



VANCOUVER POLICE DEPARTMENT

REPORT TO THE VANCOUVER POLICE BOARD

REPORT DATE: July 2, 2015
COMMITTEE MEETING DATE: July 16, 2015
BOARD REPORT # 1507C02
Regular

TO: Vancouver Police Board Service and Policy Complaints Review Committee
FROM: Drazen Manojlovic, Director, Planning, Research and Audit Section
SUBJECT: Service and Policy Complaint #2015-110 against the Vancouver Police Department (VPD) Restaurant Watch Program

RECOMMENDATION:

That the Vancouver Police Board (VPB) Service and Policy Complaints Review Committee dismiss this complaint with reasons.

SUMMARY:

The complainant states that members of the VPD approached him inside the Coast Restaurant and ordered him to leave citing the Restaurant Watch program. The complainant alleges that one of the officers advised the complainant that he was a criminal and referred to his prior conviction in the early 1990s in the United States. The complainant asserts that the Restaurant Watch program should not be applied to him as he had served his prison time in the United States for a conviction that was more than 25 years ago. The complainant also takes issue with the Restaurant Watch program which, in his opinion, is fundamentally flawed and affords a far-too broad range of discretion to police.

Restaurant Watch is a public safety initiative focused on reducing violence in and around Vancouver restaurants resulting from the presence of gang members, organized criminals and their known associates. Participating restaurants enter an agreement with the VPD authorizing members of the VPD to act on their behest to deny entry to a restaurant, or remove from a restaurant, any patrons who meet the program's criteria.

Coast Restaurant is a participant of Restaurant Watch and the complainant met one or more criteria for ejection. A criminal record, in and of itself, is not a criteria for ejection and was not in this case, where it was clear the nature of complainant's recent association with gang members was the reason he was ejected. The complainant is the subject of recent (within the past five years) police-documented incidents, based on reliable information, of the complainant's association with gang members and his active participation this criminal lifestyle. His ejection was appropriate under the criteria of the Restaurant Watch.

POLICY:

The applicable policy and procedure (or legislation) is the Province of British Columbia (B.C.) *Trespass Act, Section 4 and 8.*

DISCUSSION:

Restaurant Watch

Restaurant Watch is a public safety initiative committed to providing a safe environment for the public. Specifically, the program is focused on reducing violence in and around Vancouver restaurants that results from the presence of gang members, organized criminals and their known associates. It is a partnership between the Vancouver restaurant industry, the B.C. Restaurant and Foodservices Association, Restaurant Canada and the VPD Restaurant Watch, which authorizes members of the VPD and its partner agencies to act on behalf of the participating restaurants, to deny entry to or remove any person whose lifestyle, associations, and activities pose a risk to public safety. There have been many examples of the program's success as a proactive measure to prevent crime. For example, members of the Gang Crime Unit, while conducting a Restaurant Watch patrol, recently seized a loaded handgun from a gang member inside a Vancouver restaurant.

Restaurant Watch's legislative authority is found in the B.C. *Trespass Act*, which authorizes the owner of a property, or their designate, to compel a person to leave the property. If a person does not leave the premises as soon as practicable, after being told to leave or attempts to re-enter, the person is deemed to have committed an offense. Essentially, the *Trespass Act* lawfully permits an owner of a private business to delegate their right to remove an individual from their premises to the VPD (provided that the removal is for bona fide reasons and not based on factors that would violate B.C.'s Human Rights Code). The Restaurant Watch program clearly outlines criteria for authorizing members of the VPD and its partner agencies to eject patrons, which are:

- Organized Crime and Gang members
- Associates of Organized Crime and/or Gangs
- Involvement in the drug trade
- History of serious and/or violent criminal activity
- History of firearms offenses

In conjunction with our regional policing partners, the VPD investigates gang members' activity and monitors which of their associates is active in the gang lifestyle. It is the threat of potential violence that a gang member, or an associate, brings with them (again based on how active they are in the gang lifestyle), which is often the deciding factor in an ejection. For example, a relative of a gang member who is not active in the lifestyle would likely not be hypothetically ejected, nor would a former gang member who has denounced the lifestyle.

Restaurant Watch, other programs (e.g., Bar Watch) and focused investigative and enforcement tactics, have contributed to a significant improvement in reducing the amount of gang and organized crime related violence in Vancouver. For example, in 2005 there were 95 'confirmed shots fired' calls for service in Vancouver, compared to 18 in 2014. Further, between the years 2005-2009, the five-year average of annual organized crime related homicides was nine, compared to three between 2010 and 2014. Restaurant Watch, combined with other programs and tactics, sends a clear message to gang members, organized criminals, and their known associates that they are not welcome in Vancouver.

The Complaint

On February 28, 2015, members of the VPD Gang Crime Unit visited that Coast Restaurant. The complainant alleges that VPD members informed him that he is a criminal, referring to his firearms offense conviction in the early 1990s in the United States, which he believes is relatively minor.

The complainant filed a complaint with the Office of the Police Complaint Commissioner (OPCC), which was received by the OPCC on March 31, 2015. The complainant stated that the Restaurant Watch program should not be applied to him on account of his conviction more than 25 years ago in the United States, where prison time had been served.

The complainant also feels the Restaurant Watch program is fundamentally flawed, is overbroad and affords too much discretion to police. Specifically, the complainant believes that applying the Restaurant Watch program to his circumstances is an over-reaching application of the program and does nothing to further its stated goals – the safety of patrons, staff, and the public. The complainant states that his 25-year-old conviction does not make him a dangerous criminal today. He states that he is a successful businessman and has resided in Canada for 20 years without having any additional “blemishes on his criminal record.”

Analysis

Although the complainant was convicted more than 25 years ago, the seriousness of his criminal conviction for firearms and explosives possession as well as for escaping lawful custody should not be understated; however, this past conviction was a secondary factor when it came to this ejection. Furthermore, a lack of criminal convictions in Canada does not preclude a person from being ejected, as not all people actively engaging in criminal activity have criminal records.

In this case, it is clear the nature of complainant’s recent association with gang members was the reason he was ejected. The complainant is the subject of recent (within the past five years) police-documented incidents, based on reliable information, of the complainant’s association with gang members and his active participation this criminal lifestyle. His ejection was appropriate under the criteria of the Restaurant Watch program.

CONCLUSION:

The Restaurant Watch program is a partnership between the VPD and the various restaurant groups, designed to provide a safe environment for everyone. Participating restaurant owners authorize members of the VPD to act on their behalf to remove any patrons (or deny entry) who meets one or more of the program’s criteria. VPD members found the complainant inside a Restaurant Watch establishment and confirmed he met one or more of the ejection criteria. As per the agreement with the Coast Restaurant, VPD members ordered the complainant to leave the restaurant with cause. As such, I recommend this complaint be dismissed with reasons.

Author: Sergeant Tan Tran Telephone: 604-717-2688 Date: 2015-07-02

Submitting Executive Member: DCC Rai Date: July 2, 2015