

Notice of Hearing
Police Services Act, R.S.O. 1990, c.P.15, as amended

TO: Sergeant Steven TEDFORD (1085)

YOU ARE ALLEGED TO HAVE COMMITTED MISCONDUCT IN THAT YOU DID WITHOUT GOOD AND SUFFICIENT CAUSE MAKE AN UNLAWFUL OR UNNECESSARY ARREST, contrary to Section 2(1)(g)(i) of the Schedule Code of Conduct of Ontario Regulation 123/98 and therefore, contrary to Section 80(1)(a) of the Police Services Act, R.S.O. 1990, as amended.

STATEMENT OF PARTICULARS:

Being a member of the Toronto Police Service attached to Number 31 Division, you were assigned uniform duties.

On Saturday, June 26, 2010, you were on duty and assigned to the G20 Summit detail.

You arrested S.G. for Possession of a Weapon without having the requisite grounds to do so.

In so doing, you have committed misconduct in that you did without good and sufficient cause make an unlawful or unnecessary arrest.

HEARING DATES:

May 1st, 2nd, and June 17th, 2014.

COUNSEL:

Prosecution: Brian Gover
 Edward Marrocco

Defence: H.G. Black, Q.C.

BACKGROUND:

On Saturday, June 26, 2010, the meeting of the G20 was to take place in Toronto. There was a parade forming, to protest the G20 meetings, commencing at Allan Gardens, to Queen's Park and to end at Queen Street. This resulted in an extensive police presence at Queen's Park, south on University Avenue, west on Queen Street, and in the financial area of Bay and King Streets.

There was widespread rioting in the downtown area with extensive damage to private property and the burning of at least three police vehicles. This lawlessness was caused by an organized gang called the "Black Bloc".

Pursuant to the *Public Works Protection Act (PWPA)*, R.S.O. 1990 c.p. 55 (Exhibit 14), certain security fencing was established to prevent protestors from entering an area intersected by John Street and Wellington Street in the City of Toronto. This intersection was patrolled by a group of police officers supervised by Sgt. Tedford.

EVIDENCE:**Sally Jo Birch Goodwin**

Ms. Goodwin testified that she is approximately 29 years-old and a resident of Peterborough, Ontario. She is a part-time reporter for community newspapers in the Peterborough area and in this capacity obtained certification as a reporter from the "alternative media co-op" to attend the G20 meeting being held in Toronto. Her purpose was to observe, document and record the goings-on of the meeting and the public reaction.

On Saturday, June 26, 2010, she testified that she arrived at Allan Gardens to participate in the planned peaceful protest march to Queen's Park, continuing down University Avenue to the intersection of John Street and Queen Street. Unfortunately, the march turned into a riot and Ms. Goodwin continued to record the illegal activities until warned by members of the "Black Bloc" to stop taking photos.

Ms. Goodwin testified that she had heard of a security fence that was constructed around an area to protect the attendees of the G20 conference. As it was in the area of John Street, she decided to find it, photograph it and try to interview any police officers who were attending at the fence. She changed her clothes at a local restaurant and intended to proceed in a southerly direction on John Street to the fence. She was wearing light blue jeans, white running shoes, and a bandana and she was carrying a backpack. In the backpack there was water in a plastic bottle, a plastic bottle containing apple cider vinegar for tear gas protection together with a face cloth and her identification.

It was approximately 10:20 – 10:30 p.m. as Ms. Goodwin started to proceed in a southerly direction on John Street. It was raining, street lights were on and there was little or no pedestrian traffic. She noted a police line on Wellington Street 20-30 feet away and noted the security fence about 15 feet away.

As she continued to approach the security fence she noted what she described as a large police officer approach her. Ms. Goodwin was asked why she was there and she replied she wanted to see the fence and take pictures. The officer, later identified as Sgt. Tedford, asked to see the backpack. Ms. Goodwin refused and claimed on a few occasions that it would be an illegal search. Sgt. Tedford grabbed the backpack causing Ms. Goodwin to go to the ground where she was by pinned by Sgt. Tedford with his knee. She testified that she asked him why she was being arrested but that there was no reply. She testified that she also asked for her rights to counsel and received no reply. There was also no reply to the request for Sgt. Tedford's name and badge number.

Upon again asking why she was being arrested, Ms. Goodwin testified that Sgt. Tedford said, "that I was not allowed on that road (John Street) because that was the new law and I was breaking the law" (Exhibit 7, page 243). After her arrest, Ms. Goodwin testified that her backpack was searched and the contents thereof were examined (Exhibit 13 – OIPRD Statement – page 38).

As a result of the search, a fellow officer located a substance that he suspected was vinegar and possibly being used as an ingredient in a "molotov cocktail". He advised Sgt. Tedford of his findings and Sgt. Tedford accepted his opinion regarding the use of the item and requested further investigation at the detention centre.

Ms. Goodwin was processed at the scene, ie. John and King Streets and taken to the Eastern Avenue detention centre where she was detained for approximately 24-26 hours. She was released without any charges or record of arrest.

Sgt. Steven Tedford

Sgt. Tedford was sworn in as a police constable in May, 1993. On Saturday, June 26, 2010, he was supervising a patrol unit at the intersection of John and Wellington Streets during the G20 meeting. The area was cordoned off by a security fence authorized pursuant to the provisions of the *PWPA*. He was instructed to be aware of the *Act* and arrest powers of persons who were within 5 metres of the fence and who refused to move from that position. Sgt. Tedford made himself aware of such powers in that if a person being advised to leave a public work being there without lawful authority may be arrested without warrant.

At the material time, Sgt. Tedford and the police line was about 15 feet away from the fence and approximately 3-4 feet north of the centre line of Wellington Street.

Sgt. Tedford observed Ms. Goodwin walking towards him in a southerly direction on the east side of John Street. She was advised that she would have to turn around as the area was closed. Although there was eye contact between the two parties, Ms. Goodwin continued southerly and a further warning was given with no response and no stopping by Ms. Goodwin. As she passed Sgt. Tedford, he grabbed her backpack, pulled her back and advised her that she was in breach of the 5 metre rule and was under arrest for such breach. She was handcuffed by a female officer, searched and taken to a holding spot at the intersection of John and King Streets where Sgt. Tedford began the processing by completing the arrest sheet (Exhibit 5).

During the preparation of the arrest sheet, Ms. Goodwin's backpack was searched and a plastic bottle containing a substance that smelled like apple cider vinegar was located. This was identified as a possible "Molotov cocktail". The information was accepted by Sgt. Tedford and noted by him on the

arrest sheet for further investigation; in addition to the original ground for arrest of breaking the 5 metre rule in regards to the security fence and refusing to leave.

BURDEN OF PROOF:

The onus is upon the prosecution to provide, “weighty, cogent and reliable evidence to satisfy a fair and reasonable person of the guilt of the police officer”. It has been held in a number of similar matters that the standard of proof is “clear and convincing”. The allegations must be proven by clear, convincing and cogent evidence (*Reference: Bernstein & College of Physicians and Surgeons of Ontario (1977), 15 O.R. (2d) 447 at pp. 470-71*).

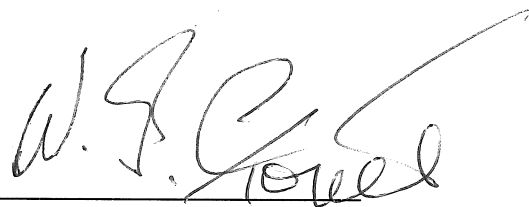
In this matter, I feel that Ms. Goodwin did not properly comprehend as to if and on what charge she was originally arrested. Through reconstruction of the evidence and the disclosure, she recalls being placed under arrest for being on the street at or near the security fence. She was released within 24 hours with no charges or evidence of the primary arrest. Her attention was fastened to the subsequent search and what was found. The more serious charge of “possession of a weapon” was never laid as the reviewing officers at the detention centre properly did not see any reasonable and probable grounds to lay such a charge.

I find that Sgt. Tedford laid the primary charge of breach of the *PWPA*. Upon searching the backpack incident to arrest, a plastic bottle with traces of vinegar was found and Sgt. Tedford sent the objects to the detention centre for further investigation with the possibility of further charges.

Sgt. Steven Tedford has been charged with committing misconduct as he made an unlawful or unnecessary arrest upon Sally Goodwin for the offence of “possession of a weapon” without reasonable and probable cause. I find that there is no clear and convincing evidence that Sgt. Tedford made such an unlawful or unnecessary arrest and this charge will therefore be dismissed.

In respect of the possibility of the primary offence being proven by the total evidentiary foundation, I find that the evidence respecting the charge of breach of the *PWPA* has not met the requirements of “clear and convincing evidence”.

DATED at Toronto, this 15th day of September, 2014.

A handwritten signature in black ink, appearing to read 'W. S. Gonet', written over a horizontal line. The signature is stylized and cursive.

Walter S. Gonet
Hearing Officer