

**IN THE MATTER OF A REVIEW  
PURSUANT TO SECTION 117(1) OF  
THE *POLICE ACT*, R.S.B.C. 1996, c.367**

**And**

**Re: CONSTABLE  
SOUTH COAST BRITISH COLUMBIA  
TRANSPORTATION AUTHORITY  
POLICE SERVICES**

**NOTICE OF ADJUDICATOR'S DECISION**

TO: Mr. (Complainant)

AND TO: Constable (Member)  
South Coast British Columbia  
Transportation Authority Police Service

AND TO: Acting Deputy Chief Officer J.B. MacDonald (Chief Officer)  
South Coast British Columbia  
Transportation Authority Police Service

AND TO: Mr. Stan T. Lowe  
B.C. Police Complaint Commissioner

## OUTLINE

- A. BACKGROUND
- B. ALLEGATION
- C. ANALYSIS
- D. FINDINGS
- E. DECISION
- F. NOTICES

**A. BACKGROUND**

1. By Notice dated December 12, 2011, I was appointed by Stan T. Lowe, Police Complaint Commissioner (the PCC), to review a decision of Acting Deputy Chief Officer J.B. MacDonald (also Discipline Authority), South Coast British Columbia Transportation Authority Police Services (SCBCTAPS) who, after considering the Final Investigative Report of Staff Sergeant Doug Fisher (SCBCTAPS) (Professional Standards Unit), determined that "...the evidence did not appear to substantiate the following allegation against Constable  
"

That on February 27, 2010, it is alleged that Constable  
abused her authority by using foul or obscene language while interacting with the public. If proven the allegation would constitute misconduct pursuant to section 77(3)(a)(iii) of the *Police Act*.

2. Paragraph 2 of the Notice contains the following statement by the PCC:

"I believe that there is a reasonable basis to believe the Discipline Authority was incorrect in determining that the conduct of Constable in relation to her profane, abusive or insulting language, did not constitute misconduct."

3. On December 13, 2011, I received a binder containing the following materials from the PCC:

Registered Complaint of ,  
received on February 17, 2011 .....

Notice of Admissibility, dated February 28, 2011 .....

Notice of Complaint & Initiation of Investigation,  
dated March 17, 2011 .....

Progress Reports: .....

- |  |   |
|--|---|
| 1 <sup>st</sup> Report dated May 4, 2011   | 5 <sup>th</sup> Report dated August 29, 2011    |
| 2 <sup>nd</sup> Report dated June 2, 2011  | 6 <sup>th</sup> Report dated September 27, 2011 |
| 3 <sup>rd</sup> Report dated June 30, 2011 | 7 <sup>th</sup> Report dated October 25, 2011   |
| 4 <sup>th</sup> Report dated July 26, 2011 |   |

Request for Discontinuation re Sgt. Fred Thompson,  
dated May 16, 2011 .....

Notice of Discontinuance re Sgt. Fred Thompson,  
dated June 7, 2011 .....

Request for Extension of Investigation,  
dated September 7, 2011 .....

Notice of Extension, dated September 16, 2011 .....

Final Investigation Report prepared by Sgt. Doug Fisher,  
submitted on October 28, 2011 (PDF – 264 pages) .....

NOTE: The audio version of the following interviews is available on the  
attached thumbdrive:

- Cst , dated April 19, 2011
- Mr. , dated May 5, 2011
- Cst , dated April 11, 2011
- Cst , dated May 30, 2011
- Ms , dated October 18, 2011

Amended Notice of Appointment of Adjudicator,  
Dated December 12, 2011 .....

4. The Complaint in this matter resulted from a violent confrontation between individuals from two groups at the train station at Maple Ridge and is described, succinctly, in the Final Investigative Report of Staff Sergeant Fisher (Fisher):

At approximately 10:30 PM on February 27, 2010, the night before the last day of the Olympics, the complainant, , is returning to Maple Ridge on the West Coast Express with his girlfriend, , and an extended group of friends after having been downtown enjoying the Olympic events. The train is very crowded and seated near the group is another party of much younger, drunker, people. There are a lot of intoxicated individuals on the train. has an exchange of words with this other group telling them to not use profanity around some of the children on the train. Beyond this exchange there is no connection between the two groups.

When the train gets into Maple Ridge station a large number of people get off, including the party and the other younger group. As they all make their way out of the station and into the parking lot there is a verbal and physical exchange between Ms. and another female. This results in a pushing match. Mr. witnesses this and makes his way towards Ms. Before he can get there he is intercepted by two males from the other group, , and punches from behind and knocks him to the ground. Both males now kick several times in the head. This results in several, severe and long lasting

injuries to Mr. It is a chaotic event with many people involved in the skirmishes.

There is a CP Police officer, Constable alone on the platform, as the train is just now leaving with its compliment of Transit Police on board heading east. He signals a conductor to stop the train and summon the Transit police to come and help him. He enters the fray with as many as twenty individuals fighting around him. is punched by a female and is bleeding as the Transit Police arrive. As the Transit Police arrive the r group has disbursed the parking lot. CP Constable and Transit Police Constable go after that group and check parties out on the street, away from the parking lot where Transit Police Constables and are dealing with the parties and some other persons still fighting.

5. As a consequence of this incident, ( ) submitted a formal *Police Act* complaint against Constable ( ) which, in part, is as follows:

On February 27, 2010 you attended a fight in the parking lot at the West Coast Express Train Station in Maple Ridge.

Mr. states the following: Upon regaining consciousness, I was greeted by Cst. About a meter away from Cst. there was a young man with no shirt on covered in my blood jumping up and down and yelling. He fled the scene when Cst. told him to stop shouting and sit down. For some reason neither Cst. or Cst. pursued the young man. Everyone in my group were frantically pleading with both officers to chase the young man, who had by then caught up to a large group of males about 100 yards away who were also fleeing the scene. I asked both officers why they weren't chasing after them, to which Cst. replied, screaming, "Don't fucking tell us how to do our jobs. Sit the fuck down, calm the fuck down, and shut the fuck up." After this I was angry and confused. I remember asking how they could just let them get away. Finally one of the officers radio'd for help and I believe the Railway Police, who just happened to be on scene as well apprehended the men. At this point, my brother-in-law ( ) pointed out to Cst. that there was a knife on the ground right beside where I had previously been lying unconscious. I asked if they could use it to help catch the guys who jumped me. At this point Cst. again began screaming at me "this isn't fucking C.S.I. I thought I told you to sit the fuck down and shut the fuck up." Cst. apologized for the way his partner was speaking to me and assured me that they would indeed finger print the knife and cross reference it with the prints of the suspects. He then checked me over to make sure I hadn't suffered any stab wounds (there was so much blood it was hard to tell). After checking me over, Cst. said that I needed to be checked over and an ambulance was called to the scene. At this point, I realized that two people in my party ( & ) were in handcuffs. I asked why they were handcuffed and Cst. began to explain but was cut off by Cst. who was yet again screaming at me, "This is the last time I'm going to tell you to sit the fuck down and shut the fuck up." At this point I was fed up. I asked Cst. "what the fuck is your problem? I am the victim here. I wasn't looking for this. Fuck, I didn't even see it coming." At this point, Cst. again began shouting "listen, everyone here is drunk. We don't know what the fuck happened. How do we know you're the victim? At this point, my fiancé ( ), screamed back at Cst. "how the hell can you say that? Look at him for fuck sakes. Come on, it's not exactly rocket science." Cst. replied "Listen you little bitch calm down and shut the fuck

up." I couldn't believe what was happening. At this point, [redacted] asked me for a cigarette. I asked Cst. [redacted] if that would be ok. He said "sure" and I began walking towards [redacted] to give him a smoke. Cst. [redacted] again began shouting "if you take one more step, you're gonna be in fucking cuffs." I laughed out loud, frustrated, and asked Cst. [redacted] if she really thought putting me in cuffs was going to make or break my evening. I walked to [redacted] and gave him his smokes. Shortly after the ambulance arrived, Cst. [redacted] greeted the two paramedics and they stood chatting and chuckling for about 15-20 minutes. Finally Cst. [redacted] spoke up and said that I needed medical attention. After 5-10 more minutes a paramedic came to check me over. He had clearly been influenced by Cst. [redacted] as he was very rude, condescending, rough and rude. At this point I said that I was going to take a cab to the hospital. I asked to go on record that I didn't feel safe travelling in their ambulance. While waiting for our taxi, I asked Cst. [redacted] to take my statement. He seemed quite surprised by this request and said that I should go home, gather my thoughts, calm down and somebody from their office would call me the next day. I asked him for his badge # and file #. He seemed surprised by this also but reluctantly obliged. He gave me a card with the info and I took a cab to the hospital. I waited for a call from the Transit Police for seven days, and when I still hadn't received a call, I placed a call to them. I spoke to a female receptionist and gave my file #. She told me that neither of the officers were in the office until later in the day. I specifically requested not to receive a call from Cst. [redacted] as she had been very rude and unprofessional. Later that day, in spite of my request, I received a call from Cst. [redacted]. It was a very frustrating conversation in which Cst. [redacted] said many disturbing things.

1. There was "no evidence that a crime had been committed." I listed my injuries and she said that they didn't prove anything as "all evidence pointed to a drunken brawl." She said there were 17 people involved on the scene. I told her I was only in a group of 5 and asked what kind of fight would be 12 on 5. I reiterated that I never engaged anyone verbally or physically, and was attacked from behind. I told her to check my info and that I wasn't a violent person and had no criminal record.
2. She said "You're actually not as squeaky clean as you claim." I asked what she was talking about to which she answered "Well, you had a 24 hr driving suspension in 2004." I asked what the hell that had to do with anything and she replied "It's a character thing."
3. When I asked her about the knife she quickly responded that she had no record of any weapon being found and that maybe I was confused as I had been drinking.
4. She said that the suspects were minors (which I now know to be a lie).
5. Unless I could identify them there was nothing the police could do. I asked why I had to ID them when they were caught on the scene and she said that they had claimed that I had attacked them. I asked if any of them had been injured or tried to follow up with her. She simply responded "No", and said again there was nothing she could do. Immediately after this call I contacted Victim Services and told them everything.

Some months passed by and I was still unable to return to work. I placed another call and asked to have a Staff Sgt. [redacted] to return my call with an update. Sgt. [redacted] of the Transit Police returned my call within a day or two.

Upon speaking to Sgt. [redacted] I was again very frustrated with the lack of action by this department!

He said that:

- a) There had been no assault investigation filed and
- b) That I was cleared medically on the scene and
- c) That there was no knife filed in evidence.

I explained my injuries and also the fact that I had already explained and described my injuries to Cst. [redacted] one week after the crime. I also told Sgt. [redacted] that I had photographs documenting my injuries. At this point Sgt. [redacted] told me that unless I could find a third party witness there was really nothing he could do but would be happy to take my statement. I waited to contact him until I found a witness ([redacted]).

Since then, the officers have been much more diligent in their investigation. However, with the evidence I had it was hard for them to continue to do nothing.

It is important to mention that the treatment I have received from the Transit Police (until now) has been at times harder on me than the physical effects of the assault itself. I have lost faith in the policing system and the safety of society. The fact that I could have been, as a criminal record free, hard working, tax paying citizen, and innocent victim of a violent crime, put through all of this disrespect and attack of character. I look forward to hearing what is going to be done to right this horrible wrong.

## **B. ALLEGATION**

### **6. Abuse Of Authority**

That on February 27, 2010, it is alleged that Constable [redacted] abused her authority by using foul or obscene language while interacting with the public. If proven the allegation would constitute misconduct pursuant to section 77(3)(a)(iii) of the *Police Act*.

## **C. ANALYSIS**

7. Fisher interviewed [redacted] and [redacted] (all members of the SCBCTAPS), [redacted] and conversed on the telephone with ([redacted]) who was considered to be an independent witness.

8. All interviews were recorded and transcribed.

9. I have read all transcribed interviews but did not find it necessary to listen to sound recordings of those interviews.
10. My decision in this matter rests with my evaluation of the information provided in the Duty Reports and interviews of \_\_\_\_\_ and \_\_\_\_\_ and the interviews of \_\_\_\_\_ and \_\_\_\_\_. I will comment on the information provided by each of those individuals.

**1. Constable**

11. A fair summary, in my judgment, of \_\_\_\_\_ information is as follows:
- At the time of her response to the scene of the confrontation, she was “burnt out” and “tired.” (*interview lines 25,26*)
  - Her “adrenalin level was high, my heart rate was up and my mind was racing.” (*interview lines 84,85*)
  - She was scared and had “never been part of a fight this big before.” (*interview line 25*)
  - She does not recall any conversation with \_\_\_\_\_. “There was a possibility she did but it would have been brief.” (*interview lines 189, 190*)
  - She does not recall using any profane language directed towards \_\_\_\_\_ but stated “At some point in time, I will confess that I have told people to shut the fuck up and sit the fuck down or something terrible is going to happen to you.” (*interview lines 444 to 447*)

**2. Constable**

12. I summarize \_\_\_\_\_ information as follows:
- He had received and read a copy of \_\_\_\_\_ Complaint Form filed against \_\_\_\_\_ and also a copy of the Notice of Complaint and Initiation of Investigation Document.
  - When asked by Fisher if he heard \_\_\_\_\_ swearing at \_\_\_\_\_ he replied: “I do not recall any specific shouting from her.” (*interview lines 329, 330*)



- When asked by Fisher “Did you hear \_\_\_\_\_ tell him to “Sit the fuck down,” he replied: “I might have heard her say something similar to myself. I’ve read his allegation.” N (*interview lines 361, 362*)
- He observed \_\_\_\_\_ and who he believed was \_\_\_\_\_ girlfriend speaking to two Ridge Meadows RCMP members and overheard “exclaiming something about how he was being treated.” (*Duty Report, par. 12*)

### 3. Constable

13. I summarize \_\_\_\_\_ information as follows:

- She was in no proximity to hear any conversations that may have occurred between \_\_\_\_\_ or anyone at the Maple Meadows Station.
- Although in the proximity of \_\_\_\_\_ and \_\_\_\_\_ she does not remember “any unprofessional language being used or any inappropriate behaviour occurring from either one of them.” (*interview lines 98 to 102*)
- When asked by Fisher if she remembered \_\_\_\_\_ swearing at somebody she replied: “I don’t remember her swearing at anyone.” (*interview line 186*)

4.

14. \_\_\_\_\_ heard a verbal exchange between a female officer and \_\_\_\_\_ but is unable to recall anything that was said.

5.

15. I will comment on \_\_\_\_\_ information in my concluding observations.

### D. FINDINGS

16. 1. I can find no reason to conclude that \_\_\_\_\_ concocted his complaint about \_\_\_\_\_ use of abusive and profane language towards him. Also, there is no information as to \_\_\_\_\_ complaining of the manner in which other officers conducted themselves, verbally, in the course of the investigation.

17. 2. I find, as being reliable information, the following:

- statement, taken, in part, from his Complaint Form and the Notice of Complaint and Initiation of Investigation document:

"Upon regaining consciousness I was greeted by Cst. About a meter away from Cst. there was a young man with no shirt on covered in my blood jumping up and down and yelling. He fled the scene when Cst. told him to stop shouting and sit down. For some reason neither Cst. or Cst. pursued the young man. Everyone on my group were frantically pleading with both officers to chase the young man, who had by then caught up to a large group of males about 100 yards away who were also fleeing the scene. I asked both officers why they weren't chasing after them, to which Cst. replied, screaming, "Don't fucking tell us how to do our jobs. Sit the fuck down, calm the fuck down, and shut the fuck up." After this I was angry and confused. I remember asking how they could just let them get away. Finally one of the officers radio'd for help and I believe the Railway Police, who just happened to be on scene as well apprehended the men. At this point, my brother-in-law ( ) pointed out to Cst. that there was a knife on the ground right beside where I had previously been lying unconscious. I asked if they could use it to help catch the guys who jumped me. At this point, Cst. again began screaming at me "this isn't fucking C.S.I. I thought I told you to sit the fuck down and shut the fuck up."

- statement, taken, in part, from his Complaint Form and the Notice of Complaint and Initiation of Investigation Document:

"Cst. apologized for the way his partner was speaking to me and assured me that they would indeed finger print the knife and cross reference it with the prints of the suspects."

- statements, taken, in part, from his Duty Report dated 2011-03-21 and his interview with Fisher on 2011-04-11:

"Two Ridge Meadows RCMP members were speaking to Mr. and I believe his fiancée, as well. I overheard Mr. explaining something about how he was being treated, to which the RCMP member said something similar to, 'Until we figure out what is going on, everyone is a suspect.'"

18. 3. I find, as being unreliable information, statements in answers to questions from Fisher in her interview on 2011-04-19:

- **Lines 428 to 435**

FISHER: "And he alleges that you screamed at him, "Don't fucking tell us how to do our job. Shut the fuck down, calm the fuck down and shut the fuck up." Do you remember saying that to him?"

No.

FISHER: Do you remember telling him anything?

I don't – don't remember any contact with him."

- **Lines 450 to 472**

FISHER: "So I'll ask you again: Is there a possibility you might have told Mr. to sit the fuck down?"

If I had told Mr. to sit the fuck down, I would remember telling Mr. to sit the fuck down. I'd remember. I understand that we do things in the heat. I told to stay the fuck down. I remember that. I remember my interaction with her.

FISHER: So you –

If I – if I had interacted with –

FISHER: -- you remember having an interaction with –  
Yes.

FISHER: -- that could have mistook for being related in his direction? I'm only – I'm supposing he could have.

I don't recall having contact with so I don't – and I would remember telling him. I would remember telling him, speaking to him that way.

FISHER: Okay.

And I don't remember having any contact with him or saying those things to him.

- **Lines 473 to 494**

FISHER: Okay. And he relates, pointing out a knife to Constable and he relates that he asked Constable if he was going to seize it. And at that point in time, Constable again began screaming at me – quote – "This isn't fucking CSI. I thought I had told you to sit the fuck down and shut the fuck up." Again –

That's not something I would say and I did not say that. I don't –

FISHER: Okay.

-- remember getting any – I don't even remember a knife on scene.  
Don't remember anything about a knife. I never saw a knife. I don't remember anything about a knife.

19. It is noted that \_\_\_\_\_ fiancé, \_\_\_\_\_, and his brother-in-law, \_\_\_\_\_ were not, apparently, contacted by Fisher. Also, it appears that Members of the Ridge Meadows RCMP Detachment were not contacted to provide any information pertaining to their conversation with \_\_\_\_\_ about the way he had been treated—a conversation which was observed, overheard and recalled by \_\_\_\_\_ in his Duty Report and his interview with Fisher and which took place while \_\_\_\_\_ was at the scene.

**E. DECISION**

20. I have determined (applying the onus of proof as being on the balance of probabilities) that it appears that on February 27, 2010, Constable \_\_\_\_\_ abused her authority by using foul or obscene language while interacting with the public and that, if proven, the allegation would constitute misconduct pursuant to section 77(3)(a)(iii) of the *Police Act*.
21. In accordance with section 117(8)(d) of the *Police Act*, I direct that a Prehearing Conference be offered to Constable \_\_\_\_\_.
22. The disciplinary measure being considered is a reprimand.

December 23, 2011

Date

Hon. H. Benjamin Casson, Q.C.,  
Adjudicator and Discipline Authority

**F. NOTICES**

23. In accordance with section 119 of the *Police Act*, Constable \_\_\_\_\_ has the right to request permission to call, examine or cross-examine witnesses

at the discipline proceeding. Such a request must be in writing and submitted within 10 business days following receipt of the Notice of Decision.

24. The Complainant, \_\_\_\_\_, is hereby given notice that, pursuant to section 113 (1) of the *Police Act*, he has the right to make submissions, oral or written, with respect to the complaint; the adequacy of the investigation; and the disciplinary or corrective measures that would be appropriate.

“Hon. H. Benjamin Casson, Q.C.”  
Hon. H. Benjamin Casson, Q.C.,  
Adjudicator and Discipline Authority