



August 12, 2021

MEMORANDUM TO:

**Provincial Constable G.G.(Gabriel) PROULX #14327**  
**3000 - PRINCE EDWARD**

RE: Confirmation of Prosecution's Penalty Position  
Charge(s): Discreditable Conduct

Be advised that the Prosecution will be seeking the following penalty:

**40 Hours Formal**

It must be noted that this penalty position, while being offered, is also strictly contingent upon no further discreditable behaviour coming to our attention in this matter. Otherwise, this penalty position would be nullified.

If you have any questions, please contact this office at any time.

*Electronically signed by Rob Fournier*

Rob Fournier, M.O.M.  
Inspector  
Professional Standards - Prosecutions  
/lt

cc. Sergeant Major, Professional Standards, EAST REGION  
Detachment Commander, 3000 - PRINCE EDWARD

**PROOF OF SERVICE:**

Date Served: 18 Aug 2021 Copy of Order Given to Noted Officer? ☒ Y ☐ N

Person Serving: John Martin - Branch 9 - V.P.  
(Print Rank/Name/Badge)  
(sign) [Signature]

Ontario  
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Office of Professionalism, Respect,  
Inclusion and Leadership

Bureau de la conduite professionnelle, de la  
promotion du respect, de l'inclusion et du  
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Reference No/N° de dossier: 2545021-0051

July 19, 2021

**MEMORANDUM TO:**

Provincial Constable G.G.(Gabriel) PROULX #14327  
3000 - PRINCE EDWARD

**Re: Internal Complaint – Substantiated**

The investigation into this matter has been completed. Attached is a copy of the investigative report which substantiates the allegation(s) made against you.

The penalty is currently under review in accordance with the provisions of the *Police Services Act* and you will receive notification of this decision in due course.

Please be advised that Healthy Workplace Services including care navigators, peer support and psychologists are available to assist you and your family, whether or not you are currently in the workplace. Please contact our confidential 24/7 phone line **1-844-OPP-9409** (1-844-677-9409) or email [OPPHealth@opp.ca](mailto:OPPHealth@opp.ca) for access to Healthy Workplace Services.

*A/Superintendent G. Wight for*

M.L. (Marty) Kearns  
Chief Superintendent  
Office of Professionalism, Respect, Inclusion and Leadership

/ac

Attachment

c: Regional Commander, EAST REGION  
Detachment Commander, 3000 - PRINCE EDWARD  
Sergeant Major, Professional Standards Unit, EAST REGION

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Police  
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August 12, 2021

MEMORANDUM TO:

**Provincial Constable G.G.(Gabriel) PROULX, #14327**  
**3000 - PRINCE EDWARD (EAST REGION)**

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Following discussions with your command staff, you have been charged with **Discreditable Conduct** contrary to the *Police Services Act*. We enclose a copy of the Decision Memorandum addressed to you together with the a copy of the Investigation Report, Notice of Hearing, Penalty Memo and Health Information Form and Memorandum. You are required to appear before the OPP Adjudicator on the date and place indicated on your copy of the Notice of Hearing.

The OPP is committed to an open and transparent process in dealing with discipline matters and in keeping with this, Adjudicator decisions are forwarded to media on a request basis. In rare circumstances, information may be redacted when disclosure occurs. However, you should be aware that a successful challenge to the decision to redact or withhold the information may result in the decision being disclosed in its entirety at a future date. You should further be aware this may be the case whether or not misconduct is established.

Full disclosure materials relating to this proceeding will be provided directly to the OPPA or your legal counsel upon notification of your legal representation. If you intend to apply for legal representation from the OPPA, please obtain a copy of their Legal Assistance application from the OPPA web site. If you are not going to apply to the OPPA, please contact Professional Standards - Prosecutions (705-329-6055) to advise who will be your counsel and the disclosure package will be directed to their respective office. If you intend to represent yourself, please notify Professional Standards - Prosecutions and all disclosure material will be sent directly to you.

In order to ensure respect for the process and maintain professionalism, be advised that you are required to appear in your working uniform.

**It is your responsibility to advise the Professional Standards - Prosecutions and your Detachment Commander immediately if operational or administrative requirements (such as annual leave, rest days or a shift other than day shift) prevent you from attending the hearing during your regularly scheduled hours of work. If you are unable to attend the first appearance date, please notify the Office of Professionalism in writing as soon as possible.**

/..2



It is important that you or your counsel contact Professional Standards -Prosecutions before the hearing to discuss this matter. At that time we will be looking to consider what can be accomplished at the first appearance. To make that discussion meaningful, it is important that you **indicate which of the following will be your defence counsel**, and return a copy to this office, by fax, as soon as possible, so that proper disclosure can be made.

- ☐ I will be representing myself
- ☐ I have made application for legal representation to the OPPA
- ☐ I will obtain other counsel:

Counsel's Name:

Address:

- ☐ Video appearance is required at 9:30 am (work location is beyond a 3 hour drive of Orillia)

If in doubt, check with your counsel, OPPA representative or Prosecutions regarding your requirement to attend at subsequent appearances.

If misconduct is proven on clear and convincing evidence, the *Police Services Act* provides for the following possible penalties:

- dismissal,
- demotion,
- suspension without pay for up to 30 days or 240 hours,
- forfeiture of up to 3 days pay or 24 hours, or
- forfeiture of up to 20 days off or 160 hours.

In addition to or instead of a penalty described above, the *Police Services Act* provides that other action, such as reprimand, counselling, treatment or training and/or participation in programs or activities may be taken.

You are to provide an updated R v. McNeil report to the Crown Attorney involved in all active prosecutions for which you may have provided a R v. McNeil Report previously. Please contact our office and we will provide you with an updated version of your R v. McNeil Report to redisclose, if required.

The assigned Prosecutor will be prepared to discuss this matter with you and your counsel.

*Electronically signed by Rob Fournier*

Rob Fournier, M.O.M.  
Inspector  
Professional Standards - Prosecutions

/lt  
c: Detachment Commander



VIA E-MAIL

August 12, 2021

MEMORANDUM TO:  
**DETACHMENT COMMANDER**  
**3000 - PRINCE EDWARD**  
**OR**  
**SERVING OFFICER**

Re: **Police Services Act Charge**  
**Provincial Constable G.G.(Gabriel) PROULX, #14327**

Provincial Constable PROULX is charged with **Discreditable Conduct** under the *Police Services Act* and is required to appear via telephone conference, before the OPP Adjudicator at **09:30 hrs, September 15, 2021, at OPP GHQ, Adjudication Suite, Main Floor, Orillia, ON.**

At that time the member may plead guilty, request further time to consider a plea or plead not guilty and a date for a hearing will be set.

**NB:** It is important that any recent Personnel Evaluation's (PCS065/66) be forwarded, or confirmed to be already on file, or overdue evaluations be completed and forwarded, to our office for this officer as soon as possible. We will review it and put it on the officers 291 personnel file.

**Please follow this procedure for serving the attached documents:**

1. Serve the Decision Memo and Investigation Report.
2. Serve the Notice of Hearing on the member by **August 22, 2021**. Provide the member with a COPY of the Notice of Hearing and return a scanned copy, with service portion filled out to Prosecutions Section;
3. Serve the member with a COPY of the enclosed Penalty Notice, return a scanned with service portion filled out to Professional Standards - Prosecutions;
4. Provide the member with the attached Health Information Form;

5. Advise the member that the disclosure package will be provided directly to their legal counsel upon notification of their name and address. If the member is NOT going to make application to the OPPA for legal representation, please notify me ASAP and I will arrange for the package to be directed to the member's counsel or to the member if the member elects to represent themselves.
6. Advise the member that they must attend before the Adjudicator in person, or by video conference as appropriate. If they cannot attend, their counsel or representative must attend. If the member or counsel/representative fails to attend, the member may be charged with insubordination.
7. Advise the member that if they intend to seek an adjournment for medical reasons, it is their responsibility to provide documentation to the Adjudicator and Professional Standards – Prosecutions to support such a request (at the First Appearance or any subsequent appearances).

**All efforts shall be made to ensure that the member is not attending the hearing on overtime.**

The order of dress for anyone attending, as a charged officer is working uniform unless the member is under suspension at which time the member would appear in civilian business attire.

Please feel free to call (705-329-6055) if there are any other questions,

*Electronically signed by Rob Fournier*

Rob Fournier, M.O.M.

Inspector

Professional Standards - Prosecutions

/lt

**c: Sergeant Major, EAST REGION** [Please notify the investigator on this matter.]

Encls.





The Police Services Act  
**NOTICE OF HEARING**

**TO: Provincial Constable G.G.(Gabriel) PROULX, #14327**

**YOU ARE ALLEGED TO HAVE COMMITTED DISCREDITABLE**

**CONDUCT** in that you did act in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Ontario Provincial Police, contrary to Section 2(1)(a)(xi) of the Code of Conduct contained in the Schedule to Ontario Reg. 268/10, as amended.

**PARTICULARS OF ALLEGATIONS:**

On April 17, 2021, at approximately 2:22 p.m., the Belleville Police Service (BPS) were dispatched to Zwicks West Park in the City of Belleville to assist the Public Works Department. A worker had contacted police to advise that they were attempting to close the playground due to the municipality complying with the Provincial State of Emergency Order relating to COVID-19 restrictions and guidelines ordered by the Government of Ontario.

Upon asking numerous citizens within the park to leave as per the City of Belleville direction and compliance with the Ontario Provincial Order relating to COVID-19, the Public Works employee was confronted by several citizens who refused to take their children out of the park.

The BPS then received a call from an off-duty BPS officer, who was in the area and observed that numerous persons were surrounding the Public Works employee and was concerned for their safety. The Public Works employee disengaged from the non-compliant citizens to await police arrival.

Upon the arrival of the BPS officers, they approached a group of adult males standing near the entrance inside the park and asked if they were asked to leave by Public Works. They confirmed they had been asked to leave and were refusing to leave challenging the Government authority to close the park. The BPS explained the Trespass to Property Act (TPA), and further that the park was City owned property and can be closed by the City due to concerns, especially surrounding the current COVID-19 restrictions. The group of males continued to argue the BPS authorities.

It is alleged that you and another OPP officer, PC Elijah McCAUGHEN were identified by the BPS as members of the deviant group, and that you attended the park with your children to meet with friends, including PC McCAUGHEN and his family.

It is alleged that you were identified by a member of the group as a police officer to the BPS officers, and were seen to nod your head, appearing to acknowledge and confirm the persons' utterance.

You and other males of the group made it very clear that the group would not co-operate if arrested and attempted to intimidate BPS officers into leaving the park. You and other male persons made multiple utterances stating that arresting them was "not an option" and "would not go as planned".

Social media videos were obtained by Professional Standards investigators of the interaction between the group and the BPS officers. Within the video, you are identified as making the following utterances;

- "We pay taxes every year. Kids want to play. I think it's gonna happen"
- "Under what law?"
- "Ultimately, you're the one enforcing it...you are the one who might get in shit. You don't even realize what you're actually doing right now. You are pushing the envelope. You have been told to push the envelope the way you are doing it. You're sticking your neck out and something is going to happen. I'm telling you something's gonna happen and the hammer is coming down at some point."
- "Whoever was part of all this nonsense. You are the little ones at the bottom being told from the one at the top to enforce this. You are the one that is going to be in shit, not Doug Ford. It's you, it's you."

- "The word discretion for a police officer is massive."

When asked specifically by a BPS officer on the video "cool, Gabe what do you do for a living?" you replied "police officer".


You disregarded and were non-compliant with the Emergency Management and Civil Protection Act, province-wide Stay-At-Home order effective April 8, 2021 and further announced measures to include the immediate closure of playgrounds on April 17, 2021.

You also disregarded and were non-compliant with the Trespass to Property Act when you failed to leave the City of Belleville owned and operated Zwicks Park West playground as directed by the Public Works and BPS.

You knew or reasonable ought to have known your actions were disrespectful, unprofessional and in a manner prejudicial to discipline and likely to bring discredit upon the reputation of the OPP of which you are a member.

**YOU ARE HEREBY ORDERED TO ATTEND** via telephone conference on Wednesday, September 15, 2021, at 09:30 hrs at OPP GHQ, Room 1-128, Adjudication Suite, 777 Memorial Avenue, Orillia, Ontario, pursuant to the Police Services Act.

Dated this 19 day of JULY, 2021.

  
Chief Superintendent Marty Kearns  
Office of Professionalism, Respect, Inclusion and Leadership  
Ontario Provincial Police

NOTE: IF YOU DO NOT ATTEND AT THE HEARING OF THIS CHARGE, THE PRESIDING OFFICER MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDINGS.

Person Effecting Service:

Print Name John Martin Signature 

Copy served on person charged the 18 day of Aug., 2021.

2545021-0051

Form PCS 72 (04/98)





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**Ontario Provincial Police**  
**Office of Professionalism, Respect, Inclusion, and Leadership**  
**Professional Standards Unit**

**Internal Complaint Investigation Report**

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**Date of Incident:** Saturday, April 17, 2021

**Date of Complaint:** Sunday, April 18, 2021

**Date of Report:** Tuesday, June 29, 2021

**OPP File Number:** 2545021-0051

**Related File Number:** Belleville Police: BE21006100

Choose an item.

[Click here to enter text.](#)

**Respondent Officers:** Elijah MCCAUGHEN  
Provincial Constable #13025  
Prince Edward County  
East Region

Gabriel PROULX  
Provincial Constable #14327  
Prince Edward County  
East Region

**Investigator:** Trevor NICHOLAS  
Sergeant Major #11255  
Professional Standards Unit  
East Region

**Findings:** Substantiated

## Summary of Complaint

It is alleged that, while off-duty, the Respondent Officers disobeyed other on-duty officer's (Belleville Police) direction regarding the Provincial Stay-at-Home order and the closure of a playground in the City of Belleville. Further, it is alleged that the Respondent Officers identified themselves as police officers, continued to argue, and refused to leave as directed. The incident was also captured on video and posted publicly to social media.

## Officer Misconduct Allegation

### PC Elijah MCCAUGHEN

Discreditable Conduct - Sec. 2(1)(a) PSA Reg. 268/10

### PC Gabriel PROULX

Discreditable Conduct - Sec. 2(1)(a) PSA Reg. 268/10

## Summary of Witness Involvement (Civilian and Police)

### Anne-Marie ASCOTT- Civilian

She is an employee with the City of Belleville and works for the department of parks, transportation and outdoor operations. She received orders from the City to close Zwicks Park in accordance with the Provincial Order relating to COVID-19 restrictions and guidelines. Several civilians refused to leave so she called police for assistance.

### Constable (Cst) Eric HADLEY #153 – Belleville Police Service (BPS)

He is a member of BPS general uniform patrol and was the investigating officer of the occurrence within the City of Belleville at Zwicks Park. As requested by Belleville City workers, he directed several adults to leave the park as per the Ontario Government announcement to close outdoor amenities. The group of adults refused to leave and argued while filming the interaction. Two persons (the Respondent Officers) were identified as police officers.

### Constable Tyler PHILIP #187- Belleville Police Service (BPS)

He is a member of BPS general uniform patrol and was assisting Cst HADLEY with the occurrence at Zwicks Park. They both directed several adults to leave the park as per the Ontario Government announcement to close outdoor amenities. The group of adults refused to leave and argued while filming the interaction. Two persons (the Respondent Officers) were identified as police officers.

### Detective Constable (D/C) Aron BUCCI #126- Belleville Police Service (BPS)

He is a member of BPS and assigned as a digital crime forensic examiner. He was off duty and noticed several persons around a City of Belleville vehicle at Zwicks Park. He spoke with the workers and called dispatch to request officers attend.

**Staff Sergeant (S/Sgt) John HATCH- Complainant**

He is the Detachment Commander of the Prince Edward County OPP Detachment. He received information regarding the incident involving PC MCCAUGHEN and PC PROULX from the Belleville Police Service. He provided a transcript of the video posted to social media, including what PC MCCAUGHEN and PC PROULX said who were outside of the video angle.

**Summary of Respondent Officer Involvement****Provincial Constable (PC) Elijah MCCAUGHEN**

He is a member of the Prince Edward County OPP detachment. He provided a duty report on April 28, 2021. He indicated that he was off-duty on April 17, 2021, and at the park with friends and family. The group was told by Belleville Police to leave the park, however, they remained and practiced civil disobedience. He identified himself as a police officer.

**PC Gabriel PROULX**

He is a member of the Prince Edward County OPP detachment. He has been on medical leave since the fall of 2020. On April 30, 2021, he was served complaint notification and a request for a voluntary statement through Detachment Commander, S/Sgt John HATCH. PC PROULX has not replied to the request and is deemed to have declined to provide a statement.

**Investigation**

A chronological summary of the alleged incident under investigation.

**Overview of Belleville occurrence: BE21006100**

On April 17, 2021, at 2:22 p.m., Cst HADLEY and Cst PHILIP of the Belleville Police Service (BPS) were dispatched to Zwicks West Park regarding assisting Public Works. A worker had contacted police to advise that they were attempting to close the playground due to the municipality complying with the new COVID restrictions by the Government. Upon asking numerous persons within the park to leave, they were confronted and persons refused to take their children out of the park. Police then received a call from an off-duty officer, Detective Constable BUCCI, who was in the area and observed that numerous persons were surrounding the City worker and was concerned for their safety.

Upon arrival, Marie-Anne ASCOTT was away from the playground with a co-worker and advised of the situation. She advised that they disengaged to not have an incident and waited for police.

Upon Cst HADLEY and Cst PHILIP entering the playground, they observed approximately 8-10 adults in the playground and twice as many children present. Police walked up to 5-6 males that were standing near the entrance inside the park and inquired if they were asked to leave by Public Works and they confirmed. They advised that they were refusing to leave and gave several reasons why, mainly due to the broader issue of not believing that the Government had the authority to close the park. Further that they were taxpayers, they had ownership of the public park, could not be trespassed and/or told to leave from that area.



Police explained the Trespass to Property Act (TPA). Further that the park was City owned property and can be closed by the City due to concerns, especially surrounding the current COVID restrictions. The group continued to argue regarding the officers' authorities to be at the park.

One male identified himself as a police officer although did not give his name. He was identified as Elijah MCCAUGHEN of the Prince Edward County OPP. Other persons were identified as civilian, Timothy KELLER, and another police officer, Gabriel PROULX.

To avoid any incidents in front of the children along with the information received that possibly more friends of the group were being called, as well their absolute refusal to leave, police disengaged and conducted further follow-up considering charges.

**According to civilian witness, Anne-Marie ASCOTT:**

- On April 17, 2021, at 12:04 p.m., she was directed by Scott WHITEMAN, Manager of Outdoor Operations for the City of Belleville's Transportation and Operations Department to lock up and post all the City of Belleville playgrounds, as designated by Ontario's Provincial Order relating to COVID-19 restrictions and guidelines.
- Sometime after 1:30 p.m., she along with her fellow employee, Terry JENKINS, proceeded to Zwicks playground to lock up the facility. JENKINS proceeded to lock the south side man gate and she entered the main west gate of the playground. After entering the playground area, she approached a group of people who were standing near the first set of playground equipment.
- She asked them if they could please leave the playground and informed them that she had to lock the playground as per Provincial Orders. An unknown male spoke to her and said he wouldn't leave and that it was his right to be there. She informed the group again that she was directed to lock the playground and that she was just trying to do her job. The same unknown male and another unknown male standing near him engaged in the conversation and told her that they were doing their jobs as parents and that their kids needed exercise and that it was their right to be in the playground.
- She apologized to them but advised that she would have to call the police if they wouldn't leave. They told her to go ahead and that they were not leaving.
- As she was exiting the playground to go to the truck, an older lady with a small child on a bike had entered the playground behind her. She assumed the lady had been listening to the conversation she had with the group and she also refused to leave the playground. As she was walking away, the lady started to raise her voice. The lady made an attempt to try and engage in an argument with her about her rights and how her grandchildren needed to be in the playground for exercise. She disregarded the lady, left the playground and proceeded to the city truck.
- At 1:52 p.m., she made a call to the Belleville Police, informed them of the situation at Zwicks and requested their assistance. She was told they would send someone but that it was going to take a while as they didn't have anyone available to respond immediately. She waited for police to arrive.
- JENKINS told her that he had locked the south side gate and noticed a lady with a dog and a child who was going to enter the park. He informed the lady that they were locking it up. The lady told him she was going in and entered the area; the lady tried to engage in an argument informing JENKINS about her personal opinions on Covid and her rights.
- She asked JENKINS to get in the truck and not to respond to the lady.
- The truck was parked to the north of the west gate in the parking area. While

they were waiting for the police to arrive, they noticed a few more people entering the playground with some dogs on leashes and shaking hands with the group. One male left the group, exited the playground area, approached the front of their truck and began to take pictures of them with his cell phone. She decided to move their vehicle away from the playground parking area and wait near the entrance of Zwicks Park for the police as they didn't want any further confrontations.

- After about 30 minutes, a police SUV with two officers arrived at the west entrance of Zwicks Park and met them. A few minutes later another SUV with a single officer entered Zwicks to join the other officers. She informed the first two officers of the events that had taken place and the officers proceeded to investigate the situation.
- When exiting the park the police stopped and informed her that they had talked to the individuals in the playground, had taken their plates and that they would be issued fines, but had not enforced them to leave the playground. She informed Scott WHITEMAN at 3:06 p.m., that they would have to return to the playground at a later time to try to lock the area after it had been vacated.

The PS investigator reviewed the Belleville Police dispatch audio of the request for police made by Ms. ASCOTT. She advised that she was attempting to close the Zwicks park playground, at least 8 adults were refusing to leave and requested police to assist them. She advised that 2 of the adult males were rude and yelling at her that they were just doing their jobs as parents.

**According to witness officer, D/C BUCCI:**

- He has been a police officer with the Belleville Police Service since November 3, 2001. He was off-duty at the time and has no notes regarding this incident.
- He was in his personal vehicle on April 17, 2021 at approximately 2:10 p.m., driving southbound on Highway 62 South, passing the children's park located West Zwick's Island.
- He noticed a number of people in the park along with a City of Belleville – Parks and Recreation truck near the gate to the park. He observed a number of people crowded around two city employees near the entrance of the park.
- He turned around, went to the park and spoke to the City employees. He identified himself as an off-duty officer and confirmed his observations that they had been confronted by the people at the park who were refusing to leave.
- He was told that they had contacted the police. He advised them, he would contact the police as well and advised them to remain in their vehicle as they were doing to ensure they were safe.
- He contacted dispatch at approximately 2:17 p.m., and advised dispatch of the aforementioned information.

The PS investigator reviewed the Belleville Police dispatch audio of the request for police made by D/C BUCCI which is consistent with his statements above. He advised that the individuals who were refusing to leave the park were possibly calling others to attend. He mentioned concern about a possible demonstration and also called the duty Inspector.

**According to witness officer, Cst HADLEY:**

- At 2:22 p.m., he and Cst PHILIP attended Zwicks Park West playground to assist Belleville City Public works employees who were attempting to close the playground and had numerous persons refusing to leave.
- While on route, he was made aware that the city employee had been confronted



by parents and information was received that these persons were calling for more people to attend the park. Shortly afterwards, dispatch provided further information that an off-duty Belleville Police officer called and was concerned for the city workers' safety. With this information, they initiated priority response to the park with emergency lights and siren.

- Upon arrival at Zwicks Park, he spoke with a city employee Marie-Anne ASCOTT. She advised that they had orders to close the playground and the dog park, but when they entered the playground, several adults refused to leave upon request.
- He arrived at the playground and approached five to six adult males that were standing approximately a meter and half from the playground gate entrance. None of the males were socially distancing the recommended six feet from each other and none were wearing masks. One male held up a cell phone towards both officers, which made him believe that this male was video recording the interaction.
- He advised the males that the park was now closed as per the municipality's instructions in compliance with Ontario Government's Covid protocols. The group of males attempted to engage in a debate and discussion on the morals/ethics of the park being closed and wanted his personal opinion on the matter.
- He advised that he did not speak to the matter of morals and ethics nor of his personal view on the matter. He again instructed the group that the park was closed and that everyone had to depart the playground. Several of the males stated they would not be leaving and that there was no law to prevent them from staying in the park as they were taxpayers.
- He explained to the group that the playground was owned by the City of Belleville who had the authority to close the park and that anyone who refused to leave would be considered trespassing under the Provincial Offences Act. He further explained there was an authority by police to charge and arrest persons found contravening the Act.
- One male approached him from the left, advised that he was a police officer and also refused to leave the playground. Another male on his right informed him that two of his friends at the park were police officer's. Another male, later identified as Timothy KELLER, made comments that he would not be leaving the playground and if police acted on their arrest authorities, the incident would "not end as they expected."
- The majority of the males refusing to leave the playground would not allow him to speak at times and continually interrupted his explanation and responses to the questions and comments about the situation.
- He disengaged with the males as it was clear that they would not comply with police direction. After consulting with Sergeant LENTINI, it was agreed that he would attempt to identify the males through MTO ISS by checking the vehicle plates parked in the area.
- Prior to departing the scene, he was questioned by one of the unidentified males as to why police attended the location with a priority response and expressed safety concerns for the public when police were driving with lights and sirens. He informed the male of the information police received which gave concern for the safety of the city workers. Other persons stated the information was not the case and a specific male, later identified as off-duty OPP Constable Elijah MCCAUGHEN, made a comment that a public mischief charge should be investigated regarding the person who reported that to police.
- He spoke with ASCOTT and recommended they return in the evening to close the parks to avoid any public interactions.



- He was able to identify three of the males at the playground from vehicle plates. Timothy KELLER, Elijah MCCAUGHEN, and Gabriel PROULX.
- He confirmed that Elijah MCCAUGHEN was the male who informed him that he was a police officer.
- Upon returning to the BPS station, he sent an email regarding the interaction to all BPS members as a precaution in case further similar incidents were reported. Information was also relayed in the email that off-duty officers with the OPP were some of the suspects at the scene.

During a follow-up conversation with the PS investigator to request reports, Cst HADLEY confirmed that charges would not be pursued. He also expressed his extreme disappointment with both PC MCCAUGHEN and PC PROULX's behaviour given their chosen professions as officers with the OPP, their involvement and refusal to leave as directed.

**According to witness officer, Cst PHILIP:**

- At 2:20 p.m., he was with Cst HADLEY and dispatched to attend Zwicks Park playground to assist Belleville City employees who were attempting to close the playground at the park and had numerous persons refusing to leave.
- While on route to the call he was advised that an off-duty police officer with the Belleville Police Service had called in a complaint and was concerned for the safety of the city workers present. He initiated priority response by engaging his lights and sirens and travelled at a safe speed to Zwicks Park.
- Upon arrival of Zwicks West, he spoke with a city employee and was made aware that the city was closing the park to be in compliance with the Ontario Government's Covid protocols and that multiple persons were refusing to leave.
- He arrived at the playground and approached six or seven adult males that were standing approximately a meter and half from the playground gate entrance. None of these persons were social distancing or wearing masks.
- He observed one male hold up a cell phone apparently recording the interaction while the involved persons formed a half-circle around both officers.
- He observed Cst HADLEY inform the males that the park was now closed as per the City's instructions to follow Ontario government Covid protocols. He clarified police authority under the Trespass to Property Act and again asked the males to leave the park without causing an issue.
- The group of males engaged in a confrontational debate with the two officers regarding their personal opinions of the pandemic. He observed the males to reiterate that they pay taxes to fund the park, therefore would not be leaving until their children were finished playing. One male, on the right of him, informed the group that two of the involved persons refusing to leave were in fact police officers.
- The male on the left of him then spoke up stating that he has been a police officer for 12 years. This male was identified as Elijah MCCAUGHEN.
- One of the involved males pointed towards another male, identified as Gabriel PROULX and indicated that PROULX was also a police officer. PROULX nodded his head, appearing to acknowledge and confirm his friend's utterance.
- PROULX, along with a male later identified as Timothy KELLER, and other unidentified parties were making it very clear that the group would not co-operate if arrested and attempted to intimidate officers into leaving the park.
- PROULX, KELLER and the unknown male holding the cell phone made multiple utterances stating that arresting them was "not an option" and "would not go as planned."

- They disengaged as it was clear the group would not comply with police direction. The city employees agreed to attend later in evening to close the park to avoid an escalation of the incident.
- They were able to confirm the identity of three of the males at the playground from vehicle plates. Timothy KELLER, Elijah MCCAUGHEN and Gabriel PROULX.

**According to Respondent Officer, PC MCCAUGHEN:**

- PC MCCAUGHEN advised that on April 17, 2021, he was off-duty and invited by his friend, Tim KELLER to bring his family to Zwicks Park in Belleville to meet up with other parents and children.
- He was concerned for his own mental health along with that of his family during the lockdown, so he decided it would be nice to get out for fresh air and let the kids play.
- He attended Zwicks Park with his wife and their two children. Other adults were present whom he didn't know, Tim KELLER was present along with his friend and co-worker, Gabe PROULX, with his children.
- He advised that upon his arrival he observed two Belleville City trucks parked in front of the play area and was immediately advised that workers were in the process of "shutting down the playground." He advised that this seemed odd as there were a number of vehicles in the parking lot along with people in the playground and all around the park walking their dogs and riding their bikes. He thought nothing of it and proceeded to have fun playing with his children on the playground equipment.
- Shortly thereafter they were approached by two Belleville City police officers who advised that they were "trespassing" and requested that everyone leave. He advised that he stood by while officers explained their position and the group of adults he was a part of explained their position.
- He advised that out of respect to the responding officers and in the interest of "full disclosure," he advised one of the officers that *"I did the same job as him."* He advised that he was present for the arguing that ensued, the BPS officers advised that they were "trespassing" and that the group of them were under the belief that the park was a public park and was not a premises as defined in the Trespass to Property Act.
- He advised that throughout his interaction with the Belleville police officers he was courteous, professional and polite. He advised the officers on more than one occasion that he respected them and what they do, as he understands first-hand that they have a difficult job. However, he further advised that they (he/the group and the officers) had to "agree to disagree" and that the group was merely practicing "civil disobedience" out of principle. Moreover, he added that the public needs good officers to support and ensure their freedom - as guaranteed by the Canadian Charter of Rights and Freedoms rather than taking their freedoms away by using the excuse of, "We're just doing our jobs." To highlight his point, he asked the BPS officers if they'd be willing to "round us up" when they refuse the Covid vaccine and take them to quarantine camps like the Nazis did with people of Jewish decent during the 1930s and 40s.
- He advised that the Belleville officers then threatened to arrest them and advised that if the Sergeant approved the man power, they'd be coming back to start making arrests.
- He advised that another BPS unit arrived; however, the officers decided to disengage as the group told the officers that they would leave the park in 30 minutes or whenever the kids were done playing.
- Upon returning to the residence later, he learned that Premier Doug Ford had released a tweet advising that the regulations would be amended to allow



playgrounds to remain open.

Duty report follow-up questions were sent to PC MCCAUGHEN via his work email. The PS Investigator was advised by S/Sgt HATCH that PC MCCAUGHEN had been calling in sick for his block of shifts. It was later learned that PC MCCAUGHEN had obtained a medical note to remain on medical leave until July 27, 2021.

On June 1, 2021, the PS Investigator sent a request for voluntary statement (medical) to PC MCCAUGHEN via S/Sgt HATCH to voluntarily respond to the follow-up duty report questions previously sent to him. PC MCCAUGHEN has not responded to the PS Investigator and is deemed to have declined the request for follow-up.

Respondent officer, PC Gabriel PROULX, has been on medical leave since the fall of 2020. He was served complaint notification and a request for a voluntary statement (medical) by S/Sgt HATCH on April 30, 2021. As per the request, since PC PROULX has not replied to the PS investigator, he is also deemed to have declined to provide a statement until his return to work.

Both videos were obtained from social media and reviewed. The videos are focused on the officers and do not show other participants; however, the involved persons are heard via audio. The first video is 11 minutes and 56 seconds. The second video is 1 minute and 16 seconds.

S/Sgt HATCH provided a transcript of the audible portions/excerpts in which he could positively identify and confirm the voices of both PC MCCAUGHEN and PC PROULX at specific times during the first video.

0:30 Proulx: *"We pay taxes every year. Kids want to play. I think it's gonna happen."*

1:15 McCaughen: *"Who are they? Do you pay taxes too? We are not trying to give you guys a hard time."*

1:34 Proulx: *"Under what law?"*

2:06 Proulx: *"Ultimately, you're the one enforcing it...you are the one who might get in shit. You don't even realize what you're actually doing right now. You are pushing the envelope. You have been told to push the envelope the way you are doing it. You're sticking your neck out and something is going to happen. I'm telling you something's gonna happen and the hammer is coming down at some point."*

2:25 Proulx: *"Whoever was part of all this nonsense. You are the little ones at the bottom being told from the one at the top to enforce this. You are the one that is going to be in shit, not Doug Ford. It's you, it's you."*

3:55 McCaughen: *"This is public property."*

4:17 McCaughen: *"We're just going to use the park for a while and then we'll shut it down. This is public property."*

5:05 Proulx: *"The word discretion for a police officer is massive."*

5:58 Officer: *"What do you do for a living Eli?"*



6:00 McCaughen: "I'm a police officer. 12 years' experience."

6:02 Officer: "Cool, Gabe what do you do for a living?"

*This was not asked by BPS officer;  
it was asked by another parent within  
the group.*

6:03 Proulx: "Police officer."

6:40 McCaughen: "When it comes time for you guys to gather us all up and take us to quarantine camps are guys going to be the guys to do that? Because quarantine camps (inaudible)...you work for us. It's time to take a stand."

6:55 Proulx: "Let's focus on this."

7:36 McCaughen: "I don't understand why you are coming after the kids rather than the people walking down the path, or in the dog park you know."

9:42 McCaughen: "We get it. We get that."

11:29 McCaughen: "Listen, we really appreciate you guys, we'll be gone soon. We'll be gone soon enough."

The PS investigator also reviewed the Ontario Government official newsroom release from April 16, 2021, and OPP media releases from April 16 and April 18, 2021, which will be detailed in the analysis section below.

## Analysis

Detailed analysis of the key factors which led to the conclusion.

The Police Services Act states that, "Any chief of police or other police officer commits misconduct if he or she engages in, discreditable conduct, in that he or she, 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;"

### **News Release- Ontario Strengthens Enforcement of Stay-At-Home Order, Ontario Government, Office of the Premier-April 16, 2021- excerpts**

"Effective Thursday, April 8, 2021, at 12:01a.m., the government issued a province wide Stay-At-Home order that requires everyone to remain at home except for specified purposes, such as going to the grocery store or pharmacy.....for outdoor exercise...."

"Emergency orders currently in force under the Emergency Management and Civil Protection Act have been extended until May 5, 2021....."

"Effective Saturday, April 17, 2021, at 12:01 a.m.: close all outdoor recreational amenities, such as golf courses, basketballs courts, soccer fields, and playgrounds..."

### **OPP News Release April 16, 2021- excerpts**

"The Government of Ontario has announced further restrictions on outdoor activities and gatherings. As of Saturday, April 17 at 12:01 a.m. Eastern Time, outdoor gatherings are restricted to members of the same household only.....outdoor recreational facilities and non-essential construction sites will be closed..... The OPP urges everyone to comply with all restrictions. Although voluntary compliance is always preferred, under the Emergency Management and Civil Protection Act (EMCPA), Re-

*Opening Ontario Act (ROA) and federal Quarantine Act, there are consequences for individuals who choose to defy the emergency orders that are in force. The OPP will be informing the public of charges laid each day on its social media accounts. **The public is reminded that individuals who fail to comply with the restrictions can be issued a minimum fine of \$750. Those who obstruct an authority or individual from enforcing or complying with an order can receive a minimum fine of \$1,000, and those who host parties or gatherings in violation of the regulations can face a maximum fine of \$10,000 on conviction.***

**OPP News Release April 18, 2021- excerpt**

*"A playground, a place specifically designed to enable children to play there, may be open and used"*

On April 16, 2021, the Ontario Government announced further measures to the Stay-At-Home order to include the closure of playgrounds at April 17, 2021, at 12:01 a.m.

National media outlets including radio and social media platforms were broadcasting the press conference live on April 16. Further, details of the new strengthened orders were distributed throughout all social media platforms, news media and the internet. The OPP also released updates with details to coincide with the new restrictions/orders and possible enforcement measures.

It is inconceivable that PC MCCAUGHEN and PC PROULX did not know about the Stay-At-Home order and the closure of playgrounds announced on April 16, which took effect that night at 12:01 a.m. on April 17.

PC MCCAUGHEN advised that he was invited to the park by his friend, Tim KELLER. Once there he met KELLER and PC PROULX, who was present with his family also. This coordinated meeting was a planned group get-together, which was in itself, a contravention of the Stay-At-Home order as an outdoor social gathering or organized public event.

PC MCCAUGHEN further advised that the group of them were under the belief that the park was a public park and was not a premises as defined in the Trespass to Property Act (TPA).

Section 1 of the TPA defines a 'premises' as "*lands and structures, or either of them*".

While the playground park is made available to the public, the land and structures are the property of the City of Belleville. In accordance with the above-mentioned restrictions, the City of Belleville was closing the 'premises' to members of the public by closing/locking gates and verbally issuing notice of its closure to members of the public. Both PC MCCAUGHEN and PC PROULX received such notice either through the Belleville City worker, Ms. ASCOTT, through their friends within the group upon their arrival and/or again through BPS officers who arrived at the scene.

As police officers with years of experience, both PC MCCAUGHEN and PC PROULX, should be familiar with the TPA and the enforcement of property rights and trespassing.

Paying city or municipal taxes does not extend any right of ownership to the playground or any other property, land or structure owned by the City of Belleville to the general public and/or its taxpayers.



It is also noted in the video (and within the transcript) that both PC MCCAUGHEN and PC PROULX are readily identified by name (Eli and Gabe) and further confirm with their own responses that they are police officers.

PC MCCAUGHEN advised in his duty report that he would “agree to disagree” with the BPS officers while practicing “civil disobedience” as a matter of principle.

PC PROULX is identified as challenging the BPS officers with comments such as “Under what law?” and “Ultimately, you’re the one enforcing it...you are the one who might get in shit. You don’t even realize what you’re actually doing right now. You are pushing the envelope. You have been told to push the envelope the way you are doing it. You’re sticking your neck out and something is going to happen. I’m telling you something’s gonna happen and the hammer is coming down at some point.”

Both PC MCCAUGHEN and PC PROULX could have chosen to leave the park as directed; however, they made the choice to stay, argue and disobey the BPS officers along with the direction provided by the Ontario Government the previous day, which was in full force and effect. A direction that they too would be expected to enforce during their duties as an OPP officer.

BPS officers advised that both PC MCCAUGHEN and PC PROULX were engaged in arguing their points of view/opinion, and were not following direction. The publicly challenged the BPS officers' authority. Further, that members of the group (male holding the cell phone, KELLER and PROULX) made it obvious that they were not leaving and that arrests were “not an option” and would not “go as planned.” These comments are considered veiled threats under the circumstances and as participants in the group, PC MCCAUGHEN and PC PROULX should have readily and immediately excused themselves and/or prevented further disruption.

While it is well within both PC MCCAUGHEN’s and PC PROULX’s rights to have their own personal beliefs about the Covid-19 pandemic, vaccination and the Government, their actions towards the BPS officers and against the lawful order given to them by the BPS officers, cannot be tolerated. Their conduct was witnessed by other members of the public and was later made publicly and widely available when the video was posted online to social media.

Their off-duty conduct does not align with the **OPP Mission, Vision, and Values**.

#### **OPP Orders- Professionalism 6.10.1, Accountability 6.10.4 or the Ontario Public Service Act Oath of Office**

**6.10.1-** states that, “The conduct of an employee, both on and off duty, is scrutinized and applied to the OPP as a whole. The more professional the conduct, the higher the public’s confidence and co-operation.”

**6.10.4-** states that, “Each employee should regard the discharge of duties as a public trust and recognize their responsibilities as a public servant. In carrying out duties, an employee is accountable for:

- promoting a positive professional image;
- serving with honesty and integrity, in a manner that places public interest above personal interests;
- behaving above reproach both on and off duty and not bringing discredit upon the reputation of the OPP;”



**Ontario Public Service Act- Oath of office-** *"I solemnly swear (affirm) that I will be loyal to Her Majesty the Queen and to Canada, and that I will uphold the Constitution of Canada and that I will, to the best of my ability, preserve the peace, prevent offences and discharge my other duties as provincial constable in Province of Ontario faithfully, impartially and according to law"*

The allegation of Discreditable Conduct against both PC MCCAUGHEN and PC PROULX is substantiated.

### **Referenced Information**

**List of the material used for the investigation, analysis, and conclusion.**

Videos from social media (including audio transcript)  
Police Services Act -  
Ontario Public Service Act  
OPP Police Orders  
Media releases- Ontario Government and OPP  
Belleville Police Service occurrence report, will states and notes  
Trespass to Property Act

### **Conclusion**

#### **PC MCCAUGHEN and PC PROULX**

Discreditable Conduct - Sec. 2(1)(a) PSA Reg. 268/10- Substantiated