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# Investigative Report

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Complainant: Joseph Hickey

Complaint Number: E-201403311621570843

Police Service: Ottawa Police Service

Director: Gerry McNeilly

Date Retained: June 17, 2014

Date: March 23, 2015

**Summary of the Complaint**

This complaint is a third party complaint filed by Joseph Hickey, Executive Director of the Ontario Civil Liberties Association. (hereafter the OCLA)

On March 21, 2014, a letter written by the Affected Person, a Criminology Instructor at Carleton University was published in the Toronto Star. The letter expressed concerns about police funerals in Ontario when an officer is killed on or off duty. The letter was in response to a news story in the Toronto Star about an individual who picketed a police funeral, who was "*promptly arrested*".

In response to that letter, Mr. Matt Skof, President of the Ottawa Police Association wrote a letter to Dr. Runte, Carleton University President. The letter by Mr. Skof was an effort to extract an apology from the Affected Person for expression of critical views regarding police officers and the profession of policing.

It is the Complainant's assertion that the letter written by Mr. Skof "*brings discredit upon the reputation of the police force of which the association president is a member*". It is also alleged that Mr. Skof breached the Police Services Act Code of Conduct by making statements to the media.

**Code of Conduct Allegations**

The allegations of misconduct pursuant to the Code of Conduct schedule of O. Reg. 268/10 under the Police Services Act (the Act) are as follows:

s.2(1) Any chief of police or other police officer commits misconduct if he or she engages in,

**Allegation #1 - discreditable conduct**

(a) Discreditable Conduct, in that he or she,

(xi) acts in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which the officer is a member; (2(1)(a)(xi))

It is alleged that Mr. Skof, acting as Ottawa Police Association President, acted in a discreditable manner by writing a letter of concern on January 2, 2014 to the President of Carleton University relating to classroom actions taken by the Affected Person, who is an Instructor at Carleton University. The Complainant alleged Mr. Skof wrote Carleton University *“complaining about views and comments expressed by a criminology professor, [the Affected Person], regarding policing.*

**Allegation #2 - discreditable conduct**

(a) Discreditable Conduct, in that he or she,

(xi) acts in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which the officer is a member; (2(1)(a)(xi))

The Affected Person is a Criminology Instructor at Carleton who wrote a media letter about police funerals that appeared in the Toronto Star. It is alleged that Mr. Skof, acting as Ottawa Police Association President, acted in a discreditable manner by

making statements in the media; thereby attempting to use his position to influence an issue of public criticism.

### **Allegation #2 – Breach of Confidence**

- (e) BREACH OF CONFIDENCE, in that he or she,
  - (iii) without proper authority, communicates to the media or to any unauthorized person any matter connected with,
    - (A) the police force of which the officer is a member, if the officer is a member of an Ontario police force as defined in the *Interprovincial Policing Act, 2009*, (2(1)(e)(iii))

It is alleged that Mr. Skof, acting as Ottawa Police Association President made statements to the Ottawa Citizen newspaper.

### Summary of Statements – Witnesses (Civilian & Police)

#### **Complainant – Joseph Hickey**

The Complainant was interviewed on July 18, 2014, by OIPRD Investigators Rodney Braun and Thomas Andrew. The following is a summary of the interview.

The Complainant is the Executive Director of the Ontario Civil Liberties Association or “OCLA”. He explained the OCLA is concerned with fundamental rights and freedoms and that one of their key concerns is freedom of expression.

The OCLA concern is that the President of the Ottawa Police Association attempted to use his position to exert pressure on a critic of policing, the Affected Person. The complaint to the OIPRD was that Mr. Skof, the President of the Ottawa Police Association wrote a letter on January 2, 2014, to the president of Carleton University “*in an attempt to extract an apology, or to silence criticism made by [the Affected Person]*”. The Complainant explained that the information in the OIPRD complaint form summarized the OCLA concerns.

A copy of the letter written by Mr. Skof to the President of Carleton University was provided to the Complainant by the Affected Person. The Complainant did not speak to the President about the letter stating “*It’s not the easiest thing in the world to have a chat with the university president from my experience*”. He went on to state, “*I think the letter speaks for itself*”.

The Complainant was aware that the Affected Person had a separate complaint against a member of the Ottawa Police Service, in what he described as “*an intertwined*” matter. The Complainant stated he became aware of this matter (the letter by Mr. Skof) by way of the Affected Person contacting him.

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The Complainant was asked to provide a summary of the concerns posed to him by the Affected Person with regards to the letter written by Mr. Skof. The Complainant responded *“I can’t speak for him...”* (the Affected Person). However, later in the interview the Complainant stated that the Affected Person was concerned the letter from Mr. Skof to the University President could potentially affect his employment.

The Complainant knew the Affected Person prior to this incident and has spoken in his classes about the work of the Ontario Civil Liberties Association. He stated he had never had any interaction with Mr. Skof prior to the incident and did not know Mr. Skof *“in any way”*.

As an outcome, the Complainant felt it would be appropriate for Mr. Skof to apologize for sending a letter to the University President as well as for communicating to the media. *“Everything that has to do with exerting a pressure to silence criticism, and a statement confirming that that won’t happen again, that the president of the Ottawa Police Association won’t use his position in that way”*.

### Affected Person

The Affected Person was interviewed on August 22, 2014, by OIPRD Investigators Rodney Braun and Kim Miller. The following is a summary of the interview.

The Affected Person was made aware at the end of February that a complaint letter had been sent to the University by Mr. Skof. It came to the Affected Person's attention through the Dean of the Faculty of Arts and Social Science, who had been provided a copy of Mr. Skof's letter by the President's Office. In that communication, the Affected Person was informed that the President "*basically*" didn't understand what this person was writing to her about and left the correspondence with the Dean and that if Mr. Skof had any issues, they should be directed to the Affected Person.

In terms of how the matter was handled, the Dean made the Affected Person aware of the letter from Mr. Skof and provided him with a copy. The Affected Person stated "*And that was the end of it, as far as the University was concerned*".

Afterwards, the Affected Person consulted his legal counsel and a response was formulated and sent off to Mr. Skof. At that point, the Affected Person and his lawyer did not "*release*" the letter from Mr. Skof to Carleton University.

In early March, the Affected Person was contacted by the media who requested further information; advising the Affected Person that she was aware that Mr. Skof complained to the University about him. Events unfolded in the media and the Affected Person received a phone call from Joseph Hickey, Executive Director of the OCLA.

The OCLA felt that it was not acceptable for Mr. Skof to be attempting to interfere with the Affected Person's rights under the Constitution and with his ability to speak out on policing issues in this city.

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The Affected Person described himself as “*the top critic of Police in Ottawa*”; however, he countered “*When I speak out on issues regarding Police, I always do it in the context of constructive criticism*”. After they discussed the sequence of events, Joseph Hickey asked the Affected Person for his permission to make a complaint on his behalf, to which the affected person agreed.

### **Civilian Witness #1**

Civilian Witness #1 was interviewed on August 18, 2014, by OIPRD Investigators Rodney Braun and Kim Miller. The following is summary of the interview.

Civilian Witness #1 is the President of Carleton University. She was aware of the letter written by the Affected Person relating to police funerals and the subsequent responsive media articles. Civilian Witness #1 stated she “*received a number of emails*” and correspondence with regards to the matter; however, she did not read these as they were passed off to another member of the faculty (Civilian Witness #2) for review.

She also stated that she had no contact with Mr. Skof or the media regarding this matter.

### **Civilian Witness #2**

Civilian Witness #2 was interviewed on August 18, 2014, by OIPRD Investigators Rodney Braun and Kim Miller. The following is summary of the interview.

Civilian Witness #2 is the Dean of the Faculty of Arts and Sciences at Carleton University. Civilian Witness #2 knew that a letter was written by the Affected Person relating to police funerals, but he was “*not familiar*” with it. Civilian Witness #2 was not contacted by any member of the Ottawa Police Service regarding this matter.



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Civilian Witness #2 was provided with the emails received by Carleton University regarding the Complainant's letter for his review. He also received a copy of the letter that was written to Civilian Witness #1 (Carleton University) by Ottawa Police Association President, Mr. Skof.

Civilian Witness #2 eventually provided the Affected Person with a copy of the letter that was written by Ottawa Police Association President, Mr. Skof. The Affected Person advised at that time, he would be sharing the letter with his lawyer. Civilian Witness #2 described Mr. Skof's letter as "*slightly unusual, but it seemed very polite*". The letter identified Mr. Skof as "*President of the Ottawa Police Association*".

Civilian Witness #2 stated his direction from Civilian Witness #1 was that Carleton University would not be responding to, or following up on Mr. Skof's letter concerning the Affected Person. He went on to state Civilian Witness #1 did not think it was necessary.

He described his involvement in the matter as "*very limited*". Civilian Witness #2 had one "*telephone conversation*" with the Affected Person regarding the matter and additionally, provided the Affected Person with the piece of the correspondence from Mr. Skof.

Civilian Witness #2 did not have any contact with Mr. Skof, the Ottawa Police Service or the media regarding this matter.

### **Witness Officer #1 Constable Thanh Tran**

Constable Tran was interviewed on July 7, 2014, by OIPRD Investigators Rodney Braun and Kim Miller. Constable Tran had no duty notes relating to the occurrence. The following is a summary of the interview.

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At the onset of the interview Constable Tran was provided with the media articles in question for his review. Constable Tran stated he never contacted the media about the Affected Person's letter, nor did any member of the media ever contact him.

Constable Tran stated the comments he made were in response to the Complainant's letter in the Toronto Star and were posted on an Ottawa Police Service internal message board that was only available to members of the Ottawa Police Service. He stated he did not email his comments to Mr. Skof, Ottawa Police Association President.

Constable Tran stated at no time did any supervisor or member of the Ottawa Police Service express concern with his comments directly to him.

Constable Tran stated at no time did he intend for his comments to go public and they were posted "*for private consumption*" on the Ottawa Police Service internal police message board. When asked by OIPRD Investigators how the media obtained his comments, he stated "*I don't know how it got out*". (the comments Contable Tran made about the Affected Person)

**Summary of Statements – Respondent Officers**

**Respondent Officer #1 Sergeant Matt Skof**

Sergeant Skof submitted a statement to the OPIRD, identifying himself as the President of the Ottawa Police Association. The statement was received on July 9, 2014. The following is the statement.

*“In regards to the Civil Liberties group concerns, I am providing you with the following statement as the Ottawa Police Association President, not as a Sergeant for the Ottawa Police:*

*In my role, as the President of the Ottawa Police Association, I advocate for the membership on many issues. The opinions that I express are those of the OPA, not of the Ottawa Police Service.*

*In the Police Services Act, O.Reg. 268/10 section 2(2) provides me with the authority to engage the media on behalf of members:*

*“A police officer does not commit misconduct under sub clause (1)(e)(iii) if he or she engages in described activity in his or her capacity as an authorized representative of an authorized association, as defined in section 2 of the Act, or of a work-related professional organization.”*

*Any misconduct in the PSA has to be done in the capacity, or identifying, as a police officer.*

*In my current position, I have never identified myself to the media or the public as Sergeant Skof of the Ottawa Police Service. In fact, I make great efforts to clarify my position and opinions as President Skof of the Ottawa Police Association.*

*I hope this assists you in concluding the matter.*

*Matt Skof  
President  
Ottawa Police Association”*

### Investigation

- Interviewed Complainant
- Interviewed Witness Officer
- Obtained Respondent Officer statement
- Interviewed Civilian Witnesses
- Obtained relevant media articles
- Obtained relevant correspondence to Carleton University

### Analysis

#### **Allegation #1 - discreditable conduct**

It is alleged that Mr. Skof, acting as Ottawa Police Association President, acted in a discreditable manner by writing a letter of concern on January 2, 2014 to the President of Carleton University relating to classroom actions taken by the Affected Person, who is an Instructor at Carleton University. The Complainant alleged Mr. Skof wrote Carleton University *“complaining about views and comments expressed by a criminology professor, [the Affected Person], regarding policing.* The letter that Mr. Skof sent to Carleton University (to the attention of the President) was not a *“public letter”* and was sent from Mr. Skof to the President. The Complainant took issue with Mr. Skof writing a letter to Carleton University, as he saw it as an attempt *“to use that position to try to influence a university president”*.

The letter written by Mr. Skof also expresses concern about an incident that had occurred *“a couple of years ago”*. The incident involved the Affected Person and stated that he *“rushed to judgment and made what can only be described as malicious and libelous comments”* about police officers and the profession of policing in general. *“[The Affected Person] went further and invited one of the crown witnesses to appear and speak to his class prior to the commencement of the trial.”*

By all accounts, Carleton University simply discounted Mr. Skof’s letter. On review of Mr. Skof’s letter he was not seeking any type of action or sanction against the Affected Person by Carleton University, but rather was seeking an apology from the Affected Person. The comments made by Mr. Skof that the Affected Person is an *“Instructor”*, as opposed to a *“Professor”* was accurate.

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There had been no media or public interest to Mr. Skof's letter until it was brought to the attention of the Ottawa Citizen by the Affected Person and partially printed in the media article of March 25, 2014 titled "*Police Union demands apology for Carleton Prof's 'malicious, libellous' attacks*".

The letter to the Carleton University President was clearly from the Ottawa Police Association and had been written on Ottawa Police Association letterhead. The letter was reviewed by OIPRD Investigators and at no point does the letter mention or indicate Sergeant Skof, or the Ottawa Police Service. The letter was signed as follows:

*"Matt Skof  
President  
Ottawa Police Association"*

Carleton University did not contact the OCLA, the Ottawa Police Service or the Ottawa Police Association as a result of the letter. Carleton University chose to ignore the letter and did not respond to Mr. Skof.

The Complainant did not contact the University, or the President to discuss this matter. The Complainant actually became aware of Mr. Skof's letter to Carleton University through the Affected Person. The Complainant contradicted the Affected Person, in that the Affected Person stated he was contacted by the Complainant. The Complainant stated he was contacted by the Affected Person.

### **Allegation #2 - Discreditable Conduct**

The Affected Person is a Criminology Instructor at Carleton who wrote a media letter about police funerals that appeared in the Toronto Star. It is alleged that Mr. Skof, acting as Ottawa Police Association President, acted in a discreditable manner by making statements in the media; thereby attempting to use his position to influence an issue of public criticism.

The Affected Person did not actually file a complaint with the OIPRD in relation to the allegations raised by the Complainant in this case.

Mr. Skof is currently the President of the Ottawa Police Association. When he is not seconded to the Association, he holds the rank of Sergeant with the Ottawa Police Service. At the time of the occurrence Mr. Skof was the Ottawa Police Association President. The Ottawa Police Association website has two sections; one is available to the public. The other section is for members only.

The website describes the Ottawa Police Association as “*The Ottawa Police Association is a labour organization and represents approximately 1900+ professionals both sworn and civilian. Our members serve 24/7/365 keeping Ottawa safe*”.

The Police Services Act defines a (police) association as follows:

#### **POLICE SERVICES ACT**

R.S.O. 1990, CHAPTER P.15 2.(1)

*“association” means an association whose members belong to one police force and whose objects include the improvement of their working conditions and remuneration; (“association”)*

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It was the position of the Ottawa Police Service that they did not have jurisdiction to serve Mr. Skof with the Respondent Officer Designation letter in relation to this complaint. The Ottawa Police Service indicated that since Mr. Skof was seconded to the Ottawa Police Association he was not an active member of the Ottawa Police Service. Ultimately, the OIPRD served Mr. Skof with his Respondent Officer Designation letter by way of courier at the Ottawa Police Association Offices.

Three media articles appeared in the Ottawa Citizen relating to this public complaint. A summary of the articles follows, however it must be noted the quotes attributed to Mr. Skof and the Affected Person are taken from the Ottawa Citizen articles. The OIPRD does not confirm these quotes were actually made by these persons. It must also be noted the OIPRD does not confirm the details or events as recounted in the media articles. The articles below are not reprinted in full and many parts are merely summarized.

March 25, 2014 - *"Police Union demands apology for Carleton Prof's 'malicious, libellous' attacks"*.

(<http://ottawacitizen.com/author/syogaretnam>)

The article is in reference to a letter sent by Mr. Skof to Carleton University. According to the article, Mr. Skof "*the Ottawa police union boss*" called for an apology from a Carleton criminologist [the Affected Person] known for being an outspoken critic of police. In the letter Mr. Skof was critical of the professor for having a witness, in the criminal trial of two police officers, speak to his class prior to the commencement of the trial. In a separate email from Mr. Skof to his members he advised that the police association would "*be severing ties with several Carleton programs because [the Affected Person]'s views 'taint the whole institution.'*" The Affected Person defended his opinions and said, "*There will be no apology to Matt Skof.*"



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Mr. Skof stated the union understands and respects police oversight and *"the importance of academic freedom of expression, but such freedom need not cross thresholds of responsible accounting of complex events."*

The article also detailed an email sent by Skof to Ottawa Police Service officers which also included an email from Constable Tran. Constable Tran was one of the officers involved in the criminal trial reference by Mr. Skof in his letter to Carleton University. In his email Constable Tran said he was *"sickened"* at a recent letter to the editor written by the Affected Person, which was published in the Toronto Star stating that the costs of police funerals weren't worth it. Mr. Skof's email to officers echoed Tran's concerns about the *"repeated attacks"* of the Affected Party.

April 1, 2014 - *"Police union president calls civil libertarians complaint 'pure hypocrisy'"*  
(<http://ottawacitizen.com/author/syogaretnam>)

Two complaints alleging discreditable police conduct were filed with the OIPRD after an Ottawa police union president criticized the Affected Person and *"demanded"* an apology. The Ontario Civil Liberties Association (OCLA) filed a complaint to the Office of the Independent Police Review Director (OIPRD) against Ottawa Police Association President Matt Skof. The Affected Person filed a complaint against an officer (Constable Tran) who was critical of the Affected Person's media article that appeared in the Toronto Star, which was critical of police funerals.

The OCLA's complaint was filed by the Executive Director Joseph Hickey saying the organization was deeply concerned by Matt Skof's actions in what appeared *"to be outright attempts to silence a professor's criticisms of policing in Ontario."*

Mr. Skof, in response to the complaint, questioned the OCLA as *"an association that holds themselves out to be professional and representing civil liberties but then takes basically a position that there should be limited civil liberties for one organization or one person over another."*

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The Affected Person confirmed that he filed a complaint with the OIPRD about comments by Constable Tran and was seeking a discreditable conduct charge.

April 26, 2014 – “*Watchdog investigates two related complaints against Ottawa police*”  
(<http://ottawacitizen.com/author/syogaretnam>)

*“Two discreditable conduct complaints against Ottawa police triggered by responses to the actions of a Carleton criminologist have resulted in an independent investigation by [the OIPRD]. The Ontario Civil Liberties Association filed a complaint with the Office of the Independent Police Review Director alleging ‘Mr. Skof made “outright attempts to silence a professor’s criticisms of policing in Ontario’.*

*Skof ‘demanded’ an apology from [the Affected Person] for having a witness in a police assault trial speak to his class more than two years ago. Skof also sent a letter to the president of the University saying the union would ‘sever its ties with the institution’.*

*The OIPRD said any sworn officer’s conduct is subject to potential review, even if he is an association president. But Mr. Skof said that although he is a sworn officer, as a police association boss who is seconded to a labour organization, his position is outside of the scope of the OIPRD. Mr. Skof said he has no intention of attending any interview requests that OIPRD might make of him.*

*[The Affected Person] filed a separate complaint alleging discreditable against Constable Tran, who was one of the two officers involved in an assault cause in which [the Affected Person] invited the primary witness to speak to his university class. Tran responded to the letter written by [the Affected Person] and published in the Toronto Star stating that perhaps police funerals could be better allocated. Tran called [the Affected Person’s] comments ‘ignorant’ and accused the criminologist of hating police.*

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*The Office of the Independent Police Review Director has begun an investigation into both complaints.”*

Given this matter received media attention, Carleton University received email from members of the public. The OIPRD obtained the emails relating to this matter that were sent to Carleton University. In total, there were nine emails received from members of the public relating to this matter.

Two of the nine emails agreed with the Affected Person’s media article relating to police funerals. Seven of the nine emails disagreed with the Affected Person’s position and were concerned with his media article relating to police funerals. None of the emails make mention of Mr. Skof, other than one of the senders (that disagreed with the Affected Person) copied Mr. Skof on the email. Simply put, the media articles relating to Mr. Skof and his position did not appear to have caused significant public attention or any negative attention towards the Ottawa Police Service.

None of the media articles identify Mr. Skof as speaking on behalf of the Ottawa Police Service. All of the articles identify Mr. Skof as the President of the Ottawa Police Association. It would be condescending to assume the public is insufficiently sophisticated to be able to distinguish the comments of a person speaking on behalf of the “*Ottawa Police Service*” from someone speaking on behalf of “*Ottawa Police Association*”.

In the Complainant’s interview, he stated that he did not take issue with Mr. Skof’s comments and respected his right to have an opinion. The Complainant stated “*if police, a member of the police service wants to respond, they’re free to do that. And you know, to do that as individuals, to do that in public, even to have a position as a police*

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*association, that's one thing. But to use that position to try to influence a university president or an issue of public criticism, that is, we don't want to go down that path".*

To summarize, in the OIPRD interview the Complainant appeared to take a “reversal” and did not take issue with Mr. Skof appearing in the media as the President of the Ottawa Police Association.

As a result of the Affected Person’s “*police funerals*” letter to the media, Mr. Skof indicated he would sever ties between the Ottawa Police Association and Carleton University. At no point did Mr. Skof indicate the Ottawa Police Service was taking any similar type of action, or make mention that he was speaking on behalf of the Ottawa Police Service. Furthermore, other than requesting an apology from the Affected Party, there is no evidence to support the Affected Party’s claim that Mr. Skof was using his position to influence the University to do anything.

The end result to any “*severed ties*” between the Ottawa Police Service Association and Carleton University was negligible. The Affected Person himself conceded that the interaction between the Ottawa Police Association and Carleton University programs was minor in nature.

Mr. Skof stated publicly that he would not agree to attend an OIPRD interview. In an Ottawa Citizen article of April 26, 2014, Mr. Skof is quoted as saying:

*“The OIPRD said any sworn officer's conduct is subject to potential review, even if he is an association president. But Skof said that although he is a sworn officer, as a police association boss who is seconded to a labour organization, his position is outside of the scope of the OIPRD. He said he has no intention of attending any interview requests that OIPRD might make of him.”*

However, as noted earlier in the Summary of Statements section, Mr. Skof forwarded a written statement to the OIPRD. That statement reiterated his position that by virtue of his position as the President of the Association he was neither acting in his capacity as a police officer nor holding out opinions to be attributed to the Ottawa Police Service.

### **Allegation #3 – Breach of Confidence**

It is alleged that Mr. Skof, acting as Ottawa Police Association President made statements to the Ottawa Citizen newspaper.

The Police Services Act states:

*s.2(1) Any chief of police or other police officer commits misconduct if he or she engages in,*

*(e) Breach of Confidence, in that he or she,*

*(iii) without proper authority, communicates to the media or to any unauthorized person any matter connected with,*

*(A) The police force of which the officer is a member, if the officer is a member of an Ontario police force as defined in the Interprovincial Policing Act, 2009,*

The Police Services Act, O.Reg. 268/10 section 2(2) states:

*“A police officer does not commit misconduct under sub clause (1)(e)(iii) if he or she engages in described activity in his or her capacity as an authorized representative of an authorized association, as defined in section 2 of the Act, or of a work-related professional organization.”*

The media articles relating to the complaint were reviewed by OIPRD Investigator Braun. In none of the articles does Mr. Skof refer to himself as “*Sergeant Skof*” of the Ottawa Police Service. Conversely, the articles clearly indicate that Mr. Skof is the President of the Ottawa Police Association.

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Mr. Skof was provided with a Respondent Officer Designation letter and a redacted copy of the OIPRD complaint form. Mr. Skof did provide a statement via email to the OIPRD. He did not specifically respond to, or address, the allegation relating to the letter that he sent to the President of Carleton University.

At question, is whether the “*protection*” of s.2(1)(e)(iii) extends to information that Mr. Skof as President of the Ottawa Police Association provided to the Ottawa Citizen.

It is critical to note; in the OIPRD interview the Complainant stated he did not take issue with Mr. Skof making statements to the media, provided he was doing so in his capacity of President of the Ottawa Police Association.

Pertaining to both allegations, the following excerpts from “*Off Duty Police Conduct: A Discussion Paper*” which was prepared for the Office of the Police Complaint Commissioner by Paul Ceysens (2000) is a contextual consideration. It should be noted, the paper does not specifically address police officer activities while acting in the capacity of a Police Association member. The following sections are drawn on for comparison and context.

### **The Distinction Between “*On-duty*” and “*Off-duty*” in the Constabulary** (page 2):

*“The first approach favours the view that no distinction exists between on-duty and off-duty as it pertains to policing: owing to the nature of the office of constable, a police officer is never “off duty.”*

*The second approach holds that a valid distinction does indeed exist, as it does for other workers, and the important issue is the extent to which police officers are subject*

*to greater regulation than other workers with respect to off-duty conduct, by virtue of the duties and powers of the office of constable”.*

### **The Application of the Complaint Process to Off-Duty Conduct (page 5):**

*“Courts of law and tribunals have consistently ruled that the police complaint process captures off duty conduct, so long as a nexus exists between the impugned off duty conduct and either public respect for the constabulary or the fitness of the police officer to hold the office of constable”.*

Mr. Skof and the Affected Person clearly had a disagreement and clearly hold separate and distinct opinions when it comes to policing matters. That said, the disagreement did not appear to have any discernable effect on the public, Carleton University, or their opinion of policing. The Complainant in this case made no attempt to contact Carleton University to determine their position on the matter before proceeding with the public complaint. Once it became “*public*” from the Ottawa Citizen articles dated March 25, 2014 and April 1, 2014, that Mr. Skof had sent a letter to Carleton University. The OIPRD received only one public complaint, which was from the OCLA, via the Complainant in this case.

### Conclusion

#### **Allegation #1 - discreditable conduct**

It is alleged that Mr. Skof, acting as Ottawa Police Association President, acted in a discreditable manner by writing a letter of concern on January 2, 2014 to the President of Carleton University relating to classroom actions taken by the Affected Person, who is an Instructor at Carleton University. The Complainant alleged Mr. Skof wrote Carleton University “*complaining about views and comments expressed by a criminology professor, [the Affected Person], regarding policing.*”

There is no evidence to suggest the Affected Person’s employment or status with his employer was affected in any way. By all accounts, Carleton University simply discounted Mr. Skof’s letter. On review of Mr. Skof’s letter he was not seeking any type of action or sanction against the Affected Person by Carleton University, but was only seeking an apology from the Affected Person. The comments made by Mr. Skof that the Affected Person is an “*Instructor*”, as opposed to a “*Professor*” was accurate.

With respect to the allegation that Mr. Skof acted discreditably by writing a letter of complaint to Carleton University about the Affected Person, upon review of all available information the Director has determined that there **is no** evidence to conclude that misconduct occurred. Therefore this allegation is found to be **unsubstantiated.**

#### **Allegation #2 - Discreditable Conduct**

The Affected Person is a Criminology Instructor at Carleton who wrote a media letter about police funerals that appeared in the Toronto Star. It is alleged that Mr. Skof, acting as Ottawa Police Association President, acted in a discreditable manner by making statements in the media; thereby attempting to use his position to influence an issue of public criticism.



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There is no evidence to suggest that Mr. Skof's actions caused any adverse public reaction towards the Ottawa Police Service. Further, there is no evidence to suggest that Mr. Skof's actions caused any type of influence, negative reaction or concern with the Carleton University Faculty or had any type of negative effect on the Affected Person.

With respect to the allegation that Mr. Skof acted discredibly by making statement in the media, upon review of all available information the Director has determined that there **is no** evidence to conclude that misconduct occurred. Therefore this allegation is found to be **unsubstantiated.**

### **Allegation #3**

#### **Breach of Confidence**

It is alleged that Mr. Skof, acting as President of the Ottawa Police Association, made statements to the Ottawa Citizen newspaper. The Police Services Act clearly permits this type of activity while Mr. Skof was acting in his position of President of the Ottawa Police Association. Specifically, he was engaged in a described activity in his capacity as an authorized representative of the Ottawa Police Association, namely the President.

It is clear that in the interaction Mr. Skof had with the media, he did not identify himself as a police officer or intimate he was speaking on behalf of the Ottawa Police Service. Additionally, he consistently identified himself as the President of the Ottawa Police Association. Mr. Skof had no direct contact, or interaction with the Complainant or the Affected Person with regards to this matter.

Additionally, the Complainant stated in his OIPRD interview that he did not have any issue with Mr. Skof speaking to the media, while acting in the capacity of President of the Ottawa Police Association.

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With respect to the allegation that Mr. Skof acted discredibly by contacting the media, upon review of all available information the Director has determined that there **is no** evidence to conclude that misconduct occurred. Therefore this allegation is found to be **unsubstantiated.**

**Referenced Information**

*Police Services Act*

Ontario Regulation 268/10 – Code of Conduct  
*268/10 section 2(2)*

Paul Ceysens, Barrister and Solicitor

*“Off-Duty Police Conduct: A Discussion Paper” (2000)*

Reasonable Grounds

The case *R v. Storrey*, (1990)1 S.C.R. 241 is the leading authority on what constitutes reasonable grounds.

The police frequently use the following definition of reasonable grounds:

*Reasonable grounds is a set of fact or circumstances which would satisfy an ordinary, cautious and prudent person that there is reason to believe an offence has been committed and which goes beyond mere suspicion.*

## Investigative Report

<b>Investigators</b>
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Rodney Braun

<b>Supervisor/Manager</b>
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Ken Cormier