



Many mayors say police officers won't be immediately fired for attacking Americans during George Floyd protests

Alan Gomez and Daphne Duret

June 5, 2020

The video footage from Sunday is clear: a black protester kneels on the ground, her hands in the air, as a white police officer shoves her face-first into the ground.

Police records show the officer has used force at least a dozen times and brandished his weapon at least 50 times during his four years with the Fort Lauderdale, Florida, police department. He once forced an elementary school student with a history of mental illness to the floor to handcuff her. Another time, he pointed his service gun at a woman, ordering her to drop the broom she was holding. In a separate incident, he delivered a “distractionary elbow” to a suspect's stomach while trying to coax the hand-cuffed man into the back of a police car.

Despite that history and several videos showing his violent response to the protester on Sunday, Officer Steven Pohorence has not been fired from the department. He has been suspended – with pay – while the state investigates his actions during the protest.

“We’re getting all kinds of threats to burn down the city until he’s fired,” Fort Lauderdale Mayor Dean Trantalis told USA TODAY Wednesday.

In the protests that have erupted across the U.S. following the death of George Floyd, police officers have been caught on video shoving, hitting and ramming their vehicles into protesters. Police fired paint canisters at people standing on their front porch in Minneapolis, knocked over an elderly man with a cane in Salt Lake City and knocked over another elderly man in Buffalo. A man in Louisville was shot and killed by police amid a protest and an Austin college student suffered a fractured skull after getting struck in the head by a bean bag fired by police. Journalists covering the protests were fired at with rubber bullets and tear gas in close range.

Police officers have been subjected to attacks, as well. They’ve had bottles and bricks thrown toward their bodies, fireworks and Molotov cocktails hurled in their direction. They've been shot, stabbed and rammed by cars.

But while those officers have the power to immediately respond and arrest their attackers, protesters who have filmed their violent encounters with police are learning that holding officers accountable when they cross the line is a far different story.

City leaders defended officers in Philadelphia who unloaded tear gas on protesters who were pinned up against a highway embankment. There's been no punishment for the New York Police Department officers who rammed their SUV into a crowd of protesters, the officer who tore the mask off a protester to pepper spray him, or another officer who shoved a female protester to the ground.

The result, according to protesters and city leaders, is a troubling moment where police officers are acting with impunity on the streets of America.

"The kind of officers that we're talking about need to be immediately fired and removed from the department, boldly, quickly and effectively," said Laurie Cumbo, majority leader of the New York City Council. "Instead, those officers are going to undergo some sort of bizarre and obscure investigation that's going to take so long that people are not going to be able to follow it."

'We've done our best to keep people safe'

In some cases, officers were immediately punished for their actions.

Penalties came swiftly for six police officers in Atlanta who were arrested Tuesday on charges ranging from aggravated battery to criminal damage after they pulled a pair of college students from a car Saturday and shot them with stun guns while the two were caught in protest-related traffic after a city imposed curfew.

Atlanta Mayor Keisha Lance Bottoms and police Chief Erika Shields fired two of the officers the next day. The four other officers were placed on administrative leave.

"The reality is that had this incident happened (before) last week, we probably would have taken a little more time to see what happened with these officers and with this incident," Bottoms said in an appearance on "Late Night with Seth Myers." "But what we've seen in this past week is that we don't have the luxury of time anymore."

But in Philadelphia, no officers have faced immediate repercussions after video surfaced online of a group of Philadelphia police officers firing tear gas into a crowd of protesters who were pinned back against a high berm along the Vine street expressway.

Instead, Philadelphia Mayor Jim Kenney on Wednesday focused on the surprise early removal of a statute of former mayor and police commissioner Frank Rizzo, long seen as a symbol of bigotry, oppression and brutality for some in the city. Kenney and Police Chief Danielle Outlaw called the officers' deployment of tear gas "a last resort" and said the department investigates each use of force.

"I know we've not done everything perfectly in the past couple of days," Kenney told USA TODAY of local police. "We've done our best to keep people safe, and we'll keep moving forward."

In New York City, multiple officers have been accused of abusing protesters, and Mayor Bill de Blasio said those officers will be investigated and punished if they acted improperly. But the mayor held a press conference Tuesday where he sat side-by-side with the city's police commissioner and repeatedly praised the work of the department.

"An attack on a police officer is an attack on all of us, plain and simple," de Blasio said. "If you say, 'Well, this one did something wrong,' then we will deal with this one. But how about the other 36,000 (officers) who did something right?"

W.D. Libby, a use of force expert who has testified for and against officers during criminal trials, said videos can sometimes paint an unfair picture of clashes between police and protesters.

"With video, you have to take it with a grain of salt. You have to ask yourself, do you know what happened before or after the few seconds you see?" Libby said. "In that way, videos can be problematic, because what may look like an outrageous use of force may look different in context."

In Los Angeles, where 63 people died nearly three decades ago in riots that followed the videotaped police beating of Rodney King, Mayor Eric Garcetti stood by Police Chief Michel Moore after the chief accused some protesters of sharing responsibility for Floyd's death.

"We didn't have protests last night. We had criminal acts," Moore said Monday. "We didn't have people mourning the death of this man, George Floyd. We had people capitalizing. His death is on their hands, as much as it is those officers."

Moore later said he "misspoke" and apologized.

City officials defer to police chiefs, internal investigations

In Salt Lake City, Mayor Erin Mendenhall said she is struggling to figure out how to balance her desire to improve the living conditions of minorities in her city, which is 73% white, and her respect for the city's police force.

Pinned up near her desk at City Hall is an old map of redlined districts, a now illegal set of boundaries that the leaders who came long before her used to keep people of color from owning homes in white neighborhoods. On the phone, she says she keeps it as a reminder of the government-sanctioned oppression that remains evident in concentrations of poverty, obesity and other societal issues that linger in the city of 1.25 million residents.

But when it comes to taking action against the police officer who pushed an elderly man with a cane to the ground during Saturday's protests, Mendenhall, unlike Bottoms, said it isn't her place to intervene — at least not now.

After video surfaced of the incident, Salt Lake Police Chief Mike Brown denounced the officer's actions and said his agency was investigating the incident. The officer, who hasn't been named, has been reassigned to office duty. The elderly man sustained minor injuries. Other officers, and eventually the officer who pushed him down, later stopped to help him up.

Mendenhall called the incident “wholly heartbreaking and inappropriate” and said she called on Brown to investigate right away, but stopped short of urging the chief to immediately fire or seek charges against the officer involved.

She described a “long night” on Saturday where 46 people were arrested and nearly two dozen officers were injured in protests she says turned destructive after they were “co-opted” by violent groups that weren’t part of the main ranks of peaceful protesters.

“We are still in this and we’re trying to learn on the fly,” Mendenhall said. “I have faith in the systems we have that the right outcomes will happen.”

In Fort Lauderdale, city leaders are facing their own internal battle over how to handle their officer.

Trantalis, the mayor, said he's not legally allowed to fire officers because the city has a "weak mayor" system that grants such powers exclusively to the city manager or police chief. City Manager Chris Lagerbloom said state law prohibits him from firing any officer until an investigation is completed. In the case of Officer Pohorence, Lagerbloom said the Florida Department of Law Enforcement will conduct an investigation followed by a separate, internal department investigation.

But Fort Lauderdale City Commissioner Robert McKinzie said that entire process will lead to needless delays in a case that's clear cut. McKinzie, the only black member of the city's commission, said Pohorence needs to be fired.

"What I saw was plain as day," he said. "You're entitled to due process. But if I was the chief, I would've made the call based on what we’re experiencing around the country. This is not an isolated incident. This is America crying out for justice."

'Shoot first and think later' approach to policing

Policing experts say officers usually avoid punishment for a variety of reasons.

There's the fact that in many jurisdictions, police officers — sometimes from other agencies — are responsible for investigating the actions of other police officers. That arrangement can lead to a situation where officers try to protect one another, according to Laurie Robinson, who co-chaired the White House Task Force on 21st Century Policing that was established in the wake of the shooting of Michael Brown in Ferguson, Missouri, in 2014.

"There is a sense of, 'We're out here doing a tough job and we protect our own,'" Robinson said.

The decision to charge officers with crimes then falls on local prosecutors. Clark Neily, who runs the criminal justice program at the libertarian Cato Institute, said that arrangement creates an immediate conflict of interest since prosecutors rely on police officers every day to build their cases. That "near-zero accountability policy," Neily said, leads to few criminal prosecutions.

"Those are extraordinarily rare and only happen when there's a viral video that makes it politically impossible to not respond," Neily said.

Even civil courts are rarely an option.

In recent decades, the Supreme Court established, on its own, the "qualified immunity" doctrine that lets police officers off the hook unless their behavior violated "clearly established" laws or constitutional rights. Under the doctrine, a lawsuit against a police officer has to show that a court has already ruled against the specific actions the officer is accused of.

"If George Floyd's family sues the police officer who killed him, what they'll need to do is find a case in the 8th Circuit Court where a police officer jammed his knee against the cervical spine of an unresponsive person for nine minutes until the person died," Neily said. "If they can't find a case with those exact characteristics, their case is going to get thrown out."

The high court is currently considering several cases that challenge the doctrine. Associate Justice Clarence Thomas, the court's most conservative member, complained in 2017 that the doctrine has no historical basis. And Associate Justice Sonia Sotomayor, arguably the court's most liberal member, argued in several cases that the doctrine promoted a "'shoot first and think later' approach to policing."

Unions help protect police officers from discipline

Another obstacle to accountability has increasingly become police unions, which enter into collective bargaining agreements with local governments that dictate the process used to discipline officers.

Union officials say such protections are needed to ensure police officers aren't fired for purely political reasons to protect officers from becoming scapegoats whenever violence grips a city.

But Alondra Cano, a councilman who represents Ward 9 of Minneapolis, where Floyd died and where the first protests erupted, said unions have become far too powerful. Cano said the Police Officers Federation of Minneapolis shields its members from legitimate oversight. She accused the union's president of making matters worse when he described protesters as a "terrorist movement."

Cano said the killing of Floyd, and the aggressive tactics used by local, state and federal law enforcement officers to hammer down protesters, has shown that it's time to abolish the current police force and start over with a new approach that allows for independent oversight of police.

"Many people have tried to negotiate with the union...for specific changes, but that doesn't seem to produce the changes of how policing happens," she said. "If we pull the plug on our department and establish a different one, then we get to set the tone and the architecture of that."

Cumbo sees a more basic problem: plain old racism. The New York City councilwoman, whose Brooklyn district has been the heart of many of this week's protests, said police departments still maintain a centuries-old mentality that black people must be controlled, not protected.

She pointed to the city's dark history of police brutality, its failed experiment with "stop-and-frisk," which made it easier for police to detain people suspected of crimes and was predominately used to target blacks and Latinos, and the decision not to prosecute the officers who held Eric Garner, the black Staten Island man who was suspected of selling cigarettes and placed in a chokehold by police until he died. She cited those examples as proof that the NYPD still has a racist streak that prevents accountability even in a city run by Democrats and progressive elected leaders.

"The white supremacist power structure still has the Democrat powers convinced that the black community needs policing, heavy policing, or else your wife or your daughter are going to be vulnerable," Cumbo said. "We're still peeling back that onion."