissioner created a reasonable apprehension of bias. Justice Strickland noted:

Here the Applicant is not challenging the appointment decision of the GIC on the basis of the choice of Mr. Dion, as opposed to any other candidate. Such a challenge would be unlikely to engage procedural fairness protections (*Wells*; see also *Griffin v. R.* (1997), 128 FTR 175 (TD)).

[376] Justice Strickland went on to quote from *CUPE*, which I referred to above, where Justice Binnie held that the Minister’s appointment power was clear and unequivocal by statute and “absent a constitutional challenge, a statutory regime expressed in clear and unequivocal language on this specific point prevails over common law principles of natural justice as recently affirmed in *Ocean Port Hotel*.”

[377] Section 17(1) of the *Police Services Act* expressly provides that the Commissioner of the OPP shall be appointed by the Lieutenant Governor in Council. The language is clear and unequivocal. No process for the selection of a Commissioner is dictated by the legislation as it is for the appointments of judges which involves a rigorous appointment process set out in the *Courts of Justice Act*.

[378] In a recent opinion piece by Lori Turnbull, Director of Public Administration at Dalhousie University, she accepted the fact that legally Premier Ford can appoint whomever he

³⁷ *Wells v. Newfoundland* [1999] 3 S.C.R. 199 at 223 per Major, J.

³⁸ [2018] F.C.J. No 1314 at para. 124.

wants. She then argued that he should not because it would be a breach of the good faith our parliamentary system relies on to maintain ethical standards.³⁹

[379] I do not believe that the appointment power is without limits. There are constitutional and jurisdictional constraints and unbridled cases of clear abuse can be reined in by the courts as Justice Rand set out in *Roncarelli*. The Courts have also intervened in less egregious circumstances with the minister’s appointment power in *CUPE*.

[380] In addition, I trust that this analysis of the five factors has demonstrated that there are circumstances where section 2 and section 4 of the Act can be relied on to demonstrate that there can be limits to the Premier/Cabinet’s appointment powers particularly in the extreme example I set out where there is no objective basis for the decision to appoint an individual.

[381] I appreciate that my jurisdiction under section 31 of the Act is, itself, limited in that I can make only recommendations, based on my findings, to the members of the Legislature. A skeptic would note that in a legislature where the government has a large majority of the members any recommendation under the Act that is critical of the conduct of a minister in exercising an appointment power and recommending a penalty would likely be voted down.

[382] That may be so but I like to think that the opinion and recommendations of an independent officer of the Legislative Assembly, together with the debate surrounding those recommendations, will inform public opinion. The public, after all, are the final arbiters on whether the integrity of our parliamentary system has been maintained.

VIII. CONCLUSION

[383] In the present case, although I have concerns about the process that led to the recommendation of the final selection panel, I am unable to find on the evidence that the allegations against Premier Ford under sections 2, 4, 8 or 16 of the Act have been proved. Each of the allegations, therefore, is dismissed.

³⁹ Lori Turnbull, “Yes, Ford can appoint whomever he wants as Ontario’s top cop – but he shouldn’t”, *Globe and Mail* (January 16, 2019), online: <<https://www.theglobeandmail.com/opinion/article-yes-ford-can-appoint-whomever-he-wants-as-ontarios-top-cop-but-he/>>

IX. RECOMMENDATIONS

[384] During the course of the inquiry there has been some concern expressed over the political nature of the appointment of the Commissioner of the OPP given the sensitive relationship between the OPP and any government.

[385] I have already noted that there is no process restricting the appointment to be made by the cabinet under section 17(1) of the *Police Services Act*.

[386] The same concerns about political appointments used to be raised with respect to judges of what is now the Ontario Court of Justice and who also have a sensitive relationship with government. In almost all criminal cases, for instance, the government is one of the parties appearing before a judge.

[387] These concerns were greatly reduced in 1988 with the establishment of the Judicial Appointments Advisory Committee as a pilot project and in 1995 when the *Courts of Justice Act* established the Committee by legislation. The Attorney General must make an appointment from a list of applicants recommended to the Attorney General by the Committee. The Committee makes its recommendations on the basis of its own process of criteria, policies and procedures. The Attorney General has a role in the process by appointing seven lay persons to the Committee of 13 as well as the ultimate power to recommend the appointment to the Lieutenant Governor in Council from the names submitted by the Committee.

[388] At present not only is there no process set out in legislation for the appointment of an OPP Commissioner, but the appointment process has been inconsistent and made up, usually with some degree of urgency, on the fly (contrary to a media report that was critical of the Taverner appointment because it went against long-standing practice).

[389] In fact there was no long-standing practice. For the 2006 appointment Julian Fantino reported to me in his interview that he received a call from Premier Dalton McGuinty's Chief of Staff followed by an interview with the Premier, after which Mr. Fantino agreed to accept the position. In 2010, Odgers was used in the process which selected Chris Lewis. No rank qualifications were used in that process. In 2014 Odgers was not involved

and rank requirements were specific. Only one interview panel was required, presumably because the pool of candidates with the rank qualifications was smaller than the pool generated in 2018 when that requirement was removed. This week, York Region Deputy Chief Carrique was appointed without any competition at all, so the process has reverted to the one used by Premier McGuinty to appoint Mr. Fantino. As an aside, I wish to be clear that I intend no criticism of Mr. Carrique or the process which led to his appointment which was required in exigent and unusual circumstances.

[390] Where there has been a competition the Secretary of the Cabinet and the Deputy Minister of Community Safety, to whom the OPP Commissioner must report, have been members of the interview panel.

[391] The point is that for a position of this importance and given the sensitivity of the relationship between the government and the police in general, and the OPP Commissioner in particular, there ought to be an established appointment process in place which is independent, transparent and readily activated with predetermined criteria and membership on the selection committee. I would encourage the government and all members of the legislature to consider the establishment of such a process and have it in place before the next appointment of an OPP Commissioner is required.

DATED at Toronto this 20th day of March, 2019.

A handwritten signature in black ink, appearing to read "J. David Wake". The signature is fluid and cursive, with a long horizontal stroke at the top.

The Honourable J. David Wake
Integrity Commissioner

Appendix “A”

Witness List

Witness Name	Position	Legal Counsel
Badali, Salvatore	Partner, Odgers Berndtson	William Anderson <i>Blaney McMurtry LLP</i>
Blair, Brad	Former Deputy Commissioner, OPP	Julian Falconer, Molly Churchill <i>Falconers LLP</i>
Boniferro, Paul	Deputy Attorney General	
Daniels, Simone	Deputy Chief of Staff, Premier’s Office	
Di Tommaso, Mario	Deputy Minister of Community Safety and Correctional Services	Brent McPherson <i>Crown Law Office – Civil – Attorney General</i>
Fantino, Julian	Retired OPP Commissioner and Toronto Police Service Chief	
Ford, Doug	Premier of Ontario	Gavin Tighe <i>Gardiner Roberts LLP</i>
French, Dean	Chief of Staff, Premier’s Office	Gavin Tighe <i>Gardiner Roberts LLP</i>
Harrington, Greg	Senior Advisor to the Chief of Staff, Premier’s Office	
Hawkes, Vince	Retired OPP Commissioner	
Jones, Sylvia	Minister of Community Safety and Correctional Services	Arthur Hamilton <i>Cassels Brock & Blackwell LLP</i>
MacDermid, Allan	Acting Senior Policy Advisor, Minister’s Office, Energy, Northern Development and Mines	
Markson, Alicia	Director of Public Appointments, Premier’s Office	
McArthur, Diane	Chief Talent Officer, Treasury Board Secretariat	
Mukherjee, Alok	Distinguished Visiting Professor, Ryerson, Former Chair, Toronto Police Services Board	
Orsini, Steve	Former Secretary of the Cabinet	Tom Curry, Rebecca Jones <i>Lenzner Slaght Royce Smith Griffin LLP</i>
O’Toole, Derek	Senior Policy Advisor, Premier’s Office	
Scott-Vickers, James	Deputy Clerk & Manager, Cabinet Operations, Government	
Taverner, Ron	Superintendent, Toronto Police Service	Peter Thorning <i>Brauti Thorning LLP</i>
Tibollo, Michael	Minister of Tourism, Culture and Sport	
Torigian, Matt	Former Deputy Minister of Community Safety	Terrence O’Sullivan <i>Lax O’Sullivan Lisus Gottlieb</i>