



Last Date of Incident: [REDACTED]

Complainant	Respondent	Staff	File No.
Mark Vandermaas	Ontario Provincial Police	[REDACTED]	[REDACTED]

Human Rights Complaint Form

For instructions on how to complete this form, please refer to the Commission's *Guidelines for Drafting Complaints under the Ontario Human Rights Code*. This is available from the Commission.

Once completed, mail this form to the following address:

The Ontario Human Rights Commission
Inquiry and Intake Office
180 Dundas Street West, 7th Floor
Toronto, Ontario M7A 2R9

Disponible en français

Complaint Template approved by the Commission: May 25, 2005



Human Rights Complaint Form

Under the *Human Rights Code*, R.S.O. 1990, c. H.19

Inquiry Number: [REDACTED] [REDACTED]

(Only Sections 1 to 9 will be sent to the person(s) named in the complaint form)

1. Person making the complaint:

First name Mark	Last name Vandermaas
---------------------------	--------------------------------

2. Business, organization or association you are complaining about:

Name of business, organization or association Ontario Provincial Police		
Address 72 Highway 54 (OPP Professional Stds Bureau: 777 Memorial Ave., Orillia, ON L3V 7V3 705.329.6051)		
City/Town Cayuga	Province ON	Postal Code N0A 1E0
Telephone Number 905.772.3322/ 1.888.310.1122		Fax Number 905.772.5815

3. Names of persons you are complaining against (Please ensure that you have the correct spelling):

First Name Julian	Last Name Fantino	Job Title Commissioner
First Name Unknown arresting officers	Last Name	Job Title Police Officer
First Name Unknown & Known non-arresting officers (see Appendix 'A' attached)	Last Name	Job Title Police Officer

4. In what area did the discrimination happen?

(Please check (✓) only the one that applies to your complaint; all others will not be accepted)

<input checked="" type="checkbox"/> Goods and Services (Policing)	<input type="checkbox"/> Employment
<input type="checkbox"/> Accommodation (Housing)	<input type="checkbox"/> Vocational Associations
<input type="checkbox"/> Contract	

5. On what ground(s) did the discrimination happen?

(Please check (✓) only the ones that apply to your complaint; all others will not be accepted)

<input type="checkbox"/> Age	<input type="checkbox"/> Citizenship	<input type="checkbox"/> Disability	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Receipt of Public Assistance	<input type="checkbox"/> Sex
<input type="checkbox"/> Ancestry	<input type="checkbox"/> Colour	<input type="checkbox"/> Ethnic Origin	<input type="checkbox"/> Place of Origin	<input type="checkbox"/> Record of Offences	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Breach of Settlement	<input type="checkbox"/> Creed	<input type="checkbox"/> Family Status	<input checked="" type="checkbox"/> Race	<input type="checkbox"/> Reprisal	<input type="checkbox"/> Sexual Solicitation

6. When did the last incident happen? (Date) Jan 20, 2007

<u>LONDON, ONTARIO</u>		
City/Town Complaint signed at	Date Day Month Year	Signature of Complainant

Human Rights Complaint Form

7. **Particulars: A summary of the incidents you are complaining about. Your summary must answer the following questions listed below. Section 7(a) should not be LONGER than two (2) pages; otherwise the complaint may be returned to you for redrafting.**

- Date incident(s) happened (month/day/year)
- Where did the incident(s) happen?
- Who was involved (Name and Title)?
- What happened?
- How were you treated differently from others?
- How do the incidents relate to the ground(s) you selected?
- Remedy/Resolution you are seeking

Section 7 begins on following page

NOTE: Extensive evidence and names of witnesses to support this complaint are available on request, or – with several exceptions - may be found in documentation submitted to OHRC on June 13/07. Also, please see Appendix ‘A’ for supplementary info re Item #3, ‘Names of persons you are complaining against.’

1. **Dec 02/06:** A non-aboriginal Caledonia resident attempted to place a Canadian flag on a public utility pole across from the Douglas Creek Estates (DCE) which was, and is, occupied by aboriginal protesters. He was arrested by OPP officers who lied about receiving a trespassing complaint from a nearby church. Two OPP sergeants later visited his home and apologized to him, saying that he never should have been arrested.

2. **Dec 16/06:** I went to Caledonia as part of a protest to raise a Canadian flag in support of this resident. Although the OPP allowed aboriginal protesters to place flags on the same poles, they formed a line to block our access despite 2 separate Supreme Court of Canada decisions that protect our right to do so (*Ramsden v. Peterborough, 1993* and *Haida Nation v. British Columbia, 2004*).

3. At no time was our protest violent or threatening to police however, OPP officers arrested me and another man for ‘Breaching the Peace.’ They held me in a jail cell at the OPP detachment in Cayuga for several hours before releasing me without charge. The other man was held overnight and forced to appear in Hamilton court the next day even though the OPP had laid no charges against him.

4. **Jan 12/07:** In an article entitled, ‘*Fantino sending 50 new OPP officers to Haldimand,*’ Commissioner Fantino was quoted by Katie Dawson of The Sachem: ‘When it comes to raising flags, Fantino says it is legal to put up a flag on public property. “From what I was told the Supreme Court says it is legal.”’

5. **Jan 20/07:** I went to Caledonia to again attempt to place a Canadian flag on a public utility pole. Despite his admission that placing flags on public utility poles was lawful, the Commissioner did not order his officers to protect our right to do so. Instead, the Commissioner went to Caledonia to personally supervise as his officers again violated our rights. The OPP even called out the London riot squad to assist in preventing us from raising flags. They also issued a news release threatening to charge protesters with the dubious charge of ‘Obstructing Police’ should any attempt be made to move around police to place flags on the poles.

6. Native occupiers had placed additional flags across from DCE since December, but the OPP refused to allow us to even walk down Argyle Street let alone place our flags on the poles. No arrests were made. Later in the day, one non-native man was able to place a Canadian flag on a bridge opposite DCE by stopping his car and quickly taping it to the railing, but it was removed shortly after by an OPP officer. (Video available)

Systemic Racism by the OPP: Native vs. Non-Native Citizens

7. It is well documented that officers of the OPP have stood by while native protesters have used violence, destruction and intimidation against the citizens and infrastructure of Caledonia, and have allowed natives to erect flags on utility poles across the street from the Douglas Creek Estates. I believe that the denial of my right to place a flag on the same poles, and my arrest were based solely upon my race in accordance with systemic, race-based policing practices currently in use by the OPP in Caledonia.

8. Space does not permit a complete explanation of OPP racial policing policies here, however, an incident that occurred on Jan 10/07 clearly demonstrates the stark contrast between the OPP’s treatment of native vs. non-native citizens. In full view of numerous OPP officers a native man trespassed onto Mr. X’s property in Caledonia, pulled one of his Canadian flags out of the ground, threw the flag on the ground and then threatened Mr. X toe-to-toe. Despite demands to arrest the suspect, all OPP officers at the scene stood around – as did the suspect - doing nothing until the ART/MELT team arrived. The native suspect was allowed to leave the scene without being arrested and with absolutely no attempt made to identify him. Later, Mr. X was told the OPP could not identify the man.

LONDON, ONTARIO

City/Town Complaint signed at

Date Day Month Year

Signature of Complainant

Human Rights Complaint Form

(7(a). Continued)

9. This incident was captured from start to finish on amateur video. (video & witness info available). It proves, beyond question, that the OPP are operating under systemic, race-based policies that allow native suspects who have actually committed offences in full view of officers to escape arrest or identification while law-abiding, non-native citizens like me are aggressively denied their rights and freedom despite having committed no crime.

Are police officers justified in indefinitely suspending the rights of non-native citizens as a convenient alternative to protecting those rights against native protesters who might use violence?

10. The OPP have argued that my attempt to place a Canadian flag on utility pole was a 'breach of the peace,' that I was somehow 'provoking violence.' In order to expose the specious nature of such an argument one should consider a parallel hypothetical scenario:

A Toronto Transit Commission driver refuses to allow a black person to board the bus because white gang members have threatened to harm any black people who try to ride the bus. Upon summoning a police officer the black citizen is again refused passage by the police officer who accepts the driver's argument that violence is a possibility if the black passenger is allowed to ride. One week later, members of the black community organize a protest during which the police line up against them and refuse to allow any black people to board buses in order to 'prevent potential violence.' The police then arrest several black people for 'breach of peace' and put them in jail without any charges for wanting to ride the bus.

11. I cannot imagine that any court or quasi-judicial body such as the OHRC would allow the police officers in this scenario to escape responsibility for their outrageous actions by blaming the innocent black citizens for 'provoking violence' because they decided to assert their right to be treated equally under the law.

12. I am a reasonable person, and am quite willing to show restraint in the exercising of my rights during a short-lived situation wherein the police are actively engaged in law enforcement activities against criminals, but in the absence of a temporary 'clear and present danger' the OPP has no right to restrict my constitutional rights on an ongoing basis, or to arrest me should I decide to exercise those rights.

13. **Summary:** There have been three flag-raising events in Caledonia. Three non-natives, including me, have been arrested despite the OPP knowing we have committed no crime and intended to commit no crime. At each event the OPP created a different trumped-up charge to intimidate non-natives: 'Trespassing,' 'Breach of the Peace' and 'Obstructing Police' – all designed to help them 'get around' the Supreme Court decisions that protect our right to place Canadian flags on public utility poles. Even today, the OPP threaten non-natives with arrest for attempting to do so.

14. On Jan. 20, 2007 two Canadian flags were placed on a bridge across from DCE. An OPP officer removed one Canadian flag claiming it was a 'breach of the peace' because a non-native had placed it there while leaving the nother Canadian flag because it was placed there by a Native. Video footage of the conversation with the officer is available. Two weeks before this incident, Commissioner Fantino told the residents of Caledonia that the OPP had 'no authority to remove any flags.' Natives have placed dozens of flags across from DCE. Not a single native person has ever been stopped or arrested for doing so, and none of their flags have been removed by the OPP. Why?

15. My rights and freedom were violated by police officers who knew or ought to have known that my intended actions were lawful and protected by the Charter of Rights and the Supreme Court of Canada. Had I been of native heritage the OPP would have permitted me to place a Canadian flag on the utility poles, and they would never have arrested me. My rights and freedom were violated solely because of my race.

LONDON, ONTARIO

City/Town Complaint signed at

Date Day Month Year

Signature of Complainant

Human Rights Complaint Form

7(b). What remedy/resolution are seeking to resolve this complaint (See Guidelines)

1. Obtain a written apology from the OPP for violating my rights on Dec 16/06 and Jan 20/07 because of my race.
2. Obtain a written apology from the OPP for arresting me on December 16/06 because of my race.
3. Obtain a commitment from the Commissioner of the OPP that he will issue a directive that no officer shall interfere with a citizen's right to place items on public utility poles - as has been upheld by the Supreme Court of Canada in *Ramsden v. Peterborough (City)*, [1993].
4. Obtain a commitment from the Commissioner of the OPP that he will issue a directive that all officers are required to respect and protect the constitutional and human rights of all citizens, including those who are third parties to aboriginal land claims - as has been upheld by the Supreme Court of Canada in *Haida Nation v. British Columbia (Minister of Forests)*, [2004]. (See paras 52-56, Do Third Parties Owe a Duty to Consult and Accommodate?)

(See also, Jan 12/07 Plaintiff's Factum for Caledonia Class-Action suit by solicitor John Findlay at www.caledoniaclassaction.com: "*The Supreme Court of Canada has made it clear that third parties to Aboriginal treaty claims have no duty to consult or accommodate the group that is making the claim. Further, third parties are not subject to any duty or are required to make any accommodation to enable the province to obtain a remedy to an Aboriginal claim. It is up to the Province to find that remedy without affecting or compromising third party interests.*")

5. Obtain a commitment from the Commissioner of the OPP that he will issue a directive that all officers have an individual duty to disobey any order that could reasonably be interpreted as being intended to conduct policing operations based on race.
6. Apply other remedies as the Commission may deem appropriate.

LONDON, ONTARIO

City/Town Complaint signed at

Date Day Month Year

Signature of Complainant

8. What have you done, if anything, to stop the discrimination?

1. **Late Dec 06/Early Jan 07:** Contacted Dave McLean, Detachment Commander of Caledonia/Cayuga Detachments of OPP after my arrest on Dec 16/06. He was unapologetic for the actions of his officers.
2. **Jan 03/07:** I left a detailed message for the Vice President of the Ontario Provincial Police Association (OPPA) Mr. Ron Middel seeking a meeting to discuss ways in which we could work with the association to eliminate discrimination against non-natives. Mr. Middel did not return my call. On Jan 10/07 I again left a detailed message for Mr. Middel. He did not return my call.
3. **Jan 10/07:** I sent the OPP a message via their online webform saying that I was publishing an open letter on VoiceofCanada.ca rebutting Commissioner Fantino's public statements about us, and asking for an apology for defaming us. The Commissioner never responded.
4. **Jan 11/07:** Commissioner Fantino was invited to attend a townhall meeting in Caledonia to explain why the raising of a Canadian flag by non-natives is a 'breach of the peace.' The Commissioner did not respond.
5. **Jan 20/07:** After once again being blocked by OPP officers from placing a flag on a utility pole, I visited the OPP Unity Road detachment in Caledonia and requested a meeting with senior OPP officials. Commissioner Fantino was there. He met that day with native protesters who have used violence and crime against residents during their occupation, but he and his officers refused to meet with non-native protesters, including me, even though we have not committed a single crime in connection with our peaceful protests.
6. Before leaving, I left a copy of the speech I gave earlier that day with a sergeant, asking him to give it to the commissioner. This speech addressed the outrageous public statements made against us by members of the OPP and the Ontario Provincial Police Association (OPPA). I never heard from the commissioner.
7. **April 02/07:** Filed complaint against Commissioner Fantino with Minister of Community Safety and Corrections re alleged defamation. Met with Minister's consultant Mr. Rod McLeod on June 05/07. Complaint dismissed on June 29/07 **prior to Minister receiving his consultant's report.**
8. **April 04/07:** Filed complaint with OPP Professional Standards Bureau re my arrest Dec 16/06. Denied by OPP. Requested review by Ontario Civilian Commission on Police Services on June 12/07.
9. **April 04/07:** Sent copy of arrest complaint to Ombudsman's office who advised that I contact OHRC.
10. **May 01/07:** Filed complaint against Commissioner Fantino with Minister of Community Safety and Corrections regarding Commissioner's role in violating my constitutional rights on Jan 20/07. Met with Minister's consultant Mr. Rod McLeod on June 05/07. Complaint dismissed on June 29/07 **prior to Minister receiving his consultant's report.**
11. **May 01/07:** Filed complaint with OPP Professional Standards Bureau re violations of my constitutional rights on Dec 16/07 and Jan 20/07 by non-arresting officers. Denied by OPP. Requested review by Ontario Civilian Commission on Police Services on June 12/07.
12. **June 18/07:** Filed lawsuits against OPP/Ontario government for unlawful arrest, violations of constitutional rights and defamation.

9. Do you have a union? If yes, have you filed a grievance about the discrimination? If so, what happened to your grievance? N/A

LONDON, ONTARIO

City/Town Complaint signed at

Date Day Month Year

Signature of Complainant

CONTACT INFORMATION

This information will **not** be sent to the person(s) named in the complaint form

Please Forward This Information With Your Complaint Form

The personal information collected in this section of the human rights complaint form is for the purpose of contacting you during the proceedings of your human rights complaint only. The information will not be disclosed to any other person or organization, except as authorized by the ***Freedom of Information and Protection of Privacy Act***, R.S.O. 1990, c. F.31.

This information is collected under the authority of the Ontario ***Human Rights Code***, R.S.O. 1990, c. H.19, as amended, for the purpose of its enforcement. For information concerning the collection and use of this information, please contact the Registrar's Office, Ontario Human Rights Commission, 180 Dundas Street West, 7th Floor, Toronto M7A 2R9. Telephone 416-314-4561.

Personal Information

First name of complainant Mark	Last name of complainant Vandermaas	
Mailing address 371 Vesta Place		
City/Town London	Province ON	Postal Code N5Y 1G4
Home phone number 519.457.0709	Business phone numbers same	May we contact you at work? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

If any of this personal contact information changes during the proceedings of your complaint, it is your responsibility to inform the Commission

The information below is important, but *optional*. The Commission may use the information to locate you in the event that you forget to advise the Commission about your change of address.

Birth Date:	
Drivers' License No.:	
Social Insurance No. (SIN):	

Alternate Contact Information

Person who will know where to contact you in the event the Commission cannot locate you during the proceedings of your complaint

First name Gary	Last name McHale	
Address 612-30 Harding Blvd. W.		
City/Town Richmond Hill	Province ON	Postal Code L4C 9M3
Telephone Number 905.770.5435	Fax Number	