

THE VANCOUVER SUN

Kamloops RCMP officers, staff could be charged for watching jail sex acts

BY ROBERT KOOPMANS, KAMLOOPS DAILY NEWS

SEPTEMBER 2, 2010



Picture of the Kamloops RCMP holding cell area.

Photograph by: Andrew Snucins, Kamloops Daily News

Police and jail guards who watched two women have sex in a cell could face charges of aiding or abetting a crime.

Whether that happens, however, will depend entirely on what comes out of the RCMP investigation, says a former Kamloops judge.

William Sundhu, a former Provincial Court judge, said the case raises legal questions about the duty the officers and guards owed the women in the circumstances. It also raises questions about whether the RCMP should investigate itself, he said.

Three officers and three civilian guards have been suspended with pay (the fourth officer is on holiday) as Kamloops serious crimes detectives investigate allegations the group watched for seven minutes as the two women engaged in what appeared to be consensual sex.

At least one of the women, however, was apparently intoxicated and, as a result, there is a question about whether she was able to consent.

Without legal consent, the activity in the cell could be a sexual assault, meaning the voyeurs watching the security camera monitor were viewing a crime in progress.

Sundhu said the law does not require ordinary citizens to intervene if they see a crime, but officers and guards may well be in a different legal position because of their jobs.

“It’s where there is a duty to protect, a duty to act. By failing to act, did they permit an offence to occur? There is very much an issue there.”

Crown counsel will make the final call on whether criminal charges are warranted.

“It will all depend on what the evidence shows,” Sundhu said. “[The allegations] are certainly disturbing and offensive. But what can be proven in a legal proceeding is a different thing.

“That is unclear to us. What is the evidence? What will the investigation result in? How do you prove who is potentially more responsible? Who is the accuser? What can be proven if [the group] just clams up and remains silent?”

That raises another question: Should the RCMP investigate itself? Sundhu said others have raised that issue in recent months, including the B.C. Civil Liberties Association and Thomas Braidwood, the retired B.C. judge who presided over inquiry into the Taser death of Polish immigrant Robert Dziekanski.

Braidwood said police accused of wrongdoing should be investigated by an independent civilian body.

Sundhu said no such agency exists in B.C., but that does not mean Kamloops RCMP should investigate its own. At the very least, the case should have been handed over to an outside police force, he said.

Kamloops Daily News

© Copyright (c) The Vancouver Sun