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Secretive cop discipline questioned

Sarah Sacheli, The Windsor Star January 14, 2012

When Windsor police Const. Brad Snyder assaulted a handcuffed man in 2009, repeatedly kneeling him in the body and raining forearm blows down on his head, other cops stood by and watched.

This week, Windsor police revealed that five officers other than Snyder were disciplined for their involvement in the case. But citing secrecy provisions of the Police Services Act, Supt. Michael Langlois said he could not name the officers or detail what punishment they received.

Misconduct by police officers is a closely guarded secret, with almost all discipline, if any, meted out behind closed doors.

"We can't give details," said Windsor police Insp. Riccardo Facciolo, who was the head of the Professional Standards Branch when the Snyder incident was investigated.

Snyder, in addition to being convicted criminally of assault in 2010, was hauled before a Police Act hearing and docked 120 hours pay and ordered to make a \$2,000 donation to charity.

His colleagues, who did nothing to stop the assault, received "informal discipline," Langlois said. There was an "informal resolution" in the case of one of the officers. The other four were referred to a superintendent for undisclosed sanctions.

Langlois said sanctions for such "less serious" misconduct can include reprimands, docking of pay or additional training.

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The rule is records are wiped clean every two years, five years if there's a conviction under the Police Act at a formal hearing.

When it comes to misconduct investigations, Windsor police adhere to the confidentiality rules of the Office of the Independent Police Review Director, a provincial watchdog agency, Facciolo said.

"The OIPRD does not comment publicly on specific complaints and does not confirm or deny whether a complaint has been filed in any specific situation. Police services are respectfully reminded that they should observe the same practice," reads a handbook OIPRD prepares for police services.

The OIPRD investigated the case of Det. David Van Buskirk who is currently before the courts, charged with assault and public mischief for the alleged beating of a local doctor and the subsequent laying of an assault charge against the man. The OIPRD charged Van Buskirk under the Police Act.

Also charged are four other officers who are accused of covering up Van Buskirk's alleged crimes. The Police Act charges would not be known, but for copies of the OIPRD reports being leaked to The Windsor Star.

Lawyer Maria Marusic, who represents Snyder's victim in a \$1.2-million civil suit, said police discipline should be more open given the public nature of officers' work.

"It lacks transparency in a lot of cases," Marusic said Friday.

Very few misconduct cases get to a hearing where allegations become public. Most are "local resolutions," Facciolo said.

"The OIPRD wants local resolutions," Facciolo said, touting Windsor as a "showcase" force in the province when it comes to them.

The Professional Standards Branch investigates complaints. The OIPRD often refers complaints to the three-officer branch for investigation. In 2010, the last year of statistics reported by the branch, there were 46 complaints. Four of the complaints were about police brutality that did not involve serious injury.

The Special Investigations Unit, a provincial agency that investigates cases in which people are seriously injured or killed by a police officer or in which an officer is accused of sexual assault, investigated an additional five cases in 2010.

With the exception of the Van Buskirk case, all the other SIU cases resulted in no charges being laid.

Van Buskirk is only the second Windsor officer to be charged criminally in the SIU's 21-year history.

Facciolo said the vast majority of complaints involve what police term as "incivility." That includes officers using profane language or acting disrespectfully to citizens.

The branch cleared all four officers accused of excessive force in 2010. But an "informal resolution" was imposed on one. Langlois said, speaking generally, such a resolution could include an apology or a face-to-face meeting between the officer and complainant.

Langlois and his acting chief, Al Frederick, both point to the rehabilitative purpose of discipline as trumping the punitive objectives.

"The purpose of discipline is remedial, not to punish a guy so he can never breathe again," Frederick.

Langlois said it works, because in the case of incivility, the same officers are rarely cited again after Professional Standards gets involved.

But the secrecy shrouding police discipline and the rate at which professional standards branches clear officers is problematic, said lawyer Julian Falconer, who just this week argued a case before the Supreme Court of Canada that pointed to frailties in the police discipline process.

"There is an utter lack of confidence in the discipline process," Falconer said Friday.

"We don't have an effective means by which to hold bad police officers accountable or to effectively review bad policing."

Falconer represents the doctor allegedly beaten by Det. Van Buskirk. Falconer said Dr. Tyceer Abouhassan did not bother complaining to Windsor's professional standards branch, but rather went directly to the OIPRD, which investigated the Police Act allegations itself and handed over the criminal investigation to the SIU.

The reason, said Falconer, is simple. "Any police complaint system where police officers investigate their own is a joke, a really bad joke."

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