

## **CALEDONIA: NO MORE NIGHTMARES**

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### **Part 3: Smoking Gun of OPP Corruption (33:00)**

Gary McHale - CANACE (Canadian Advocates for Charter Equality)

#### **[(BEGIN SLIDE) Criminal Acts by the OPP]**

What you have heard thus far is the willful failure of the OPP to uphold the law and to honour the Charter of Rights and Freedoms. It is bad enough that the OPP stood by and watched as innocent residents be attacked and hospitalized, but it gets far worse.

When Julian Fantino, now Conservative MP for Vaughan, became the OPP Commissioner in Oct. 2006, the OPP started a campaign of targeting any non-Native who spoke out. Fantino used the full force of his office as Commissioner both legally and illegally to target certain law abiding citizens. He lied to the media, lied to the public, lied to his officers and lied under Oath in court and engaged in criminal behavior all with the repeated public approval of Dalton McGuinty.

Mr. Fantino, and other senior OPP officers, misled the public about the criminal behavior of Native protesters, covered for them by interfering in police investigations and by supporting a cop assaulter in court. The OPP engaged in behavior to intimidate, threaten and harass both elected officials and the public and encouraged officers to abuse the court system for motives other than to get a criminal conviction.

The OPP and the Crown Attorney's office in Cayuga united to use the criminal court system to target innocent non-Natives as well as covering for and protecting OPP officers who engaged in criminal behavior.

The evidence of OPP corruption is overwhelming and here is just a drop in the bucket of that evidence.

The idea that individual officers have some sort of discretionary authority to make arrests or intervene to stop criminal behavior by Natives is completely demonstrated to be false when you watch the following video.

OPP Sgt. Dan Michaud was in charge in Cayuga, a town 15 minutes from Caledonia, where the property owner demanded the OPP remove Native protesters from his development. As always the OPP refused and officer Michaud explains why:

**[Slide: Michaud video]**

Not only will the OPP reject legal documents such as Land Title Deed or Property Tax bills as proof of who owns the land, they threaten the legal owners with arrest instead of the Native occupiers.

The Courts have strongly rebuked the McGuinty Government and the OPP for their failure to aid the property owner in Cayuga. The Judge stated:

**[Slide of text being quoted]**

"The same government that advises the plaintiff not to pay extra-government development fees refuses to enforce its property rights and threatens to arrest its agents if they try to enforce these rights on their own."

**[Slide of text being quoted]**

"The police have the right to use their discretion in the enforcement of the law and private property rights. A blanket refusal to assist a property owner or a class of property owners, however, would be an abuse of that right."

**[Slide of text being quoted]**

"The police have no right to prevent the plaintiffs from acting within their rights under s.41 of the *Criminal Code*. Their warning to the plaintiff that they would arrest anyone who is involved in a physical confrontation, regardless of the circumstances, is an abuse of the power conferred on them by s.31 of the *Criminal Code*."

Let's be clear what the court is saying. Everyone in Canada has the right under s. 41 C.C.C. to remove trespassers from their property. Not only are OPP Officers refusing to help property owners, which the court stated is an abuse of their authority, but OPP Officers threaten to arrest the legal owners if they attempt to exercise their authority granted by Parliament through the C.C.C.

The OPP have trained their officers to violate the law by refusing to assist property owners and also by threatening the legal owners of property that they, not the illegal Native occupiers, will be arrested.

### **Hagersville:**

In 2008 in Hagersville, another town about 10 minutes from Caledonia, a few Native protesters showed up one day and shut down a development. We videotaped two OPP officers helping these protesters build a barricade to prevent the legal owner from using his property.

Jeff Parkinson, CANACE's founder and cameraman, filed criminal charges privately against the two officers. The Crown immediately stepped in and did everything they could to discredit Jeff while caring nothing about the fact that police willingly aided Native protesters in criminal activities. The Justice of the Peace fell for the Crown's B.S. and refused to charge the two officers.

Jeff filed what is called a Mandamus Application in Superior Court to force the criminal charges against the two officers. Again the Crown did everything they could to discredit Jeff during the application. However, on Jan. 12, 2009 Jeff Parkinson of CANACE, became the first person in the history of Canada to have a Mandamus Order issued to force a criminal charge. Judge Marshall ordered both officers to face a Mischief charge and stated, "the incriminating evidence is virtually all in the video of the police helping to erect the barricade. It is hard to see how animosity in the informant could taint the video."

Not surprisingly, the Cayuga Crown stepped in and dropped the charges.

### **[Slide: Sam being hurt]**

In the summer of 2008, when I filed criminal charges against then Commissioner Fantino, Insp. Dave McLean and cabinet minister Monty Kwinter (who was the minister overseeing the OPP) with Common Nuisance, for their failure to protect the public which resulted in Sam Gaultieri being seriously beaten by Native protesters, the Crown immediately step in before the court saw any evidence and withdrew the

Information that was before the court. The Crown stated that I was abusing the courts by filing the charge.

I filed a Mandamus Application and Judge Marshall, on July 2, 2009, ruled that the Crown had exceeded their jurisdiction and he ordered new proceedings to hear the evidence against Fantino, McLean and Kwinter.

Judge Marshall stated, "The power of private prosecutions is undoubtedly right and necessary in that it enables the citizen to bring even the police or Government officials before the criminal courts, where the government itself is unwilling to make the first move... in my view the right to set out before an independent judicial officer allegations such as these is no fruitless formality. Indeed, it may be seen as a bulwark of democracy..."

The Crown appealed this ruling to Ontario's highest court and on May 14, 2010 that court ruled against the Attorney General. In two week on April 8 the evidence against Fantino, McLean and Kwinter will be heard in Superior Court.

### **[Slide of Commissioner Fantino]**

On a different issue, Fantino took steps to target non-Natives to ensure they didn't speak out against the OPP and/or against McGuinty.

In one case Fantino became enraged that Caledonia resident Dave Hartless, who is a Hamilton Police Officer, publicly called McGuinty a coward and criticised the illegal behaviour of the OPP.

Fantino contacted the Hamilton Police Chief about Hartless and stated, "Bad enough that he slams the men and women of the OPP, refers to the Premier as being a coward on several occasions but then scatters his venomous email far and wide. If this isn't conduct unbecoming then I don't know what is."

Under Oath Fantino stated he didn't file a complaint against Hartless but merely was passing on information to the Hamilton Police Chief. However, on Feb. 19, 2007, Hamilton Deputy Chief sent Hartless an email that stated, "... I have now received an official complaint of Discreditable Conduct from the Commissioner of the OPP concerning your email of Feb. 17th, 2007... I order you to cease and desist sending any further emails concerning the situation in Caledonia." However, Hartless wasn't about to roll over and

allow Fantino to silence him. Hartless received another email the Deputy Chief stating, "I understand that you have brought an Application in the Superior Court of Justice to have my Order declared unlawful... I hereby rescind my Order of Feb. 19, 2007."

Hamilton Police Services cleared Hartless of any wrong doing which I guess should raise serious questions about Fantino's statement, "If this isn't conduct unbecoming then I don't know what is."

What is incredible about this situation is that it all started when McGuinty's senior negotiator in Caledonia started sending information about Hartless to senior OPP officers. The political arm of the McGuinty Government was using the OPP to target individuals to be silenced.

Furthermore, Insp. McLean reveals what is happening behind the scenes. He stated in an email, "I could be wrong but perhaps Chief Mullin might like a heads up should the premier's office or the Minister of the Community Safety may want to discuss it with the officer's chief."

The public is told that McGuinty's Government doesn't get involved in individual policing issues and here we have an OPP Inspector believing that McGuinty's office or the Minister in charge of police may call the Hamilton Police Chief about Hartless.

Isn't this exactly why McGuinty claimed we needed an Inquiry into Ipperwash because he said Mike Harris was giving instructions to the OPP?

**[Slide: Fantino's Email]**

Fantino soon turned his attention to silence the local elected council. In an email to Marie Trainer, who was the Mayor of Haldimand County and is with us today and will be speaking shortly, threatened her and council that they would be punish if they publicly said anything that may be positive about me. In Fantino's email he mentions my name 13 times and is outraged that Craig Grice, councillor for Caledonia, would say something positive about me.

On Dec. 31, 2009 Superior Court Judge Crane ordered Fantino to face a criminal charge of Attempting to Influence Municipal Officials as the email

did constitute a threat under the Criminal Code. Not surprisingly the Crown immediately dropped the charge.

Several people had filed Police Service Complaints about Fantino's threatening email. In the summer of 2007 Monty Kwinter hired Rod McLeod, an outside lawyer, who was to only reported to him about the complaints. The Ontario Ombudsman publicly denounced this move saying the Government was merely trying to control the investigation.

Mayor Trainer testified in court the following:

"It was June the 28<sup>th</sup>, McLeod called me in the morning - he was finalizing his report - he was going to put in there things that I had said. And he said he wanted to soften the report a little bit so that Commissioner Fantino wouldn't look too bad. And that he would call me later in the day and go over how he had quoted me, to verify that it was okay with me. Meanwhile, Canada Press called and wanted to know what I had thought of Minister Kwinter's announcement that Commissioner Fantino had been exonerated. And I said, "Pardon me?" And she repeated it. And I said, "But the report isn't even written yet, I just talked to the fellow who's writing the report... so then I called McLeod back and asked him 'what's going on, I didn't think the report was finished yet. He had changed his whole tone. He actually seemed quite upset and said, "I have to write the report as I'm instructed."

This is solid proof of how the McGuinty government is covering for the illegal activities of Fantino and the OPP.

**[Slide: Names on Email]**

One final point about Fantino's threatening email. He thought it was important to copy the email to senior officials within McGuinty's government. He sent his email to Chris Morley – McGuinty's Press Secretary, Peter Wilkinson – McGuinty's Chief of Staff and Tony Dean – Deputy Premier.

There is no doubt that senior members of McGuinty's office were in direct communication with Fantino.

Even worse is how Fantino targeted me to be silenced and controlled. Within days after becoming Commissioner in 2006 Fantino sent an email to

the Ontario Director of Legal Services to ask them to find a way of dealing with me. For the next two weeks government lawyers met with the OPP and with Cayuga Crown lawyers to plan out a scheme to arrest me with the full knowledge I had not committed any crime.

**[Slide: Gary Arrested]**

So on Dec. 16, 2006 as I drove to Caledonia I was stopped on the highway by the OPP who told me they had been waiting for me for hours. They informed me that if I or anyone else attempted to erect a flag then we would be arrested and that the OPP had created a restricted area.

I asked the officer whether Native people will be arrested if they put up a flag or were in the restricted area. He told me he wasn't going to comment on that. Of course, that day Native people did put up a flag and did enter the so-called restricted area without the OPP doing anything.

Imagine if the OPP created areas along the highway whereby a Black man or a Jewish person would be arrested if they entered that area.

So I did walk down the road with a Canadian Flag and did walk into the no-Whites allowed zone and was arrested and placed in jail over-night. Mark Vandermaas was also arrested but was released a few hours later.

Several OPP officers reported being concerned and questioned their superiors about this holding me in jail and they were told it had been cleared by government lawyers and the Crown in Cayuga.

Their master plan was to force court ordered travel restrictions on me in order to stop any further public events which exposed the OPP to the media.

The OPP had the support of the Crown in Cayuga but I was arrested on a Saturday and because Cayuga doesn't have court on Sunday my case was transferred to Hamilton.

Hamilton Crown Lawyer Andrew Goodman refused to fail the scheme. Once Mr. Goodman stated the scheme wasn't legal the remaining government lawyers and the Crown in Cayuga suddenly changed their tune and left the OPP handing the bag.

In the end the Court ordered my release.

**[Slide: Angry Fantino]**

This didn't stop Fantino. He was angry that the Crown didn't go along with the OPP illegal scheme. A year later he was ordering his officers to disregard the views of the Crown as he called them timid and feeble.

A year later on Dec. 7, 2007 I was arrested again and this time on a bogus criminal charge that the police, the Crown and the Judge at my pre-trial all stated they never heard of before.

The Cayuga Crown prosecuted me for 30 months at hundreds of thousands of your taxpayers' dollars only to stay the charge before trial. The case provided a mountain of evidence that demonstrated just how corrupt the OPP had become.

While the Crown repeatedly told the court that they had provided me with full disclosure after four volumes of disclosure, I was able to force the Crown to provide an additional 18 volumes of disclosure. This disclosure include emails to/from Commissioner Fantino, Deputy Commissioner Chris Lewis, a few Superintendents, Inspectors and the notes and video statements of 70 officers.

The charge stems from an anti-illegal smoke shack rally held by Doug Fleming, who is also here today and will speak shortly, which I attended merely to help provide moral support.

Unknown to me at the time Insp. McLean had already, two weeks prior to the rally, ordered his officers to start preparing court documents so that they could arrest me.

At the rally itself Native protesters, in particular Clyde Powless, were assaulting people continuously. Powless assaulted 10 different officers that day. Mr. Powless lead a gang of Natives through the police line to swarm me and attack me. Jeff Parkinson was knocked unconscious and both him and I were taken to the hospital.

Fantino was outraged that I, the victim of the attack, caused this violence and not Powless who had been assaulting police for the previous two years.



Within minutes of the rally starting Fantino had already emailed officers stating, "At some point McHale has to go".

Within a few hours Fantino is emailing, "Today we had another flare-up in Caledonia spearheaded by McHale... All in all, but for McHale and his supporters Caledonia is a relatively peaceful place..."

**[Slide: Sam Gaultieri]**

Just three months earlier Sam Gaultieri was almost beaten to death and now suffers permanent brain damage because Native protesters took over his house – but hey, according to Fantino it is relatively peaceful but for me.

**[Slide: Text]**

Fantino also emailed, "Furthermore, I want every avenue explored by which we now can bring McHale into court seeking a Court Order to prevent him from continuing his agenda of inciting people to violence in Caledonia. We should be able to prove to the Court that McHale's forays into Caledonia have been planned and executed for purposes of breaching the peace..."

According to Fantino I have an 'agenda of inciting people to violence...'

This is what he told his officers in several of his emails in order to motivate them to find a way to arrest me.

The problem is Fantino knows this is a lie. In a separate case which finally made it to court this past December, Mark Vandermaas and I sued Fantino for defamation because we stated that Fantino said on the radio that we had an 'agenda to incite violence'.

**[Slide: Text]**

Fantino sent his lawyer go to civil court not to prove we have an agenda to incite violence but to state the following:

"The plaintiffs have indeed, as you see from the evidence, never advocated violence, but through demonstrations, websites, media and court cases, hoped to draw public attention to the issues that concern them... when the

Commissioner was given an opportunity on the radio to say their agenda is one of violence, he didn't say that. And, of course, if he had that would be completely contrary to all the evidence... the Commissioner is aware that they're not trying to actively incite violence.”

Mr. Fantino either just had his lawyer lie in court to cover for him in a civil lawsuit or he has been lying to OPP officers and the public for the past 4 years.

Fantino’s email also revealed that he remembered how the Crown in Hamilton hadn’t gone along with the OPP scheme the first time so he told his officers, “I don’t want us to get sidetracked by Crown lawyers on this... and not be constantly frustrated by timid Crowns who seem to only get charged up when they have a sure prospect of conviction.”

In another email Fantino states, “We seem to be in an almost state of paralysis when it comes to proactively doing anything respecting McHale... If it isn’t us being told what to do by feeble Crowns, it’s our own lack of fire. It seems to me that we are reactive to the point that McHale is the orchestra leader while we are almost captive to his nonsense.”

In another email Fantino states, “I believe that we are falling short on exploiting every possible proactive investigative strategy that could curtail the activities of McHale... I trust we will not be relying on a Crown to tell us what RPG looks like. There has been far too much of that in the past... finally, I want us to take McHale to court to seek a Court Order to keep him out of Caledonia... even if we are unsuccessful we will be able to publicly expose him for the mischief-maker that he is... I don’t want us to get bogged down with legal nuances...”

I don’t recall a single email by any OPP officer expressing the desire to get a conviction. Fantino’s motives are quite clear – he wants to use the criminal justice system to force travel restrictions and to publicly expose people and he is sick and tired of the Crown wanting to get convictions.

In another email Deputy Commissioner Chris Lewis states, “Confidential please. I’m with the boss at a dinner tonight and we’re discussing McHale. He’s enquiring about the timing of the charge. Is there any way that charges could be laid sooner than later?”

According to Fantino's own public statements and his testimony on the stand, within the first few months as Commissioner he had spent \$500,000 to police Gary McHale. For the record, that \$500,000 was spent within a few months simply to stop us from raising a Canadian Flag – your taxpayers money hard at work.

Furthermore, in order for Fantino to paint me as the person with an agenda of inciting violence he had to deal with the fact that there was no evidence to support it and also that Clyde Powless had assaulted several OPP officers and assaulted me.

Dealing with Powless as a Cop assaulter was easy – Fantino simply ordered his officers to drop the charge. When the investigation team had determined that Powless was to be charged with assault a police officer, they email Fantino at 5 pm on Dec. 6, 2007 and informed Fantino that Powless was to be charged with assaulting a cop.

An hour later Fantino emailed back and ordered the charge dropped. I had Fantino on the stand for 2.5 days and Fantino could not explain why he gave that order.

**[Slide: Cop Assaulter]**

What's more we can see Fantino laughing it up with a repeated cop assaulter. This photo was taken at a meeting which was called by Jesse Porter, who also faced criminal charges, because Porter and Powless, as reported by the media that took the photo, wanted Fantino to intervene in their criminal cases.

Now I don't think too many criminals in the province of Ontario get to have a meeting with the highest police officer in the province for the sole purpose of getting the Commissioner to interfere in the criminal justice system but that is what happened.

Fantino sent a letter to be used in court blaming me for my own assault and claiming Powless was a peacemaker. Supt. Cain wrote another letter supporting Porter and Powless.

Later a Superior Court judge ordered Powless to be charged with assaulting a police officer, assault causing bodily harm, being a member of a riot and

obstructing a police officer. One again the Cayuga Crown immediately and dropped all the charges.

In the same year Porter and Powless were charged with serious offences, the Ontario government was paying both of them. According to government records Jesse Porter was paid by Indian Affairs \$131,000 for one year.

In fact, many of the Native protesters who have been directly involved in criminal behaviour in Caledonia are receiving direct payments from the McGuinty government.

But Fantino isn't the only officer who engaged in criminal behaviour in Caledonia. The current Commissioner, Chris Lewis, was ordered to face a criminal charge of obstructing justice along with Supt. Ron Gentle.

Not surprisingly, the Crown immediately stayed that charge.

The charges were based on the fact that in an email between Commissioner Lewis and Supt. Gentle an order was issued to the investigation team that I was to be arrested at the same time they arrested Clyde Powless.

The problem was that email clearly stated the evidence against Powless was overwhelming while there was virtually no evidence that I assaulted Camille Powless. In fact, in another OPP email we read, "McHale did not assault Camille Powless. She assaulted McHale and then committed public mischief by making a false report to the police.

The reason for why investigators had to arrest me at the same time as Powless was also stated – they wanted to 'eliminate any of the usual issues. There are those who fear charging Powless will be counter productive – I disagree' the email stated.

Why would it be counter productive to arrest Powless who had assaulted me and several OPP officers?

The answer is simple... because he was a Native protester and it might interfere with government negotiations and there may be a violent backlash for arresting Powless.

[Slide Brian Skye]

Everything the OPP do, whether to lay a charge or not needs to be understood within the context of McGuinty's appeasement policies. Targeting law abiding non-Natives to appease Native extremists and allowing even cops to be assaulted and cops kidnapped is okay as long as it doesn't interfere with negotiations.

In another case, Brian Skye and others blocked the highway in Caledonia by laying down spike sticks on the road and placing logs across the road. A video was created by Skye whereby he explains the highway was blocked in Caledonia as a way to force the OPP to stop arresting Natives in Deseronto which is 3 hours drive from Caledonia.

For days Native protesters in Caledonia used criminal acts to threaten the town and the OPP to ensure that the OPP didn't arrest Natives who were committing violence against residents in Deseronto.

I went to Court in an attempt to charge Brian Skye with terrorism because that is what it is. The Attorney General informed the court that he would not consent to such a charge and therefore the court had no authority to hear the case.

I could reveal evidence about OPP corruption all night and we still would only be scratching the surface so I will end with one last example.

Brian Skye took the stand last September and testified how he and Clyde Powless were regularly text messaging senior OPP officers and telling them where OPP officers could and could not be positioned during rallies in Caledonia. He testified to how the OPP would follow their instructions.

Camille Powless testified at her trial that she filed a criminal charge against me because the OPP repeatedly demanded she file the charge in order for her brother to receive a deal. She even named the officer who spoke with her.

In Caledonia, we have the OPP, the McGuinty Government and a few dozen radical Natives who are actively working together to suppress the Charter Rights of a whole community in order for McGuinty to appear like he is doing a better job than Mike Harris.

The problem is.... the Rule of Law has been destroyed, the OPP have been corrupted, the Charter has been shredded and innocent residents have been hospitalized, beaten and have suffered daily threats and intimidation while Fantino and others covered up for criminal behaviour by publicly blaming non-Natives for the violence instead of the thugs.

#### **Part 4: The “Caledonia Act” (2:00)**

The OPP have become nothing but the Ontario Political Police whereby they do whatever the current government wants them to do. Who cares what the courts say, what the Constitution states, what the Charter says or about the Rule of Law. As long as appeasement appears to work, non-Native people will be sacrificed on the altar of political correctness.

The solution to Caledonia isn't just to replace an MP or MPP here or there or to remove a government from office because the problem is within both the Conservative and Liberal parties who refuse to publicly speak out against the lawlessness.

Even the Harper government, which prides itself on being a Law and order party, was willing to sell out their principles in order to get Fantino within the PC Caucus.

#### **[Slide: One Law for All]**

The solution is to empower private citizens so that we can hold governments accountable. We are calling upon both the provincial and federal governments to make clear changes to the law in the following areas:

Strengthen the Police Service Act to ensure police actually have to uphold the law.

Limit the authority of the Crown to stop privately laid charges.

Strengthen the private prosecution procedure to ensure people can hold government officials accountable.

And finally, make it a criminal offence to violate someone's Charter Rights.

It is only when police and governments fear the power of the people that they will uphold the Rule of Law which will end the violence.

Thank you for listening I now introduce to you Jeff Parkinson, one of the founders of CANACE.