

Ont. top cop pushed for charges against protester

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By John Nicol, [CBC News](#)

OPP Commissioner Julian Fantino encouraged his officers to lay charges against a protester — before there was any evidence the man had committed a crime — during a clash between natives and residents of Caledonia, Ont., in late 2007, according to emails made public this week in a court case.

"At some point McHale has to go," Fantino wrote Deputy Commissioner Chris Lewis, a half hour after a protest began on Dec. 1, 2007, referring to Gary McHale of Richmond Hill, Ont., who was leading a campaign to hold the OPP accountable for its policing decisions.

On Feb. 28, 2006, native protesters occupied disputed land in Caledonia, next to the Six Nations reserve. Ensuing clashes with Caledonia residents led to a standoff that has continued for almost four years.



Gary McHale is still banned from Caledonia under bail conditions imposed after he was charged by the OPP with counselling mischief, not committed. (CBC) When a native woman attacked McHale during the Dec. 1 protest, claiming that he had assaulted her, the police were almost giddy in their email exchanges that they finally had what they wanted.

"There is a hidden gem here," officer Rick Barnum wrote to OPP Supt. Bob Goodall. "It appears on the ground the sentiment is that McHale may have pushed a female FN [First Nations] lady who was close to him."

Another officer reported to Barnum: "Gary McHale viciously beaten by [native leader Clyde Powless]. He appears hurt."

McHale went to hospital but Fantino, who was kept abreast of every action at the scene, was mistakenly told that McHale had been arrested. Fantino wrote to Goodall: "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 court that McHale's forays into Caledonia have been planned and executed for purposes of breaching the peace which today also resulted in violence. We can't allow this vicious cycle to continue to the point where time and again we have to expend an inordinate number of police resources to keep people from killing themselves," Fantino wrote.





OPP Commissioner Julian Fantino is to appear in Ontario Superior Court on Feb. 3 in Cayuga to answer to a charge of trying to influence politicians. (Canadian Press) Although Fantino was told the Dec. 1 protest was organized by Caledonia resident Doug Fleming to challenge an illegal native smoke shop on disputed land, the OPP commissioner was preoccupied with McHale, claiming his visits to Caledonia led to \$500,000 in extra policing costs.

Still banned from Caledonia

McHale submitted the emails, which he obtained through disclosure, to a court on Feb. 2 in an attempt to review his bail conditions on an obscure charge of counselling mischief, not committed. More than two years later, his bail conditions still prevent him from setting foot in Caledonia.

McHale has also filed a private prosecution to instigate a criminal charge against Fantino for trying to influence Haldimand County Council and its treatment of him.

Fantino is to appear in Ontario Superior Court Feb. 3 in Cayuga to answer to that charge.

"It's taken two years to get emails that clearly show the officers were told to arrest me, regardless of the evidence," said McHale, adding he was disturbed, but not surprised, to find the police focusing on him.

On Dec. 2, 2007, a day after the clash in Caledonia, Fantino wrote an email to his deputy commissioner to say he was slow to respond because he had to "cool off."

"What are we doing in Caledonia? ... If it isn't us being told what to do by feeble Crowns, it is our own lack of fire. It seems to me we are reactive to the point that McHale is the orchestra leader while we are almost captive to his nonsense. Ahh, I can't believe this!!!!!" Fantino wrote.

Lewis sends this message to his officers: "I'm with the boss [Fantino] at dinner tonight and we're discussing McHale. He's enquiring (sic) about the timing of charges. Is there any way that charges could be laid sooner than later?"

Based on his correspondence, Fantino wanted to be informed as soon as possible so he could pass on the news to Deborah Newman, then Ontario's deputy minister of community safety and correctional

services. He even wrote he would like to emulate an infamous Los Angeles police chief who made arrests "and go out and arrest the goof myself."

Police disappointed

As the week wore on, police became disappointed that they could not charge McHale with assault.

Supt. Ron Gentle weighed in on Dec. 3 in an email to the deputy commissioner: "The assault of McHale by Bullet [native protest leader Clyde Powless] was caught on all kinds of video as people turned the cameras on when the action happened. Unfortunately, the alleged assault committed by McHale, to this point, is not on video. The best we have is the victim claiming verbally to have been assaulted on at least one tape. We have witnesses on both sides that say he did and didn't commit an offence.

"We want to ensure, when we arrest and charge Bullet we do the same with McHale to eliminate any of the usual issues."

It was up to Goodall to pass on the bad news to Fantino: "McHale did not assault [Camille] Powless. She assaulted McHale and then committed public mischief by making a false report to police. Charges pending.

"McHale tried to set us up in that he anticipated that we would charge him with assault and then he would release a videotape showing him being assaulted by [Camille]."

Goodall told Fantino police could get McHale with an obscure charge for counselling mischief, not committed. Police also wanted charges against Clyde Powless for assaulting a police officer and assaulting McHale.

Powless was never charged with assaulting a police officer.

McHale told CBC News on Feb. 2 that Fantino was ordered by a court in October 2008 to turn over his emails, but it took him more than a year to do so.

"Why are they hiding this stuff when there's a court order?" asked McHale, who said he has about a dozen outstanding requests for disclosure. "It leads me to wonder: How much more material are they hiding from me?"

Fantino did not respond to requests for an interview.

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