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Surveillance video contradicts Van Buskirk's report

Video shows detective lied, report says

By Sarah Sacheli, The Windsor Star
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Windsor Police Det. David Van Buskirk arrives Thursday, Oct. 20, 2011, at the Ontario Court of Justice in Windsor, Ont. where he faces assault and public mischief charges.

Photograph by: Dan Janisse, The Windsor Star

WINDSOR, Ont. -- Surveillance video shows a Windsor police officer who beat a local doctor lied about the incident in a report accusing the physician of assault, according to provincial investigators.

According to reports of the Office of the Independent Review Director obtained by The Star, Det. David Van Buskirk struck Dr. Tyceer Abouhassan first and continued to punch him during the April 22, 2010, altercation.

After Abouhassan fell to the ground, Van Buskirk appeared to kick or push him with his right leg. Throughout, the doctor tried to shield himself from the blows and offered no resistance, according to the investigators' analysis of the video footage.

Investigators concluded Van Buskirk not only used excessive force on Abouhassan, he arrested the doctor unlawfully, "committed the misconduct of deceit" and acted in a manner "likely to bring disrepute upon the Windsor Police Service."

The OIPRD reports, dated April 11 and May 4 of this year, were obtained by The Star following Thursday's announcement of the immediate retirement of police Chief Gary Smith. The reports conclude Van Buskirk, Det. Kent McMillan, Staff Sgt. Paul Bridgeman and Det. Patrick Keane all contravened the Police Service Act in their involvement in the case.

Keane and Bridgeman are currently before a Police Act hearing charged with discreditable conduct.

According to the OIPRD, they tried to broker a deal in which the assault charge against the doctor would be dropped in exchange for the doctor dropping his complaint against Van Buskirk.

The OIPRD concluded the assault charge against the doctor was baseless and that Keane and Bridgeman offered an "inducement to dissuade the victim of a crime from exercising their lawful right to submit a complaint against a police officer."

McMillan was the officer who investigated the incident outside the Jackson Park Medical Centre. "He did not conduct a fair and impartial investigation," the OIPRD concluded. McMillan pursued the assault charge against Abouhassan despite the video and eyewitness statements that contradicted Van Buskirk's version of events. McMillan prepared the Crown brief that was to be used in the doctor's prosecution.

After independent officers from the province's Special Investigations Unit charged Van Buskirk with assault, and later, public mischief, the Crown stayed the charge against the doctor.

There were nine witnesses to the altercation. They described watching in horror as Van Buskirk beat a "helpless" Abouhassan, according to report. Several said Van Buskirk stopped only when they intervened. One witness who watched the beating through a window from inside the building said she banged on the glass and got Van Buskirk to look up from where he was beating Abouhassan on the ground.

Another witness said he yelled, "Hey, leave him alone, he's had enough." Another called out that she was calling police. Van Buskirk called out, "It's OK, I'm a cop."

Van Buskirk told investigators he identified himself to Abouhassan before the physical altercation began, pulling earbuds out of the doctor's ears. He said his gun and badge were visible. The video contradicts this information, according to the report.

A witness described hearing Van Buskirk repeatedly ask Abouhassan, "Why'd you push me."

The witness "thought this was funny as he watched the entire incident and (Abouhassan) never pushed Det. Van Buskirk."

He told investigators he "felt like saying to the officer, 'Buddy, he didn't touch you, like, come on.'"

In summarizing the statement from Abouhassan, investigators wrote, "The complainant is legally blind and as such, assiduously avoids any type of confrontation and in particular physical confrontations."

The doctor suffered injuries that included a detached retina, broken nose and a cut above the eye that required stitches. Van Buskirk was suspended with pay in May, former Chief Smith confirmed Thursday. The timing coincides with the OIPRD report that concluded Police Act charges against him were warranted. Until then, Van Buskirk had remained on the job, reassigned to desk duties.

Bridgeman, Keane and McMillan were not suspended after the OIPRD reports.

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