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Preferential treatment for cops' kin?

By BARBARA LAKER & WENDY RUDERMAN
Philadelphia Daily News

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IT WAS just after midnight. Brian Westberry and a woman friend sat frozen in his bedroom, hoping the persistent pounding on the front door of his Northeast Philly home would stop. It didn't.

Westberry, 24, slipped his licensed .38-caliber revolver into his pants pocket and crept downstairs to open the door.

There stood Gregory Cujdik, 32, who demanded to see "Jen," his girlfriend. Westberry told him "Jen" didn't want to see him, and repeatedly ordered Cujdik to leave. When Cujdik refused, Westberry threatened to call police.

" 'Do it. My family are cops,' " Cujdik said, according to Westberry.

What Westberry didn't know at that early-morning hour of Palm Sunday, April 5, was that Cujdik's father, Louis, is a retired police veteran and that his two brothers, Jeffrey and Richard, are narcotics officers.

Before Westberry could finish dialing 9-1-1 on his cell phone, Cujdik stepped through the doorway and punched him in the throat, Westberry said.

That's when Westberry pulled out his gun and Cujdik fled, Westberry told the Daily News.

Westberry never fired the gun. In fact, Westberry suffered the only injury when Cujdik staggered him with a punch. But rather than arrest Cujdik, a convicted drug dealer, authorities slapped Westberry with a slew of criminal charges, including felony aggravated assault, possession of an instrument of crime, terroristic threats, simple assault and recklessly endangering another person.

From there, Westberry's life got worse. Westberry believes Cudjik is behind a Nov. 14 arson of his house. Detectives didn't question Cujdik until after a *Daily News* reporter asked a police captain about the case earlier this month.

Cujdik did not return messages from the *Daily News* left on his cell phone.

Westberry and his family allege that police considered Cujdik untouchable and gave him preferential treatment because of his family ties to law enforcement.

"From the get-go, they chose to arrest me, not him, only because they knew his family," Westberry said. "I believe the justice system is fair - unless you know somebody."

Seasoned legal experts who reviewed the case say that Westberry's arrest raises serious questions about the integrity of both the Police Department and the District Attorney's Office, which approved the criminal charges against Westberry.

Six months after the incident, on Oct. 6, prosecutors withdrew the charges, but by then Westberry had spent thousands of dollars in legal fees. His record has yet to be expunged.

The Westberry case comes at a time when some police officers are under fire for allegedly abusing their authority in personal matters. The case also seems to bolster recent criticism that the district attorney's charging unit merely "rubber stamps" criminal charges recommended by police.

After Jack McMahan, a defense attorney and former prosecutor, read the police paperwork for Westberry's arrest, he said that the wrong person had been charged.

"The defendant didn't break the law. The complainant did," said McMahan, who did not represent Westberry. "Legally, there's absolutely no basis for Cujdik not to be charged."

Westberry was well within his legal right to use his gun to protect himself in his own home, McMahan said.

"There's no evidence of aggravated assault even under the remotest of criminal theories," he said.

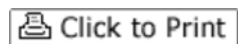
The detective who arrested Westberry, Patricia Eberhart, has close ties to Cujdik's family. Her husband, Richard Eberhart, was Jeffrey Cujdik's partner in the Narcotics Field Unit before retiring in 2006. Together, Richard Eberhart and Jeffrey Cujdik own J&R Dunk Tank Rentals LLC, in Bensalem.

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