

# INVESTIGATION | Windsor police officers accused of coverup

**Dr. Tyceer Abouhassan files \$14M lawsuit, alleges injuries by police**

*Dave Seglins, [CBC News](#)*

Dec 23, 2011

## Related Links

[Windsor police chief retires amid controversy](#)

## External Links

[OIPRD investigative report May 4, 2011](#)

[OIPRD investigative report April 11, 2011](#)

[Dr. Tyceer Abouhassan's statement of claim](#)

Ontario's top police complaints watchdog says officers on the Windsor, Ont., police force tried to cover up a case of excessive force and false arrest.

CBC News and the Windsor Star have obtained exclusive copies of reports by the Office of the Independent Police Review Director that chronicle a violent altercation — all caught on video — that has resulted in criminal charges against one officer, and numerous disciplinary charges against his colleagues, including a supervisor.

Windsor police Chief Gary Smith held a [hastily called news conference](#) Thursday to announce he is retiring months earlier than planned. Windsor Mayor Eddie Francis said the chief wasn't resigning, but was instead retiring earlier than expected.

The surprise announcement came after a Windsor Star investigation, which looked at the historical handling of corruption in the southern Ontario city. The newspaper's investigation was prompted by a 2010 case, in which 38-year-old Dr. Tyceer Abouhassan suffered a broken nose, bruised ribs, torn eyelid and detached retina during an altercation with Det. David Van Buskirk.



*Dr. Tyceer Abouhassan has launched a \$14 million lawsuit against the police. (CBC)*

Julian Falconer, Abouhassan's Toronto-based lawyer, has filed a \$14.2-million lawsuit against the police and the city overseers. None of the allegations in the lawsuit has been proven in court.

"If his quote-unquote retirement is going to have the net effect of him not answering questions about his role in what is clearly a conspiracy and a coverup, then I'm extremely concerned," Falconer said Thursday.

"How does it foster confidence that he ducks accountability by retiring and collecting benefits? This was a coverup of a blatant, vicious criminal assault. A blatant vicious criminal assault caught on video," said Falconer

### **Police originally charged victim with assault**

Abouhassan, a trained endocrinologist, was completing training at a hospital in London and had just returned to Windsor by train the afternoon of April 22, 2010, when he decided to jog to a medical building where he was considering renting space to begin his practice.

According to the recently obtained OIPRD reports, at the same time, plainclothes police detective David Van Buskirk got a call from his wife, reporting that an unidentified man had been seen lurking near his 12-year-old daughter at an area tennis court. That's when Van Buskirk raced to the area, spotted Abouhassan jogging by, and suspected he might have been the culprit.

Van Buskirk filed a police occurrence report stating that the two men had a violent exchange after he had identified himself as a police officer. He said he was wearing a badge and revolver and started asking questions.

Van Buskirk claimed Abouhassan struck out at the officer, and so police charged Abouhassan with assaulting a police officer.

It appears the officer had no idea most of the incident was captured by a security camera.

"This was a false version of the events as the video surveillance demonstrates," states one OIPRD report, which says the officer had no badge or revolver showing.

Instead, complaint investigators conclude Van Buskirk was the aggressor who began "grabbing the complainant and striking him several times. There is no indication in the footage of the complainant resisting or grabbing the officer."

### **Formal complaint filed**

Abouhassan hired a lawyer and in May 2010 filed formal complaints with both the OIPRD and Ontario's Special Investigations Unit, which is supposed to be notified in cases where people are seriously injured or killed in altercations with police.

The SIU in June 2010 criminally charged Van Buskirk with assault causing bodily harm. The OIPRD initiated a number of disciplinary charges under the Police Service Act against Van Buskirk, including excessive force, discreditable conduct, excessive use of force, unlawful arrest and deceit.

Van Buskirk is facing criminal trial, while the disciplinary charges are on hold.

But the watchdog has also imposed charges against other officers, including a supervisor, accusing them of deceit, discreditable conduct, and neglect of duty for standing by Van Buskirk's version of events.

"It is inconceivable that any person who objectively viewed the video surveillance tape could assign any blame or fault to the complainant," wrote OIPRD investigators. "[These officers] took the position of attempting to cover up the inappropriate actions of Det. Van Buskirk, allowing an innocent man to face a serious criminal charge of assault police."

In one of the OIPRD reports, investigators cite Abouhassen as saying "that the apparent "coverup" is what troubles him most about the entire episode."



*Windsor Police Chief Gary Smith abruptly retired Thursday afternoon. (CBC)*

In addition, OIPRD laid misconduct charges against two officers for allegedly approaching Abouhassan's lawyer and improperly trying to strike a deal to resolve the matter in exchange for dropping the assault charge against Abouhassan.

CBC News contacted the Windsor Police Association, which represents the officers, but was offered no contact information for Van Buskirk or his lawyer and could not get any comment. Nor did Van Buskirk's civil lawyers defending the \$14.2-million lawsuit respond to request for comment on the allegations.

"It was an unfortunate incident that gave rise to the injuries of the good doctor. I hope that he's able to get beyond this and move on as I do everybody else," said Andy McKay, a lawyer who represents two other officers.

"My client has denied all of the allegations and we are disputing the allegations vigorously," said McKay of Det.-Sgt. Paul Bridgeman, who is in the midst of a disciplinary trial on a charge of discreditable conduct for allegedly trying to strike a deal to avoid complaints.

Another client, Det. Kent MacMillan, is charged with discreditable conduct and deceit under the Police Services Act for his "investigation" and report that backed up Van Buskirk's original story.

"There is no validity to the allegations against him," said McKay, MacMillan's lawyer. "That matter is set for trial and at that time the merits of the investigation will come out," he said, suggesting the OIPRD has conducted a shabby investigation that won't withstand scrutiny.

CBC News contacted Smith's office early Thursday seeking comment, but the call was never returned. Instead, Smith appeared at a 3 p.m. news conference with the mayor, who told reporters that "effective immediately" the city police board had "accepted the chief's notice of retirement."

"It's probably more appropriate to retire now," Smith told reporters, acknowledging recent media attention accelerated his plans to retire some time next year. "Just for the sake of the change. When the leadership, and particularly myself, become the focus of what's going on a lot of good things get missed."

But Falconer said he fears the retired chief will be beyond the powers of the Police Services Act that could have compelled Smith to answer questions about the case.

"This isn't the first case of an officer retiring and thus being immune from accountability," said Falconer. "I want to make sure that what the police board has not done, for the good people of Windsor, and the rest of this province, created a benefits package so an officer could basically be parachuted out of trouble."