

State accountability not just a U.S. problem



Toronto civil litigator [Sarah O'Connor](#) says citizen journalism and cellphone videos have created more awareness around the issue of state accountability and highlights that police and enforcement officer misconduct is not just an American problem.

Earlier this month, a YouTube video showing a New York Police Department detective having an angry exchange with an Uber driver was widely circulated through social media. [CNN](#) reports that the officer caught on camera “faces suspension, reassignment or loss of his clearance after the video of the altercation went viral.”

In Vancouver, a recent YouTube video of a police officer smashing a motorist’s window grabbed headlines and had some commenters wondering what rights drivers have when pulled over by police.

“According to the Vancouver police, the incident — which happened in November — resulted in the driver being charged with possession of a controlled substance, possession for the purposes of trafficking and obstructing a police officer,” [CBC](#) reports. The article goes on to state the police won’t talk about the case specifically as it’s still before the courts.

Last week, amateur video surfaced showing a violent confrontation between two Toronto Transit Commission special constables and two civilians at Union station following a hockey game. [CP24](#) reports that Toronto police are investigating the actions of the transit enforcement officers in question.

While these specific incidents are currently under investigation or before the courts, O’Connor tells [AdvocateDaily.com](#) that generally, amateur video of an altercation could boost a plaintiff’s credibility in a civil case.

“Someone who has video footage of an incident would be more likely to start litigation,” says O’Connor, whose practice includes state accountability — which covers cases against federal and provincial public officers, Crown agents, police officers and prosecutors.

“Amateur video definitely gives more credibility to the marginalized people in society as this type of litigation is still very much one individual’s word against the police officer’s word,” she says.

O’Connor points to the recent shooting in South Carolina, where a police officer claimed he killed a black man in self-defence, but a bystander’s video recorded the officer firing eight shots at Walter Lamer Scott’s back as he ran away.

[CTV](#) reports that the officer, Michael Thomas Slager, was quickly fired and charged with murder once the video surfaced. The lawyer for Scott’s family stated: “What if there was no video? What if there was no witness, or hero as I call him, to come forward?” The lawyer also stated in the article that Scott’s family plans to sue the police.

O’Connor, principal of [O’Connor Richardson Professional Corporation](#), says citizen journalism and cellphone footage can directly contradict officers’ notes and make some cases easier to settle.

“With video footage of the incident, there is a strong incentive for the case to settle before trial,” she says.

She says that if someone was involved in an altercation with authorities and has cellphone footage of the incident, “their health and medical attention is always the first priority.” Once their health has been attended to, she recommends the footage and device be preserved. She also suggests they seek out a consultation with a civil lawyer who handles state accountability to get an opinion on their situation.

O’Connor says that on a broader level, the proliferation of cellphone footage has created more awareness around the issue of state accountability.

“Many Canadians believe state accountability is an American problem that doesn’t occur here; or if it does, the individual provoked the attack and deserved it,” she says. “The problem might be greater in the U.S., but it does exist in Canada. Getting that knowledge out is important, because without it, the public won’t demand accountability or change.”