

Winnipeg Copwatch

a newsletter by

Asserting our right to observe the police

www.winnipegcopwatch.org

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Have your story heard Winnipeg Copwatch audio project coming soon

When people approach Winnipeg Copwatch with their stories of police abuse, one of our suggestions is to fill out a Law Enforcement Review Agency (LERA) complaint form. We let people know that although LERA can be a useful way to document their experience, it is a slow and often ineffective process. For example, the most severe accountability measure LERA has handed down to a police officer has been suspension with pay.

We know that the number of LERA complaints filed is significantly lower than the number of incidents of police brutality that actually happen. Many people who experience police violence don't speak out about what happened to them.

Winnipeg Copwatch believes that creating an accessible record of people's experiences of brutality would be valuable for both the complainant and the public. We are all entitled to share our stories and to know how often the police abuse their power.

Winnipeg Copwatch will soon be launching an audio project to provide a forum for people to tell their stories of police brutality in their own words.

Our audio project has two goals: the first is to create a forum where people who have experienced police brutality can openly express their stories and feel connected to others who have had similar experiences. The second goal is to create a public record of people's experiences of police abuse.

We will be posting people's anonymous stories on our website where they can be listened to or downloaded.



We will also be broadcasting edited versions of the stories in segments on CKUW 95.9 FM, the community radio station run out of the University of Winnipeg. Stay tuned to our newsletter and website to find out when these segments will be broadcast. All of the interviews we conduct will be anonymous unless participants want their names attached to them.

If you have a story about police misconduct that you would like us to post on our website or broadcast on the radio, get in touch with us. You can call 942-1588 or email winnipegcopwatch@gmail.com.

Protecting the right to copwatch

In May, Winnipeg Copwatch sent a letter to the chief of the Winnipeg Police Service, Keith McCaskill, asking him to clarify the police's policy on taking cameras away from journalists and citizens[1]. Winnipeg police have been responsible for multiple incidents over the last several years of preventing people from taking photos or video of police-civilian interactions in public.

In April, the Chief of the Vancouver police publicly apologized for a similar illegal seizure by Vancouver officers, and sent a "refresher bulletin"[2] to the force reminding them that it is only legal to confiscate recording equipment when the person consents, if they are arrested, if a judge has given the police a search warrant, or if the police think evidence of a crime might be destroyed if they don't take it. None of these applied in the cases Copwatch referred to in the letter.

Copwatch specifically asked the Winnipeg Police Chief to recognize that police can not arbitrarily seize cameras, demand that people stop recording, demand that people delete their footage,

or arrest people for taking footage. Civilians have reported such behaviours either in the media, or directly to Copwatch in the last few years. Copwatch also asked for confirmation that recording officers does not in itself constitute the criminal offense of "intimidating an officer." Copwatch has heard of officers telling the public that their right to observe police is intimidation.

Copwatch received a reply from the WPS in July. The questions about policy were completely ignored; the WPS simply suggested that if anyone who has been prevented from recording feels wronged, they should file an official complaint. This response was much less encouraging than the policy action taken by Vancouver's Chief.

Winnipeg Copwatch is committed to following up on this issue until we get the answers we need. The right to observe police is crucial given the enormous amount of power they are granted to carry out their duties. It is especially important in provinces like Manitoba that completely lack effective police oversight bodies. Look for updates on our work around this in future newsletters or on our website.

In the meantime, we continue to encourage everyone to copwatch in their own neighbourhood.

Notes:

1. You can see the letter at <http://winnipegcopwatch.org/wpgcwnews/chief-mccaskill-must-clarify-police-policy-on-the-seizure-of-recording-equipment>

2. You can see the refresher bulletin at http://www.bccla.org/othercontent/09seizing_equipment_bulletin.pdf

Seeking justice for Wilfred

Asham

For a great number of people, the Public Safety Building, the Winnipeg Police Service Headquarters, is anything but safe. Winnipeg Copwatch has heard many first hand stories of violence at the hands of the police inside the walls of the PSB. This violence tends to happen where cameras are absent or can be turned off: elevators, stairwells, interview rooms, holding cells, et cetera.

This lack of safety has been reported in the media time and time again. The most recent example is that of Henry Lavallee, a man kicked in the stomach by Officer Ryan Law, nephew of the Police Chief. Lavallee nearly died as a result of a ruptured colon. (Larry Kusch, "Man tells of police beating," *Winnipeg Free Press* July 30, 2009).

A more devastating example is the death of Wilfred Asham. Wilfred Asham died in the PSB on September 2, 2007. His family described him as a happy, healthy, and gainfully employed young man who enjoyed fishing and camping, and was a supportive son, brother, uncle, and friend. On September 2 he had been caught joyriding in a stolen truck – "a mistake," his mother Sheila McKenzie said, "that he would have owned up to. He was that kind of kid."



The police have provided very little information about Asham's death and the surrounding investigation. Much of the information they have released has been filled with inconsistencies.

For example, the *Free Press* reported that Wilfred had been caught in a stolen red minivan, but his brother who was with him that night said they were in a black truck ("A fatal 88 minutes," *Winnipeg Free Press*, May 9, 2007). The police told the media that Asham had collapsed in a holding cell, but his brother witnessed him being put into an interview room. Interview rooms are set up for video cameras, yet the police will not confirm whether a camera was recording when Asham died.

A police report also stated that Asham had not died at the PSB, but that he died at the Health Sciences Centre: the paramedics who transported him to Health Sciences radioed the hospital to say they were transporting a man without a pulse ("Man, 19, dies in police custody," *Winnipeg Free Press*, May 9, 2007).

Inside the Public Safety Building

As they were being put into separate rooms, Asham told his younger, underage brother not to say anything to the police. Asham was then shoved into the interview room and told to "shut the fuck up" by a police officer. His brother, placed in a holding cell near the interview room, heard "bang-

ing, thumping, and a lot of movement” from the room that held Asham. His brother stated that there were about 15 minutes of silence until he heard the paramedics arriving.

The police did not immediately tell Asham’s family about his death; he died sometime before 1:30 am and his mother found out at 7:00 am. What did the police officers involved do for those five hours? Why didn’t they immediately inform a mother of her son’s death? Why didn’t they inform his brother?

They had entered his holding room to inquire about Wilfred’s drug use, but did not mention his death. According to the toxicology report Asham had not been doing hard drugs. He didn’t have a seizure condition (police told paramedics Asham was having a seizure), he didn’t have a heart condition, and he hadn’t been Tasered. His mother said there were no preexisting medical conditions that would have caused his death. He was a runner and a cyclist and he worked at a moving company – he was healthy. The medical examiner could not give a cause of death but stated that it was a “probable heart arrhythmia.” Without having this type of heart problem prior to his arrest, we have to question how Asham’s heart beat became irregular.

The medical examiner’s report stated there were no remarkable injuries to Asham’s head, yet his family saw bruising, redness, and scratches on his face. Most notably, his originally crooked nose was straight. The family was not allowed to see the body prior to autopsy, so have no way of knowing whether these injuries were visible at the time.

The police have been silent about this case since the initial reports. They have refused to release any details to the family or their lawyers about the case. They will not say when the mandatory inquiry into his death will occur. It has been over two years and his family wants answers. With the police refusing to give them any, the family filed a lawsuit against the city and the police on the second anniversary of Wilfred’s death. They hope that this lawsuit will lead to a safer Public Safety Building. They want to see cameras in every area of the PSB: the elevators, the stairwells, the holding cells, the interview rooms, anywhere someone has the potential to be assaulted.

Donations for the lawsuit can be made care of Winnipeg Copwatch or to a benefit account at the 1083 McPhillips St. Bank of Montreal (Account # 3151145)

Police accountability news briefs

This month the RCMP rejected a report by the BC Civil Liberties Association arguing they have to stop investigating themselves in serious incidents involving killings (“RCMP reject watchdog’s findings,” *Globe and Mail*, August 2009).

The hard-hitting Braidwood report on Tasers and Taser-related deaths was released at the end of July, and the BC government has agreed to comply with all of its recommendations. Winnipeg city councillor Gord Steeves says police policy in Winnipeg will not be affected by the report, which showed Tasers to be more dangerous than previously thought, except that police trainees may no longer be required to be shocked by the stun guns before being armed with them. The Winnipeg Police Service has declined to say how many stun guns it currently uses or to provide its use-of-force policy (“City may halt training of police trainees,” *Winnipeg Free Press*, July 25, 2009).

Police chiefs in the UK have rejected the suggestion that UK police chiefs should be elected (“Elected police chiefs ‘bad idea,’” *BBC*, July 7, 2009).

New Statistics Canada data for 2008 showed that overall crime rates and violent crime rates across Canada and in Manitoba have continued to fall.

The Winnipeg Free Press published an article stating that police have lost the public’s trust and confidence (“Police have lost public’s trust and confidence,” *Winnipeg Free Press*, March 28, 2009).

Winnipeg Police continue to prevent members of the public from seemingly-legal filming in public (“Former refugee alleges abuse,” *Winnipeg Free Press*, July 22, 2009).

An Australian report on police oversight bodies found that Manitoba’s Law Enforcement Review Agency (LERA) systemically favours police over complainants, calling the complaints “one-sided contests” (Tamar Hopkins, “An Effective System for Investigating Complaints Against Police,” April 2009).

Tips for recording the police

- Don’t obstruct or get in the way of police duties. If police accuse you of this, tell them you are only there to observe and that you will step back.
- You might not be allowed to film on private property. Some places that seem like public property, like The Forks and shopping malls, are actually private.
- It is helpful to have the date and time set properly on your camera.
- Record an incident continuously, being sure not to turn the camera off or to stand-by.
- Use a the widest zoom possible to get as much as you can into the shot.
- Try to include badge numbers, car numbers, license plates, and street signs when you have the chance.

If your rights are violated while filming police, get in touch with Winnipeg Copwatch as soon as you can.

I can
refuse to
talk to the
police or
answer
their
questions

The basics of arrests and detentions: searches, silence, and showing your identification

Arrests

According to the law, while there are some similarities between an arrest and a detention, there are some major differences as well. An arrest is when you have been taken into police custody for the purpose of being charged with a crime. The arresting officers must inform you right away of the crime they are charging you with. They must also tell you your rights (the right to speak with a lawyer and the right to remain silent). You will be searched.

Detention

A detention, on the other hand, is when you are held for a short period of time to aid an investigation. The police do not have to inform you that you are being detained; you will have to ask. If they say you are not being detained, you are free to leave. You may want to say, “If I am not being arrested or detained, I’m leaving.”

Searches

If you are detained, you may be handcuffed and pat searched for officer safety. If they feel something hard in your pockets, they will may search inside to confirm it is not a weapon. They will also pat bags you might have, but unless they have reasonable grounds to assume you have a weapon they should not search inside. (An example of reasonable grounds for having your bag searched while being detained would be if officers got called to a fight said to have weapons and they detained you to determine if you were involved.)

If you do not want the police going through your things and if you know they don’t have reasonable grounds to believe that you have a weapon, tell them politely that you do not consent to being searched. If there are others around, say it loud enough so that they can hear. Without aggression, tell the officers to write in their notebooks that you do not consent to being searched.

Silence

When you are being arrested or detained, you do not have to answer any of the officers’ questions, although you may want to if you think remaining silent will make the situation worse or more dangerous. Use your judgment.

Showing your ID

Depending on the situation you may have to give your name and show ID. If you haven’t done anything wrong you don’t have to show your ID, although, again, if you think the situation will escalate you may want to show it. Even if you have done something as minor as jaywalking, you have to show your ID.