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Activist a nagging thorn in Fantino's side



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A judge's decision last month ordering OPP Commissioner Julian Fantino to face allegations he tried to influence the Caledonia, Ont. town council isn't the only instance where the Ontario Provincial Police boss has acted out of fury in connection with what appears to be his private war with Gary McHale.

Mr. McHale is the controversial 47-year-old activist who has led protests against the four-year-old native occupation of a former Caledonia subdivision called Douglas Creek Estates and who is perhaps the longest-standing and most vocal critic of how the OPP has handled the crisis there.

He is also editor of the website, CaledoniaWakeUpCall.com. A little like Mr. McHale himself, the site's colourful, almost cartoonish appearance belies its careful documentation.

It was Mr. McHale who laid a private information, as it's called, against Mr. Fantino, alleging that in an April 7, 2007, e-mail to Caledonia Mayor Marie Trainer and her councillors, he attempted to influence or influenced the council.

In August last year, a Hamilton justice of the peace refused to proceed with the charge, though he found that Mr. Fantino indeed had made a threat. But on Dec. 31 Mr. Justice David Crane of the Ontario Superior Court overturned the JP's decision and ordered him to "issue process" - basically, to get on with it and issue a formal information against the Commissioner.

That, Ontario Attorney-General spokesman Brendan Crawley said last night, will happen in the lower court today.

In his e-mail, Mr. Fantino was responding to a new posting on Mr. McHale's website from Caledonia councillor Craig Grice, defending Mr. McHale and supporting "his stance on two-tier justice," as many Caledonians describe the OPP manner of policing there.

Evidence in a recent lawsuit against the government and OPP, settled out of court just after Christmas, showed the OPP treated the native occupiers with kid gloves, anti-occupation activists such as Mr. McHale as trouble-makers.

Mr. Fantino labelled the Grice e-mail "deeply disturbing," slammed Mr. McHale as "a lightning rod for confrontation and potential violence," and told Mayor Trainer that if any of his officers was injured as a result of "forays into the community by McHale" - at the time, Mr. McHale and his wife Christine lived in a Richmond Hill condo - he would hold Councillor Grice and Haldimand County responsible; support any OPP officer who wanted to sue the county in the civil courts; bill the policing costs back to Haldimand and "strongly recommend" that the OPP not renew its policing contract.

Curiously, Mr. Fantino copied three senior Ontario government officials on his lengthy note - Tony Dean, then the Secretary of Cabinet; Chris Morley, press secretary for Premier Dalton McGuinty, and Peter Wilkinson, Mr. McGuinty's chief of staff.

When Mr. McHale asked him, during the preliminary hearing last April, why he had copied staff in the Premier's office, Mr. Fantino replied that the Caledonia occupation "was not solely, and never has been solely a policing issue."

But the OPP boss, court documents show, also personally twice complained about another Caledonia resident, David Hartless, a Hamilton Police Service officer whose home is within 100 feet of the occupied site.

Like many other residents, Detective-Constable Hartless, as he once testified, found the situation "absolutely abhorrent" and said "policing was in effect suspended in that town."

Mr. Fantino, reached yesterday on his cellphone in Ottawa, where he attended the funeral of slain Ottawa Constable Ireneusz (Eric) Czapnik, told The Globe and Mail he couldn't comment.

"This whole thing is all up in the air," he said. "Pieces of it are still before the courts." He added that, "We're a police agency trying to do our utmost in a very difficult situation and we seem to be getting slagged left, right and centre."

But last year, under oath at a preliminary hearing for Mr. McHale's bizarre charge of "counselling mischief not committed" - even the judge who presided over the preliminary hearing said he'd never heard of it - Commissioner Fantino admitted he wrote Hamilton Chief Brian Mullan "formally taking exception" to Det.-Constable Hartless's "mean-spirited and totally false accusations directed at the OPP."

Det.-Constable Hartless made the disputed remarks in a Feb. 17, 2007, "open letter" addressed to Premier McGuinty which he e-mailed to more than a dozen people, including several MPs and MPPs, local newspapers, the government's senior negotiator, John Nolan, and Mr. McHale's website.

Mr. McHale did what he always does with public documents, and promptly posted the letter on his website; Mr. Nolan forwarded a copy to OPP Inspector Dave McLean, who sent it to Superintendent John Cain and a few minutes later to Mr. Fantino.

In his note, Insp. McLean suggested perhaps Chief Mullan "might like a heads up should the Premier's office...want to discuss it with the officer's chief..."

The next day, the OPP boss e-mailed Chief Mullan, saying, "We, the OPP, have had enough of this nonsense" and characterized Det.-Constable Hartless's remarks as "conduct unbecoming".

The following day, Det.-Constable Hartless was informed the complaint "from the Commissioner of the OPP" had been forwarded to Hamilton's professional standards branch for investigation and was subjected to a gag order, which he contested successfully in court.

Eight months later, Halton Regional Police, which eventually conducted the probe, cleared Det.-Constable Hartless of any misconduct.

But last year, he testified, the OPP boss filed another complaint against him, this time for signing an online petition criticizing Mr. Fantino and more generally for what Det.-Constable Hartless called the OPP's "failures of policing duties."

That complaint was also found to be unsubstantiated.

Det.-Constable Hartless's real sin in Mr. Fantino's eyes was to have been badmouthing the OPP through signs on his lawn, letters to the editor and signing petitions.

But as Det.-Constable Hartless put it ringingly in testimony on April 24 last year, "I had not been discrediting the OPP; the OPP had been openly discrediting the OPP, and I simply pointed it out."

As for Mr. McHale, despite Mr. Fantino's clear efforts, as documented in e-mails and court transcripts, to "take him out" - that is, have him charged with something, anything - the only crime the OPP has charged him with is the novel "counselling mischief not committed."

A date for the resumption of the preliminary hearing on that charge has yet to be set. Mr. McHale, as he almost always does, will represent himself - a portly, bespectacled fellow who is nonetheless proving a spirited and sharp combatant.

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