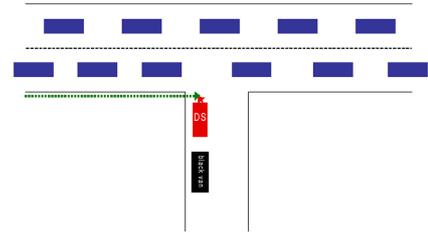


STRUCK BY A POLICE DRIVER (WARRINGTON 2013)

by Rutherford

Crossing a street in Warrington, Cheshire on 01 November, I was struck by a car driven by a Detective Sergeant of the Greater Manchester Police. The impact propelled me onto the bonnet of his car, and then to the ground. My initial injuries included sharp pains in my right knee where I had been struck by the vehicle and pain in my wrists, shoulders and lower back as a result of the force with which I had been propelled onto the bonnet of the vehicle.



The collision was witnessed by my wife and our adult daughter (who also photographed the registration number of the driver's vehicle).

The Detective Sergeant (DS) immediately and spontaneously accepted full responsibility for the incident and admitted that he had looked only to his right (in the direction of oncoming traffic), but not in front of his vehicle before accelerating.

From **The Highway Code**:

Rules for pedestrians (1 to 35)

8 - At a junction: If you have started crossing and traffic wants to turn into the road, you have priority and they should give way (see Rule 170). <https://www.gov.uk/rules-pedestrians-1-to-35/crossing-the-road-7-to-17>

Using the road (159 to 203)

170 - Take extra care at junctions. You should: Watch out for pedestrians crossing a road into which you are turning. If they have started to cross they have priority, so give way. Look all around before emerging.

<https://www.gov.uk/using-the-road-159-to-203/road-junctions-170-to-183>

Having identified himself as a police officer, I asked him (assuming that he would know) whether the incident should be reported. He repeatedly insisted that it was not necessary to do so. Trusting that his assurance was both honest and accurate, I was dissuaded from reporting the incident at the time it occurred.

The DS spoke briefly with the driver of the black van immediately stopped behind his (and who, judging by his appearance, we assumed was also a police officer). On a torn envelope provided by the driver of the black van, the DS gave me his telephone number and noted mine, and promised to call me the next day to find out the state of my injuries. (He did not.) The DS and the driver of the black van then left the scene.

Anticipating the possibility that my injuries may necessitate taking time from work, upon returning home, I telephoned Cheshire Police (in whose jurisdiction the collision occurred) and made a formal report of the incident. After providing the relevant details (the name, telephone and registration numbers of the DS, his assertion that it had not been necessary to report the incident, and the names of my wife and adult daughter as witnesses), I was informed that the incident 'most certainly should have been reported at the time' and that, as a police officer, the DS would/should have known this. I was told that a Cheshire police constable would be assigned to investigate the incident.

Ten days later, on 11 November, having made no effort to speak to my wife and adult daughter who had witness the incident, the investigating police constable (PC) sent an email informing me that:

I have spoken to the GMP [Greater Manchester Police] Officer who was also involved. The result of this is that he has produced an independent witness who backs up his account, therefore there will be no police action taken against the driver and slight injury RTC paperwork has been submitted for this incident.

The PC did not provide the details of the account provided by this "independent witness", or explain how (despite the DS's spontaneous and witnessed admission that he had been at fault) his account exonerated the DS. The implied assertion was that the account provided by this "independent witness" was both substantially different and more reliable than that of victim and two other witnesses he had not interviewed.

As later confirmed by a police Inspector, this “independent witness” was the driver of the black van. As both drivers had left the scene without exchanging contact details, the DS’s ability to produce this witness indicated that the two drivers were known to one another. This was later confirmed by the police Inspector.

Concerned by what appeared to be a selective use of witnesses and evidence, in my reply to the PC, I questioned whether a witness known to the driver (and who was therefore likely to provide an account of the incident favourable to the driver) could reasonably be described as “independent”. I suggested to the investigating PC that, had the circumstances been reversed, (that if, as a result of failing to yield priority, a member of the public had struck a police officer), it was reasonable to expect that the outcome would have been rather different. I received no further communication from the PC.

Dissatisfied with this outcome, I filed official complaints against both officers for what appeared to be their efforts to interfere with the administration of justice: with Greater Manchester Police against the DS for falsely claiming that it was not necessary to report the incident, and with Cheshire Constabulary against the investigating PC for what appeared to be a deliberate attempt to assist a fellow officer in evading the consequences of his careless driving, leading to a collision with a pedestrian.

In my two complaints, I submitted that, in their actions, both officers had clearly contravened the commitments made on police websites [<http://www.cheshire.police.uk/contact-us/complaints.aspx>] – that police officers are expected to:

- Act with honesty and integrity, fairness and impartiality
- Treat members of the public with respect
- Not abuse their powers and authority
- Act in a manner that does not discredit or undermine public confidence in the police service

The investigation by Manchester Police

In a letter dated 19 November, the Complaints Manager of Greater Manchester Police reported his finding that “I do not consider this to be a police complaint against [the DS as] his actions relate to his driving only” and, in a follow-up letter in response to mine, reiterated his finding that:

[The DS] was 'off duty' at the time of the collision with you. The fact you knew he was a police officer or told you he was does not mean that this constitutes grounds for a police complaint. Without knowing anything more about the collision other than the account provided by yourself [sic], I am not in a position to comment on what occurred. In these circumstances the officer was acting as a member of the public and not as a police officer.

I replied to the Complaints Manager that:

I disagree. As soon as he expressed a view as to what was or was not necessary under the law, off-duty or not, he was acting as a police officer. It was only because he was a serving police officer (whether on- or off-duty) that his assurance was expected to be accurate, honest and trustworthy. While I accept that you know nothing more about the collision than the details I provided and, accordingly, are not in a position to comment on what occurred, I had expected that the purpose of lodging a complaint was that it would prompt an investigation to find out what occurred (by, for example, questioning the other witnesses to the incident). That a police officer can (regardless of whether he or she is off-duty) misrepresent the law to a civilian and then find that the Professional Standards Branch takes no position on such behaviour is disappointing.

The investigation by Cheshire Police

In early December, I was contacted by an Inspector of Cheshire Constabulary. In his subsequent email, he acknowledged that the PC had “failed in his duty” in his investigation of the incident, but explained that, as it had already been determined that “no action would be taken against the driver”, it was not possible to reinvestigate the actions of the DS in the road traffic collision, as to do so “would be an Abuse of Process”.

In my reply to the Inspector, I suggested that, for a police officer to strike a pedestrian who had priority, and then, as a direct result of the “failure of duty” of another (who would be well aware of the protection afforded by ‘Abuse of Process’), is able to avoid any penalty might be described as ‘very convenient’.

(I find it ironic that the DS who struck me is assigned to the current 're-investigation' into the Hillsborough disaster – in which police investigators attempted to cover up the incompetence of other officers that resulted in death and injury to members of the public.)

The Inspector assured me that the necessity of avoiding both the fact and the appearance of bias is regularly emphasised to members of the force. He explained that “a management entry [will be put the constable's] annual appraisal” and expressed the hope that this will “restore some of the faith in the police service that has often been damaged by such unfortunate incidents”. So, after subverting an investigation into alleged wrongdoing by a fellow officer, the PC is to get ‘a note in his file’? (*And don't do it again...*) What does this say about the police response to evidence of collusion in an investigation? (And of course, with ‘a note in his file’, the PC need not fear any subsequent allegation of ‘interfering with the administration of justice’, as he will therefore also enjoy the same protection from ‘Abuse of Process’.)

The Inspector then sought my agreement to apply the “Local Resolution process” rather than a “Local Proportionate Investigation”. (LPis, he explained, “...lend themselves to accusations where officers are alleged to have committed an act which may or may not be justified in law”.) In reply, I asked whether it not a reasonable interpretation of the actions of the investigating constable that, in his selective use of evidence (in what appeared to have been an attempt to assist a fellow officer in evading the consequences of his careless driving, leading to a collision with a pedestrian), the investigating constable had ‘interfered with the administration of justice’ – which is “an act which may or may not be justified in law”?

In the report by the Complaint Manager of the Cheshire Constabulary, I was informed that:

Having reviewed the investigation report I am satisfied [that the] Inspector has completed a sufficiently thorough and proportionate investigation into your allegations. I found no evidence to suggest that [the PC] didn't conduct a thorough and fair investigation. The complaint is **Not Upheld**

The Complaint Manager asserted that the Inspector “obtained accounts from persons involved”. In an email from the Inspector at the outset of his investigation, he had confirmed that he would do so:

This would involve me investigating the sequence of events surrounding the incident and speaking to those persons involved [and] to confirm with key witnesses that they had not been spoken to by [the] PC

Contrary to his explicit undertaking however, the two witnesses to this collision named in my report were not contacted. I submit that this contradicts the Complaint Manager's assertion that “[the Inspector] has completed a sufficiently thorough and proportionate investigation into your allegations”.

The Complaint Manager asserted that:

There are clearly discrepancies in the accounts provided by you and [the] Detective Sergeant; notably, whether you declared any injuries at the time and any admission of guilt. In the absence of any corroboration it would not be possible to determine veracity.

Such “corroboration” would have been available had either investigator interviewed the two witnesses named in my original complaint.

That the Complaint Manager ignores these omissions in both of the investigations raises serious and legitimate concerns about the impartiality of his/her finding “that there is insufficient evidence to substantiate the allegation”. Furthermore, it is inexplicable that the account of a witness who did not exit his vehicle – and was therefore not in a position to be able to hear what was said by the DS following the collision – was accepted as reliable evidence as to “whether [I] declared any injuries at the time”.

The Complaint Manager asserted that:

[the PC] based his decision not to prosecute [the DS] on the evidence

As the PC chose not to interview the two witnesses to the incident named in my report, I challenge the Complaint Manager's assertion that his decision was based on the available evidence.

The Complaint Manager asserted that:

The presence of a witness that supports [the DS's] version of the incident is a significant factor

The presence of two witnesses whose evidence, had they been interviewed, would have supported my version of the incident is apparently not considered a significant factor. This indicates a clear bias in the selection and treatment of evidence.

In our telephone conversation of 02 December, the Inspector had confirmed that the “independent witness” whose account supports the DS’s version of the incident was known to the DS. (*Of course* this witness was known to the DS; how else would the PC have been able to identify and contact him?) Despite this however, the Complaint Manager asserted that:

it is not obvious to see what they would be seeking to achieve by ostensibly perverting the course of justice

That it is “not obvious” to the Complaint Manager why someone known to the DS might provide a favourable account of the incident in an effort to assist him in avoiding the consequences of his actions (striking a pedestrian who had right of way) beggars belief. Further, it has yet to be explained how any account could absolve a driver of responsibility for striking a pedestrian who had right of way.

The Complaint Manager asserts on behalf of the PC that he:

does not recall you mentioning your family being present as witnesses

Someone is being disingenuous. Surely the Cheshire Police service records telephone conversations. Had the recording of the telephone calls in which I had reported this incident been consulted, these would have established whether I provided this information. Apparently however, these recordings were not consulted and so, once again, evidence that would have established inconvenient facts was ignored.

The Complaint Manager asserted that, even if they had been interviewed, my wife and adult daughter

But they would also not be classed as independent which would affect the credence given to their evidence

I submit that this assertion is further evidence of bias. Consider:

- The evidence of a witness known to the DS who might reasonably have a motive to assist him in avoiding the consequences of his actions is deemed to be both “independent” and reliable.
- The evidence of two other witnesses is deemed to be unreliable on the grounds that they are known to me, as this “*would affect the credence given to their evidence*”.

Of course, whatever evidence these witnesses might have offered is moot because their evidence was dismissed *a priori* and was therefore ignored by both the PC and the Inspector.

At every opportunity in both ‘investigations’, evidence that would have supported my version of events was not only ignored, but the fact that it was ignored was rationalised and/or excused in a manner that protects the interests of all police officers concerned. I don’t know which I find more insulting: the demonstrable bias in this repeatedly selective use and evaluation of evidence – or the expectation that I should accept the legitimacy of the findings based on this. Accordingly, I dispute the finding that “there is nothing to suggest [that the PC] acted unfairly or displayed bias” in his investigation.

In an email, even the Inspector had acknowledged that:

[the PC] failed in his duty to speak to key witnesses to the road traffic collision, which may have had an impact on the decision to take no further action against the offending driver.

But this too, has now been ignored in the finding of the Complaint Manager who has concluded that

there is insufficient evidence to substantiate the allegation made. I found no evidence to suggest that [the PC] didn't conduct a thorough and fair investigation. [T]he investigation carried out by [the Inspector] has agreed with the decision made by [the PC] and is thus deemed impartial.

To recap:

1. Although I had right of way, I was struck by a police driver in direct contravention of (at least two articles of) the Highway Code resulting in injury.
2. The police driver falsely claimed that it was not necessary to report the incident.
3. The PC who investigated this incident exonerated the driver, a fellow police officer, on the basis of a demonstrably biased selection, use and evaluation of evidence.
4. Despite clear evidence of his biased selection, use and evaluation of the available evidence, the subsequent investigation into these events has now exonerated the PC on the basis of an equally biased selection, use and evaluation of evidence.
5. I am expected to accept the integrity of the review by senior staff of these events (and, by implication, that of the original investigation).

While one might have expected that in investigating allegations of wrongdoing by fellow officers, the police service would seek to build, rather than further erode, public confidence in the claim that we are all equal under the law, the subsequent review of these events have only reinforced the impression created by the original investigation that the police consider themselves able to act with impunity.

A police officer contravened the Highway Code and struck you? We made it go away. You complain that we made it go away? We've made your complaint go away too. The case is now closed. Have a nice day.

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