

THE VANCOUVER SUN

Windsor, Ont., police chief failed to report beating: SIU

By Sarah Sacheli, Postmedia News December 20, 2011



Photograph by: Tyler Brownbridge, The Windsor Star

WINDSOR, Ont. — After a Windsor police detective severely beat an unsuspecting doctor, his chief did not report the incident as required by law, the Windsor Star has learned.

What repercussions Chief Gary Smith may face for not notifying the Special Investigations Unit are unknown. The Ontario Civilian Police Commission, which would normally intervene in such cases, refused to comment Tuesday, citing "legal issues."

Dr. Tyceer Abouhassan says that on April 22, 2010, he was jogging from the city's train station to the Jackson Park Medical Centre to scout out office space for his practice. He says he was

accosted by Windsor police Det. David Van Buskirk who knocked him out and continued to punch him as he lay unconscious on the ground.

Abouhassan, who was already visually impaired, suffered a detached retina requiring emergency surgery. He also suffered a broken nose, a concussion and facial injuries. His lawyer says Windsor police knew the seriousness of his injuries because they guarded him at the hospital while he was admitted to receive treatment.

According to Abouhassan's \$14.2-million lawsuit, Van Buskirk filed a bogus report about the incident and charged the doctor with assault. Despite eyewitness accounts and videotape of the altercation, other officers went along with the "fabricated" charges as part of a coverup involving at least 10 officers, the suit says.

Two officers are charged under the Police Services Act for allegedly trying to broker a deal in which the assault charge against the doctor would go away in exchange for the doctor dropping his complaint against Van Buskirk. Windsor Mayor Eddie Francis, who is also chairman of the Windsor Police Services Board, has said more Police Act charges are pending against other officers involved in the case.

Abouhassan's lawyer filed a complaint with the Special Investigations Unit on May 11, 2010, 19 days after the incident. SIU spokeswoman Monica Hudon confirmed Tuesday that the lawyer's contact was how the SIU learned about the case and that no one from Windsor police ever called the unit.

"It was a non-notification," Hudon said.

Under the Police Services Act, the SIU is to be the lead investigator in cases involving police where there is serious injury, death or an allegation of sexual assault. The chief or his delegate is required to notify the independent agency of such cases immediately. Police are not to investigate the case themselves, but merely secure crime scenes and witnesses until SIU investigators arrive.

Any sanctions against a chief for not following the act would be handled by the Ontario Civilian Police Commission, Hudon said. Contacted Tuesday, the OCPC referred questions to the Windsor Police Services Board.

Francis said he and other members are already asking questions about the chief's interaction with the SIU on other files.

"This is the first I've heard of this issue," Francis said. "Knowing this, I will go back and follow up on it."

Francis said he will "absolutely" question the chief about the issue.

The chief, fielding inquiries through his secretary Tuesday, said he would not comment.

Smith is already under fire for an Ontario ombudsman's report that alleges he and other police chiefs across the province are loathe to co-operate with the SIU. In the last three years, Smith has ignored four letters from the SIU director reminding him of his duty to comply, the ombudsman reported. Smith failed to notify the SIU in another case that involved serious injury, and delayed contacting the SIU in three other instances.

Lawyer Julian Falconer, who represents Abouhassan in his civil suit, called the chief's record "pathetic."

"We are well beyond simple incompetence here," he said, believing the chief and his senior officers are thumbing their noses at the province's watchdog agency.

"How do they expect the rest of the public to comply with the law when they don't?" he said. "It's a pretty sad state of affairs in Windsor."

Falconer said Smith should resign.

Ontario ombudsman Andre Marin, in a report released last week, has recommended that police failure to co-operate with the SIU should be made an offence punishable by fine or imprisonment.

The Ontario Civilian Police Commission has the power to remove a police chief. It can disband a police force and replace it with the OPP. It can also appoint an administrator to manage a police force.

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