



Paper: Federal civil rights cases against officers are rare

March 16, 2016

PITTSBURGH — Federal prosecutors declined to pursue civil rights allegations against law enforcement officers 96 percent of the time since 1995, a newspaper found, with most experts blaming the low prosecution rate on the difficulty of winning such cases.

The Pittsburgh Tribune-Review said the 12,703 potential civil rights violations turned down nationwide out of 13,233 total complaints from 1995-2015 include high-profile incidents in Chicago, New York and Ferguson, Missouri, but also thousands of incidents the public knows little about.

It said the most frequent reasons cited for declining civil rights complaints involving officers were weak or insufficient evidence, high standards of proof established by Supreme Court rulings, and policies set by the Justice Department.

Many legal and civil rights experts told the newspaper (<http://bit.ly/252UQoo>) that convicting a police officer of a civil rights violation is one of the toughest challenges a prosecutor can face. But some criminal justice experts also said the Justice Department needs to put more resources into the cases, and suggested that the typical partnering of police and prosecutors affects decision-making.

"The standard is high and challenging," said Alan Vinegrad, a former federal prosecutor in Brooklyn, New York, who oversaw criminal civil rights cases.

"It's got to be a willful deprivation of rights, meaning the police officer intended and wanted to either kill or injure the person," said Vinegrad, now a partner at the law firm of Covington & Burling LLP in New York. "Not just 'it was reckless or negligent' or anything like that."

The U.S. attorney's office in Pittsburgh will open files for even minor accusations that the FBI investigates against a police officer, said Steve Kaufman, chief of the office's criminal division. But, he said, "it's one of the most difficult cases to gather sufficient evidence to prove it beyond a reasonable doubt at trial."

The Justice Department, responding to the newspaper's findings, published Sunday, said it takes any allegation of law enforcement misconduct seriously and will review them when brought to the agency's attention.

Craig Futterman, a law professor who founded the Civil Rights and Police Accountability Project at the University of Chicago, said he believes federal prosecutors need to be bolder and use more resources to pursue cases.

He said federal authorities are not being aggressive enough, allowing "too many abusive officers to believe that they can operate without fear of punishment."

Tim Lynch, director of the Washington-based Project on Criminal Justice at Cato Institute, which advocates for smaller government, said prosecutors are generally reluctant to go after people in law enforcement because "they consider themselves all working on the same team."

Mel Johnson, assistant U.S. attorney for civil rights cases in Milwaukee, said that federal and state governments have not succeeded in deterring police misconduct, and "the legal system has a way to go."

The national Fraternal Order of Police said another explanation for the low prosecution rate is that prosecutors are rejecting bad evidence.

"Maybe they're not taking the cases because they're not good cases," said Jim Pasco, the executive director. "It could be 96 percent of the time. Do you know how many false complaints are made against police officers?"