

Thunder Bay Police Service Discipline Hearing
In the Matter of Ontario Regulation 268/10
Made Under the Police Services Act, R.S.O. 1990,

And Amendments thereto:
And
In The Matter Of
The Thunder Bay Police Service
And
Constable Rob Steudle #260

Charge: Discreditable Conduct

Before:

Superintendent (Retired) M.P.B. Elbers
Ontario Provincial Police Adjudicator

Appearances:

Counsel for the Prosecution: Ms. Holly Walbourne
Thunder Bay Police Service

Counsel for the Defense: Ms. JoAnne Mulcahy
Thunder Bay Police Association

Penalty Decision with Reasons

The Hearing

Constable Rob Steudle #260 pled guilty on Thursday March 08, 2018 in Thunder Bay, Ontario and was found guilty of one (1) count of Discreditable Conduct pursuant to Section 2 (1) (a) (i) of the Code of Conduct contained in the Schedule to Ontario Regulation 268/10 as amended.

The charge pertains to Constable Steudle posting several comments on Facebook with several posts in response to Grand Chief Alvin Fiddler's letter to the editor of the Thunder Bay Chronicle Journal, entitled "**No Justifying Police Conduct**" constituting an offence against discipline as prescribed by the Ontario Police Act.

An agreed statement of facts was tendered in this Hearing by Counsel and marked as Exhibit #4.

Charge

1. *Constable Steudle is charged with one count of Discreditable Conduct.*
2. *The charge is as follows:*

It is alleged that between September 16th 2016 and September 18th 2016, while a member of the Thunder Bay Police Service, you did commit Misconduct, by DISCREDITABLE CONDUCT, in that you used profane, abusive or insulting language that relates to a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.

This is contrary to Subsection 2 (1) (a) (ii) of the Code of Conduct, Regulation 268/10 of the Revised Regulations of Ontario, as amended, contrary to section 80 (1) (a) of the Police Services Act R.S.O. 1990, c. P. 15, as amended.

Facts

1. *On September 15, 2016, the Thunder Bay Chronicle Journal posted an editorial titled "Racism claim not backed up". This editorial addressed a dispute over the accuracy of a local CBC news story in which it had been alleged that a facilitator in a Walk a Mile training session at the Thunder Bay Police Service made an accusation that she had been verbally assaulted by officers when the cultural training had been given. The editorial is attached as Appendix A.*

2. *In response to this Chronicle Journal editorial, Grand Chief Alvin Fiddler of the Nishnawbe Aski Nation posted a letter to the editor of the Chronicle- Journal on September 17, 2016 entitled "No justifying police conduct" writing that " the only thing worse than the conduct of Thunder Bay police officers as reported by the CBC is the attempt by the police, and this newspaper, to justify it." The editorial is attached Appendix B.*
3. *On September 17, 2016 and September 18, 2016, Constable Steudle, while off duty and through his personal Facebook account, made three posts. The Facebook posts are attached as Appendix C.*
4. *He did not identify himself as a police officer or as member of the Thunder Bay Police Service in these three personal postings.*
5. *On September 17, 2016, Constable Steudle, in response to Grand Chief Fiddler's letter to the editor, posted on Facebook " Give your head a shake Alvin Fiddler I think it's too foggy to see the truth."*
6. *On September 17, 2016, in response to Branden Warner's post on Facebook that " If you can't see the racism in the TBPS I suggest you open your eyes to reality ..it's pretty scary and I'm glad he's speaking up about it when others won't.", Constable Steudle posted on Facebook "you are blind to the real world."*
7. *Constable Steudle believed that Mr. Warner was describing the Thunder Bay Police Service as very racist and he did not believe that was accurate.*
8. *On September 18, 2016, in response to Branden Warner's post on Facebook that "The real world as in what?", Constable Steudle posted on Facebook "natives are killing natives and it's the white mans fault natives are drunk on the street and its white mans fault natives are homeless and its white mans fault and now natives are lying about how they are treated by white men an explanation is given and it's the white men who are lying. Well let's stop giving the natives money and see how that goes."*
9. *Constable Steudle readily admitted to the Thunder Bay Police Service and the OIPRD, at the first available opportunity, that he authored these Facebook posts.*
10. *Constable Steudle admits that the words in his personal Facebook posting did not convey what he intended them to.*
11. *Constable Steudle acknowledges he made a mistake in authoring that Facebook post.*
12. *Constable Steudle acknowledges that he engaged in discreditable conduct.*
13. *Constable Steudle showed a willingness to engage in mediation through the OIPRD process.*

14. Constable Steudle indicated he would embrace the opportunity to sit down with Grand Chief Fiddler to explain his comments.

15. Mediation did not occur.

16. Throughout his thirty (30) years of service, Constable Steudle has no prior discipline history with the Thunder Bay Police Service.

Penalty

17. The appropriate penalty, by way of disposition without a hearing, is a forfeiture of five (5) days, or forty (40) hours of time to be worked by the officer.

FINDINGS:

Ms. Holly Walbourne representing the Thunder Bay Police Service and Ms. Joanne Mulcahy representing Constable Rob Steudle #260 has proposed a joint submission of forfeiture of forty (40) hours pursuant to Section 85 (1) (f) of the Police Services Act.

Counsel has provided a joint case book marked as Exhibit #5 containing eleven (11) cases to assist me in determining an appropriate disposition to support their position on this case. I will not recite the cases; however, I have read and considered the cases provided by Counsel.

As Counsel has stated, the cases submitted do not resemble the case before me today, they do assist the Tribunal in offering guidance and assistance in choosing the appropriate disposition.

Ms. Mulcahy has provided the Tribunal Exhibit #6 which contains letters of support, employment background and performance evaluations to support the joint disposition position requested by Counsel.

In Ontario, Legal Aspects of Policing (pages 6-14) provides that a police officer commits an offence against discipline by acting “in a disorderly manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force”.

The most recent application of the test for discreditable conduct in Ontario confirms that the test is “primarily an objective one” and that the conduct must be measured against the “reasonable expectations of the community”.

The Ontario Civilian Commission on Police Services has articulated the following approach regarding the meaning of “likely” to bring discredit upon the reputation of the police force:

The measure used to determine whether conduct has been discreditable is the extent of the potential damage to the reputation and image of the service should the action become public knowledge.

Ms. Walbourne made submissions to the Tribunal to support the joint position on disposition. She submitted that police officers hold a higher standard than the public and this type of behaviour cannot be taken lightly by the Service. The Service in Thunder Bay is under a spotlight and tension with the indigenous community is high. In trying to move forward with a partnership with the indigenous community comments made by this officer does not assist those persons attempting to resolve issues between the parties. She advises Constable Steudle acted impulsively and did not consider his comments. She submits Constable Steudle has learned from this act and immediately sought to rectify the comments placed on Facebook. A message must be sent to the officers of this Service that this conduct will not be condoned by the Service and will not be taken lightly. She submits that Constable Steudle has shown remorse and has pled guilty in an expedited manner. Constable Steudle has no previous discipline on his record with the Service and he is involved in the community both on and off duty.

Ms. Mulcahy also made submissions to the Tribunal in support of the joint position on disposition. She enlightened the Tribunal on the era of the electronic age and how quickly after you press “**send**” on your computer how you can place yourself in a terrible situation. This was the issue with Constable Steudle. He read the editorial from Grand Chief Fiddler and acted impulsively by placing a comment on Facebook which apparently did not say what the officer wanted it to say. After pressing send the deed was completed. It’s too late now to undo what was said in the comment. She acknowledged that Constable Steudle has no prior discipline on his record and is an outstanding volunteer in the community. He has since the time he made the Facebook entry taken some indigenous training and courses and also offered to meet with Grand Chief Fiddler to explain his entry. His family has suffered from the media attention. Ms. Mulcahy also spoke about the cases Counsel has provided in Exhibit #5 to support the position which I will not recite again. I also received Exhibit #6 which I have reviewed which outline Constable Steudle’s employment history, commendations and letters of support.

Constable Steudle was given the opportunity to address the Tribunal. He thanked Counsel for obtaining a resolution to this matter and solidifying it before the Tribunal on March 08, 2018, apologized to the Thunder Bay Police Service, community and to Grand Chief Fiddler for his actions.

Aggravating Factors

- a. **Public Interest-** It is common knowledge that the public holds police officers in a position of high trust and accountability. Constable Steudle is a police officer and as such the public expects him to obey the laws of the country and the policies of the Thunder Bay Police Service. It is the communities' expectations that a police officer more so than the general public would know and understand that a police officer would conduct himself properly while engaged in the electronic media world. He would also understand the repercussions of improper conduct and behavior as a sworn police officer. This type of behavior is not tolerable. A senior member of a police service would also recognize the sensitive issues that are being handled now in the Thunder Bay policing community with the indigenous community and act accordingly to assist this transition not hinder the progress or stymie any progress.
- b. **Seriousness of the Misconduct-** Abhorrent behavior displayed by a police officer in any service is extremely serious. This situation is compounded when the member is expected to be trusted by the community and his fellow officers. Constable Steudle betrayed the trust of his fellow officers, the community and the Thunder Bay Police Service.
- c. **Need for Deterrence-** The Thunder Bay Police Service must send the message to all members that conduct displayed and portrayed by Constable Steudle cannot be tolerated. Further, there must also be specific deterrence for Constable Steudle to send the message that this type of behavior is unacceptable.
- d. **Damage to the Reputation of the Police Service--** The credibility of the Thunder Bay Police Service as police agency is of paramount importance. The credibility of officers that ignore the laws of the land, ignore the policies of the Service or posts comments on the electronic media in haste without thinking of the repercussions can damage the Service. This is particularly damaging to the remaining members of this Service who are out doing their jobs in a proper manner and meeting the public. This conduct was reported by the media and caused irreparable damage to the Service and ultimately bad press to the residents of the community of Thunder Bay.

- e. **Management Approach to Misconduct-** The Thunder Bay Police Service is a Professional and disciplined organization. The Thunder Bay Police Service considers the actions of Constable Steudle to be serious in nature for this Service.

Mitigating Factors

- f. **Recognition of Seriousness of Misconduct-** Constable Steudle has recognized and accepted responsibility for his behavior.
- g. **Employment History-** To date, Constable Steudle has no previous disciplinary record prior to this occurrence. Constable Steudle has been a hardworking and diligent officer for Thunder Police Service for thirty years.
- h. **Ability to Reform or Rehabilitate the Officer-** It is expected that Constable Steudle will be able to rehabilitate himself and he will continue to be a useful member of the Thunder Bay Police Service.
- i. **Effect on the Police Officer and his Family-** Constable Steudle will have to work the forty hours and this will be time he will not be able to spend with his family however this will not affect the officers salary.

In Williams and the Ontario Provincial Police, the Commission identified three key elements a Hearing Officer must take into account when imposing a penalty. These include: the nature of the seriousness of the misconduct, the ability to reform or rehabilitate the officer, and the damage for the reputation of the police force that would occur if this officer remained on the Force.

Accountability, ethical behaviour and conduct are at a standard much higher than the public we serve. It is generally known and an accepted fact that the law requires a higher standard of conduct with Police Officers in their private lives than the ordinary citizen.

Credibility, honesty, integrity are characteristics that are earned. As one elevates him / herself through the ranks of this proud organization, those characteristics are more revered and treasured. It helps to create the professional image and excellence that the Thunder Bay Police officers strive to maintain.

I will not recite the cases in their totality, however I have read and considered the cases that I was provided by Counsel. As learned Counsel have stated, there are no cases found which parallel the case that is before me at present.

The cases as provided are for guidance to the disposition penalty that Counsel has sought to be appropriate for the findings of guilt on the Discreditable Conduct count rendered on March 08, 2018.

The cases provided by Counsel can be considered as instructive in assisting the Tribunal to reach an appropriate disposition.

I must be guided by the OCCPS decision of Schofield and Metropolitan Police Service.

“Consistency in the disciplinary process is often the benchmark of principles. The penalty must be consistent with the facts, and consistent with similar cases that have been dealt with on earlier occasions

In determining disposition, I must give due consideration for the public interest. It is common knowledge that the public holds Police Officers in a position of high trust. It is therefore extremely important that the Thunder Bay Police Service demonstrate that members will be held to that standard.

The public must be confident that the police will strive to set the example for those in the community. Anything short of this will be seen as a contradiction and serve no other purpose but to undermine the efforts of all serving officers and the explicit goals of the Thunder Bay Police Service.

I feel relatively confident that from this experience and pleading guilty at the earliest opportunity Constable Steudle has learned from his indiscretion and that he is fully prepared to take responsibility for his actions. I believe this also sends a strong message to all police officers that you must consider what you type before you send your message forward.

I believe that Constable Steudle understands and recognizes the seriousness of this misconduct. I believe today, he understands how his actions on September 16, 2016 have affected his career today.

He has shown remorse in part by pleading Guilty to this charge to this Tribunal. This action has prevented a potential lengthy Hearing and the calling of numerous witnesses at a Hearing.

Constable Steudle has been a member of the Thunder Bay Police Service for thirty (30) years. He is presently also serving as a Director for the Thunder Bay Police Association. He has held this position for seven (7) years. Constable Steudle also suffered a death in the family during this investigation which affected him greatly.

In addressing deterrence in this case I believe that specific deterrence is not an issue. As already stated, the officer has learned a great deal and I am confident he will continue serving the people of Thunder Bay in an acceptable if not an exemplary manner in the future.

General deterrence in this situation offers the Adjudicator in this matter the opportunity to remind all members of this organization that policing is serious business. You must as a police officer strive daily to complete your duties as a sworn police officer in a diligent and professional manner.

You are accountable for your actions and any deviance from those actions, the Thunder Bay Police Service will hold you accountable. This is what the public expects of the management of this Police Service.

Short of dismissal, it is unknown to this Tribunal or to the Thunder Bay Police Service whether this conduct will continue by this officer.

The proposed joint penalty submission submitted by Counsel in this matter suggests to me that the officer can be rehabilitated and once again be useful to this proud organization.

The conduct exhibited by this officer will cause damage to the Thunder Bay Police Service. He polices in a community where information flows freely. It is unknown to what degree this occurrence is known to the general public. I believe due to the coverage of the media and the sensitivity of the subject matter that it has been covered extensively and is widely known in the community.

The Thunder Bay Police Service will not tolerate unacceptable behaviour from its members and views this misconduct as serious. Posting such comments on Facebook or any other media or electronic process is totally unacceptable. The ramification of this act has led to more distrust of the Service. I hope Constable Steudle recognizes the potential harm that was created by his actions. A penalty must be imposed to protect the interest of the public we serve and send a message to the organization and its members.

The Thunder Bay Police Service will not tolerate unacceptable behaviour by its members. The rank structure within the Thunder Bay Police Service is the backbone of the organization. It must be respected. The proposed joint submission as submitted I believe sends a message to the organization and its members.

The Thunder Bay Police Service views this misconduct as serious and is cognizant that a penalty must be imposed to protect the interest of the public we serve. Constable Steudle, as a senior member of this organization, you have conducted yourself with a total lack of professionalism, judgment and courtesy, which is expected of all members of the Thunder Bay Police Service.

I commend you for attending your Hearing in Thunder Bay on March 08, 2018 with your Counsel and pleading Guilty to the misconduct charges as quickly as you have done. It was obvious to me that you wished to put this situation behind you. I will take into consideration your forthright manner in assessing the appropriate disposition.

I may have been more inclined to administer a more stringent penalty if it were not for the positive comments and observations relayed to me by Counsel and the supporting documentation that was presented by Counsel.

I have considered the submissions by Counsel, the agreed statement of facts and the joint penalty submission agreed to by Counsel and Constable Steudle

Disposition:

In light of the seriousness of this allegation and bearing in mind all the evidence before me, Constable Rob Steudle #260 will forfeit Forty (40) hours pursuant to Section 85 (1) (f) of the Police Services Act. This means you will work on your annual leave days or rest days until the prescribed hours are met. This will be completed in consultation with your supervisory staff at your work location. I believe that this can be completed within six (6) months from today's date.

A handwritten signature in blue ink, appearing to read 'M.P.B. Elbers', is written over a horizontal line.

**M.P.B. Elbers, Superintendent
(Retired)**

March 13, 2018

Appendix A

http://www.chroniclejournal.com/opinion/editorials/racism-claim-not-backed-up/article_ac7ac2a8-7abf-11e6-bb6a-238c8dd1e7a2.html

Racism claim not backed up

EDITORIAL Sep 15, 2016

A DISPUTE over the accuracy of a local CBC news story this week highlights the nature of relations between the media and government. Elsewhere in Thunder Bay Dougall Media refuses to deal with Mayor Keith Hobbs over comments on its website and won't air Crime Stoppers material in a dispute with police. Some readers may recall a testy former mayor Walter Assef threatening to beat up a reporter in council chambers.

A free and unfettered news media is an essential component of democracy. In English and French historical terms the press was referred to as the fourth estate of government, with the clergy, the nobility and the commoners. In Canada the House of Commons governs with the media obliged to hold it — and all levels of government — to account. It is in this context that the CBC — the public broadcaster — alleged in a news story this week that Thunder Bay police officers verbally abused a woman conducting a cross-cultural training session on indigenous issues.

Thunder Bay city clerk John Hannam, whose office produced the film used in the program, insists the woman misunderstood the behaviour of officers when they questioned statistics she presented on murdered and missing aboriginal women, and asked her to verify her claim that they treat indigenous people differently than other people.

City police chief J.P. Levesque called the CBC story biased and inaccurate while police spokesman Chris Adams explained that it is easy to misread people in situations like this. CBC stands by its story. What Levesque and Adams did not — could not — say was that police are feeling besieged in Thunder Bay on the issue of relations with the aboriginal community. Whereas there once was a distinct difference in how some officers treated aboriginal and non-aboriginal people, the force and city itself have gone to considerable lengths to change that. Both have established aboriginal departments and the training session was one of 12 conducted for the police, 11 of them without incident.

City police were accused of similar behaviour in the recent inquest into aboriginal student deaths but the coroner's report did not support the claim. There is disagreement over numbers of murdered and missing aboriginal women between Canadian police agencies and those who have successfully pushed for the inquiry.

Those realities are part of what lay behind how police officers responded to the facilitator's claims and numbers. How they expressed that disagreement is at the heart of the CBC story and the reaction to it. But police and the city are trying hard to improve relations with Thunder Bay's aboriginal community. Surely that is the more important story.

Police officer in Facebook case charged with discreditable conduct

MORE INFORMATION

Police investigate CJ Facebook comments alleged to be from city officers

One officer suspended, 4 reassigned in investigation of Facebook posts

Appendix B

http://www.chroniclejournal.com/opinion/letters_to_editor/no-justifying-police-conduct/article_2c7ea1e8-7c52-11e6-8760-3f5c5c7bb26e.html

No justifying police conduct

Letter to the editor by Alvin Fiddler Sep 17, 2016

Regarding The Chronicle-Journal editorial from Sept. 15, *Racism Claim Not Backed Up*:

The only thing worse than the conduct of Thunder Bay Police officers as reported by the CBC is the attempt by the police, and this newspaper, to justify it.

Grand Chief Alvin Fiddler

Nishnawbe Aski Nation

Police officer in Facebook case charged with discreditable conduct

MORE INFORMATION

Police investigate CJ Facebook comments alleged to be from city officers

One officer suspended, 4 reassigned in investigation of Facebook posts

Appendix C



Rob Steudle
Give your head a shake Alvin Fiddler I think it's too foggy to see the truth

September 17 at 7:36 AM · Like · 9 · Reply



Jeff Saunders
Just enough said by Mr. fiddler to stir the barrel and add to the problem

September 17 at 12:07 PM · Like · 9 · Reply



Branden Warner
If you can't see the racism in the TBPS I suggest you open your eyes to reality...it's pretty scary and I'm glad he's speaking up about it when others wont

September 17 at 9:51 PM · Like · 1 · Reply



Rob Steudle
Branden Warner you are blind to the real world

September 17 at 10:02 PM · Like · Reply



Branden Warner
The real world as in what?

September 18 at 3:50 PM · Like · Reply



Rob Steudle
Branden Warner natives are killing natives and it's the white mans fault natives are drunk on the street and its white mans fault natives are homeless and its white mans fault and now natives

Write a comment...





Rob Steudle

Branden Warner you are blind to the real world

September 17 at 10:46 PM · Like · Reply



Branden Warner

The real world as in what?

September 17 at 9:59 PM · Like · Reply



Rob Steudle

Branden Warner natives are killing natives and it's the white mans fault natives are drunk on the street and its white mans fault natives are homeless and its white mans fault and now natives are lying about how they are treated by white men an explanation is given and it's the white men who are lying. Well let's stop giving the natives money and see how that goes

September 18 at 7:57 PM · Like · 1 · Reply



Branden Warner

You have a lot to learn Rob

September 18 at 8:07 PM · Like · 1 · Reply



Write a reply...



Bruce Pappas

And of course it's always the natives who complain.

September 17 at 7:58 AM · Like · 1 · Reply

Write a comment...

