

New Haven Register

Six Ferguson officers face federal lawsuits over use of force

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September 2, 2014

Federal investigators are focused on one Ferguson, Mo., police officer who fatally shot an unarmed black teenager, but at least six other police officers in the town's 53-member department have been named in civil rights lawsuits alleging the use of excessive force.

In four federal lawsuits, including one that is on appeal, and more than a half-dozen investigations over the past decade, colleagues of Darren Wilson's have separately contested a variety of allegations, including killing a mentally ill man with a Taser, pistol-whipping a child, choking and hog-tying a child and beating a man who was later charged with destroying city property because his blood spilled on officers' clothes.

One officer has faced three internal affairs probes and two lawsuits over claims he violated civil rights and used excessive force while working at a previous police department in the mid-2000s. That department demoted him after finding credible evidence to support one of the complaints, and he subsequently was hired by the Ferguson force.

Police officials from outside Ferguson and plaintiffs' lawyers say the nature of such cases suggests there is a systemic problem within the Ferguson police force. Department of Justice officials said they are considering a broader probe into whether there is a pattern of using excessive force that routinely violates people's civil rights.

Counting Wilson, whose shooting of Michael Brown on Aug. 9 set off a firestorm of protests and a national debate on race and policing, about 13 per cent of Ferguson's officers have faced excessive-force investigations. Comparable national data on excessive force probes is not available. But the National Police Misconduct Statistics and Reporting Project, funded by the libertarian Cato Institute, estimated on the basis of 2010 data that about one per cent of U.S. police officers - 9.8 out of every 1,000 - will be cited for or charged with misconduct. Half of those cases involve excessive force.

The Ferguson Police Department and city officials declined to comment on the cases.

In all but one of the cases, the victims were black. Among the six officers involved in the cases, one is African American.

Ferguson has plenty of company when it comes to federal scrutiny of police departments.

Under Attorney General Eric Holder Jr., the Justice Department has initiated twice as many reviews of police departments for possible constitutional violations as the next most prolific of his predecessors. At least 34 other departments are under investigation for alleged civil rights violations.

But Clarence Harmon, a former St. Louis mayor and city police chief, said the number and types of allegations in Ferguson set the city's department apart.

"The cases themselves are fairly extraordinary - so is the volume," said Harmon, who in 1997 became the second black mayor of the city. "It's prima facie evidence of discriminatory practices. I would be surprised if Justice didn't make a recommendation that they be placed under scrutiny."

James Pasco Jr., national executive director of the Fraternal Order of Police, cautions that police officers are constantly accused of using excessive force and that those accusations are just "one side of the story" and do not tell exactly what happened. In 90 per cent of cases in which a department has a systemic problem, the issue is with poor management, not the individual officers, he said.

"To suggest that police officers are a marauding, white occupying army out there to deprive minorities of their civil rights is at variance with common sense," Pasco said. "You can't have rogue officers in a well-managed police department."

The six officers have faced complaints of excessive force in five civil rights lawsuits; one of the suits was resolved with the officer not being held liable and the department paying a settlement, and four are pending, one on appeal. Two of the officers faced these complaints during their time at other police departments. One officer allegedly used excessive force in two incidents, both while at the Ferguson Police Department.

Samuel Bagenstos, a former Justice Department attorney who helped oversee the civil rights division for the Obama administration from 2009 to 2011, said a federal probe into potentially systemic problems within a police force would consider hiring practices as one of several factors.

"They would look at whether they are properly screening people that they are considering to hire," said Bagenstos, now a professor of law at the University of Michigan.

The most recent civil rights lawsuit naming Ferguson police officers was filed days after Brown was shot and involves a September 2011 incident.

According to the lawsuit, officers encountered a dazed-looking man walking from behind a building in a residential area. Officer Brian Kaminski ordered 31-year-old Jason Moore to put his hands up and walk toward him, according to the suit, which then alleges that Kaminski fired his Taser prongs into Moore's chest and legs.

A second officer, Michael White, arrived and physically held Moore while Kaminski repeatedly tasered him with electric currents, the lawsuit said.

Both officers are white. Moore was black.

Moore, who had a mental disorder, suffered a heart attack on the scene and died. His wife, Tina Moore, filed the lawsuit, saying her husband's death was another example of Ferguson police using excessive force.

"There was no need for the officers' excessive use of force in continuing to taser Jason Moore in order to preserve the peace, maintain order or to overcome any resistance to authority by Jason Moore," says the suit, which names Ferguson Mayor James Knowles and Chief Thomas Jackson.

"Rather than applying the appropriate level of force required to restrain Jason Moore, Officer Kaminski, with the assistance of Officer White, instead tasered Jason Moore until he became unresponsive and died," the suit continues.

Tina Moore's attorney, Mark Floyd, declined to comment on the case. Peter Dunne, an attorney recently assigned to represent the officers, also declined to comment, saying he has yet to review the case since it was just filed.

Dunne is also representing White in a case that involves two other Ferguson officers. A 54-year-old welder, Henry Davis, was injured in an altercation with the three officers. Officers say it happened because Davis became combative, which Davis denies. The officers charged Davis with destruction of property when his blood stained their uniforms. Davis is black. The officers are white.

The other two officers - John Beaird and Kim Tihen - testified that Davis initiated the fight. Davis testified that he asked for a mat to sleep on in the jail cell, a request he said was denied. When he protested, he said, the officers started to hit him, then handcuffed him. White, Davis said, kicked him in the head. Medical records show he suffered a concussion.

The judge said that Davis, who was arrested for allegedly driving under the influence and other violations, suffered injuries but that they were "de minimis" - too minor to warrant a finding of excessive force, records show. The case is being appealed.

Davis' attorney, James Schottel Jr., said he believes his client will ultimately prevail because he is introducing new evidence to show that his client's concussion is a serious injury.

Dunne disagreed about the merits of Davis' case: "What I would say is, he got turned down at every point. ... Not a single thing he sued for (was) allowed to go forward to the jury."

Dunne also represents the Ferguson officer who faced at least five complaints of excessive force when he worked at the St. Louis Metropolitan Police Department.

Eddie Boyd III arrived in Ferguson four years ago after three internal affairs investigations into complaints - in 2004, 2005 and 2006 - that he assaulted and injured children without cause.

Boyd and the children are African-American. In at least two cases, the children said Boyd pistol-whipped them. In the 2006 case, the department "sustained" the allegations, concluding that Boyd had used unnecessary force when he struck 12-year-old Jerica Thornton with his pistol, records show.

Boyd was suspended and demoted to the rank of a probationary police officer. But the next year, Christopher Dixon, a high school freshman, said Boyd tackled him as he fled an after-school fight and hit him in the face with the butt of his pistol. Boyd said he accidentally hit Dixon's face with his handcuffs when Dixon resisted arrest, records show.

Boyd resigned from the St. Louis force shortly after this incident, saying in a deposition he wanted to avoid the "red tape" of what would have been his fourth internal affairs probe. Boyd was not held liable in the Dixon suit. His police department settled out of court, paying the teenager \$35,000, according to Dixon's attorney, Matthew Devoti.

Another lawsuit filed against Boyd alleging he assaulted a suspect is pending.

"I think it's incorrect and misleading to say that he is a guy with a record when he denied that he acted improperly in all of these cases," Dunne said. "In two of these (internal affairs) cases, they were found to not have any merit at all."

Another Ferguson officer faced a complaint on a previous job.

Justin Cosma was one of two Jefferson County sheriff's deputies who in June 2010 came upon a shirtless 12-year-old boy who was checking the family mailbox.

The deputies asked him what he was doing, knocked him down, and hogtied him, and the boy was choked and beaten, the lawsuit claims. The officers and the boy are white.

When asked about the accusations, Cosma's attorney, Jason Retter, said he does not comment on pending cases.

Cosma was one of the officers who arrested reporters, including a Washington Post journalist, covering the protests in Ferguson over the killing of Michael Brown.

In the Jefferson County incident, Cosma filed a report that the 12-year-old assaulted him and his partner and was "resisting/interfering with arrest, detention or stop." The local prosecutor refused to bring charges against the juvenile.

"They were talking to him and the next thing that happens is they are restraining him," said the lawyer for the boy's family, Richard Lozano. "Because he was shirtless, he was grabbed around the neck. He had choke marks. They tied his hands and feet behind his back, and hogtied him - all on his property, all while his mother was inside the house."