
FINDLAY McCARTHY LLP

Barristers & Solicitors

DELIVERED BY HAND

June 5, 2007

Mr. Rod McLeod
Miller Thomson LLP
600 - 60 Columbia Way
Markham, Ontario
Canada L3R 0C9

Re: Mark Vandermaas
Police Services Complaints against Commissioner Julian Fantino
April 2, 2007
May 1, 2007

Dear Mr. McLeod:

This is to confirm that we have been retained by Mr. Mark Vandermaas to attend with him on the interview that is being conducted by you in Caledonia on Tuesday, June 5, 2007.

It is my understanding that you have been retained by the Minister of Community Safety and Correctional Services, Mr. Monte Kwinter, to advise him on the several complaints that have been filed against Commissioner Fantino under s. 66 of the *Police Services Act*, R.S.O. 1990, c. P.15. I further understand that you will be attending with Mr. Maksimowksi of the Legal Services Branch of the Ministry.

I have been advised by you that this request for an interview is at a very preliminary stage and that you have not, at this time, made a determination in regard to how these complaints are going to be investigated.

It is my client's position that his complaints cannot be adequately investigated by the Minister Kwinter or his Ministry.

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Very recently, and after Mr. Vandermaas' complaints were filed, both Premier Dalton McGuinty and Minister Kwinter have made public statements in which they indicated that they had full confidence in Commissioner Fantino.

In a *Toronto Star* article dated May 16, 2007, entitled "Kwinter stands by Fantino amid spying accusations" the Minister is quoted as stating that allegations of improper wiretapping fell outside the government's authority to investigate.

In an *Ottawa Sun* article dated May 17, 2007 entitled "Preem backs OPP chief over 16-year-old allegations, the Premier is quoted as saying that "he has full confidence in Fantino as OPP Commissioner."

I enclose copies of these news stories for your reference.

In light of these very strong statements of support for Commissioner Fantino, at a time when, to our knowledge, at least 4 complaints are pending against Commissioner Fantino, my client has no confidence that the Minister or his Ministry can dispassionately investigate his complaints and that the result of any investigation conducted by the Minister or the Minister would lack any credibility.

We note that the Legislature has just recently substantially revised the complaints process under the *Police Services Act* through the recently proclaimed *Independent Police Review Act, 2007* S.O. 2007, c. 5. Although s. 66 of the old Act has survived as s. 70 of the new Act, it would be our suggestion that, in keeping with the spirit of the new legislation that the investigation of these complaints should be conducted by a body that is independent of the Minister and the Ministry and the most obvious and reasonable course would be to refer these complaints to the Ontario Civilian Police Commission under s. 25(1) of *Polices Services Act*.

Yours truly,



John Findlay

JWF:jf

cc. Mr. Mark Vandermaas



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Kwinter stands by Fantino amid spying accusations

May 16, 2007

COLIN PERKEL
CANADIAN PRESS

There's no need for the commissioner of Ontario's provincial police force to step aside despite allegations that he was involved in spying on a close friend of the head of Toronto's police services board 16 years ago, the government said Wednesday.

The allegations of improper wiretapping levelled at Julian Fantino are nothing new and fall outside the provincial government's authority to investigate, said Community Safety Minister Monte Kwinter.

"It is not something that we as a government have any role to play," Kwinter told the legislature.

"It was 16 years ago. It was public knowledge. This is something that was out there. It isn't something that suddenly has come up."

An internal intelligence report leaked to CBC News says Toronto police spied on a close confidante of Susan Eng, who headed the force's civilian oversight body in the early 1990s.

Police began conducting the covert surveillance in May 1991, just days after Eng was sworn in.

The report says Fantino, who was then a superintendent with Toronto police, was concerned Eng's friend could pose a security risk.

The report shows police believed the confidante to be a shady character who associated with drug dealers and convinced a judge to authorize wiretaps on calls, including those with Eng.

Despite Kwinter's assertions, Eng said in an interview that no one ever told her about the surveillance, which she maintained was clearly targeted at her.

She called it an abuse of police power and an invasion of privacy, made worse given her position at the time as chairwoman of the Toronto police services board.

"The language of the memo indicates that they were specifically looking for ways to discredit me personally. It is clear that this was the clear and direct purpose," said Eng, who is now retiring from her law practice.

"It was fundamentally wrong."

Fantino has not commented.

Eng called it "shocking" the intelligence report had been leaked now, saying it appeared to be the result of a "blood feud" between two groups of police officers.

She refused to back calls for Fantino to step down but said she had formally requested Toronto's police board investigate to determine whether any disciplinary or criminal action should be taken.

"We'd like to know whether this was a rogue officer or whether or not he was acting on orders, and how high those orders went," Eng said.

New Democrat Peter Kormos called it "highly inappropriate" and "improper conduct" that police would spy on the head of the board.

"There should be an investigation," Kormos said.

"In the course of that investigation, Fantino has to step aside as commissioner of the Ontario provincial police."

Kwinter said it would be up to the courts, Toronto police or the agency that looks into complaints against officers to investigate.

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MPP: Boot Fantino

Preem backs OPP chief over 16-year-old allegations

By ANTONELLA ARTUSO, QUEEN'S PARK BUREAU CHIEF

Ottawa Sun

May 17, 2007

OPP boss Julian Fantino should step aside pending a full investigation into 16-year-old allegations that a civilian member of a police services board was put under surveillance while he was a superintendent with the force, NDP MPP Peter Kormos says.

"It's very serious misconduct for a police force to be putting one of its own board members under surveillance," Kormos said.

But Premier Dalton McGuinty said yesterday he has full confidence in Fantino as OPP commissioner.

"I'm not going to comment on allegations, particularly allegations arising from such a long time ago," McGuinty said. "I hired him for the job he's taken on. He's doing a very good job under very trying circumstances, keeping the peace, and he has my continuing confidence."

CBC reported that former Toronto Police Services Board chairman Susan Eng was essentially spied on by the force during her tenure in the early 1990s through surveillance of one of her close friends, who was deemed a security risk.

The report suggests that Fantino was aware of the surveillance, but an OPP spokesman could not be reached late yesterday.

Community Safety Minister Monte Kwinter said the issue is an operational matter for the Toronto Police Service, which could choose to hand any complaint over to another police force to investigate.

"I have no idea as to the allegation whether it's valid or not and nor should I know," he said. "I can tell you I've had situations where some people in police have certainly had problems and it was appropriate for (surveillance)."

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