

Chief acts above the law

By Anne Jarvis, The Windsor Star December 19, 2011

'I don't recall.' 'I don't know.' 'I can't get the information.' It's 'not that bad.'

Is this really our chief of police talking?

The Windsor Police Service just keeps digging itself deeper. This time, the force is cited in a stinging 63-page report by Ontario's ombudsman on how the Special Investigations Unit, the police watchdog, is being undermined.

Under the Police Services Act, police are required to contact the SIU if they are involved in incidents resulting in serious injury, death or allegations of sexual assault. But in 50 cases across the province, they didn't contact the SIU or contacted the agency late. You guessed it: Windsor police were on the list.

The director of the SIU sent Chief Gary Smith letters about four incidents over the last four years. One cited the force's failure to report an incident. The others were about delays reporting incidents. One also questioned an officer's conduct. Smith didn't respond to any of them. Asked about them, this is what he told The Windsor Star's Jason Viau:

"I don't recall (the letters) asking for a response."

He'll look at the letters, he said, though he continued, "I always consider whether I'm going to respond or not, but I've seen nothing that jumps out at me that requires a response."

Again, he said he'll revisit the letters, but he has "no requirement" to respond.

Sources told Viau that the incident that the police failed to report was an accident involving a police vehicle and a civilian's car. But Smith first said he couldn't remember the incident. Viau had to prompt him with information from sources. Smith said he couldn't get the information.

He compared the four letters the SIU sent to Windsor police with the 82 sent to Toronto police and the 47 sent to the OPP. The number of letters sent to Windsor police are "not that bad," he said.

Arrogant and cavalier. That's what that is.

First, Smith thumbed his nose at the SIU and the public to which he is accountable by not notifying the agency. Then, he thumbed his nose at the agency and us by not bothering to respond to the director's letters. And judging by those comments, he's still thumbing his nose at everyone.

This is the same chief whose force is in the midst of the scandalous case of Dr. Tyceer Abouhassan, an innocent man minding his own business who was allegedly beaten unconscious by Det. David Van Buskirk because he vaguely resembled someone who was supposed to have approached Van Buskirk's daughter. To protect himself, Van Buskirk is alleged to have lied about the incident and charged Abouhassan with assaulting a police officer. Other officers, even after seeing a security video of the incident, allegedly circled the wagons and went along with him.

After a probe by the SIU, the charge against Abouhassan was stayed and Van Buskirk was charged with assault causing bodily harm. Abouhassan is now suing the police for \$14.2 million.

In another disgraceful police brutality lawsuit launched only days later last month, a man beaten by Const. Brad Snyder is demanding \$1.25 million in damages. Rod Wuschenny was handcuffed when Snyder pushed him against a prisoner transport van and repeatedly kned him and smashed his head with his forearm. A security camera caught this incident, too. Snyder was convicted of assault.

In what The Star was told is a rare move, Mayor Eddie Francis, chairman of the police services board, hauled the chief and his two deputies into his office last month for a 40-minute closed-door meeting. No one would say what happened, but sources told me that the force was warned to clean up its act.

You would think, given all this, that Smith would take ombudsman Andre Marin's report seriously. But he's not even pretending to.

Marin is not letting him off the hook.

"To Windsor Chief: Not notifying the SIU when serious injury/death is contrary to law and deserves a response," he said via Twitter after The Star's story ran.

I said in a recent column about Abouhassan and other disturbing cases that the culture of the Windsor Police Service starts at the top. Smith should take responsibility.

But judging by his response to the ombudsman's report, he's not. The message he's sending is, "We're above the law."

It's time to bring in somebody who will act, and that includes the police services board, too. The public needs to know it can count on our officers.

ajarvis@windsorstar.com

© Copyright (c) The Windsor Star