

Keeping an eye on the George Floyd case

The Bethlehem Gadfly George Floyd killing November 22, 2020

 *Latest in a series of posts in the wake of the George Floyd murder*



Gadfly keeping an eye on criminal proceedings against the main police officer in the George Floyd incident.

Recognizing the speed of the news cycle and the shortness of the media attention span, Gadfly has been afraid that the moment to ask questions about how we do public safety locally in Bethlehem may pass.

There may be some relevant public safety discussion in upcoming budget hearings, and a Public Safety Committee hearing is promised for early in the new year.

Gadfly is especially interested here in the fact that there is “history” of charges of excessive use of force against the offending officer, charges that were dismissed by the police department internal review.

Gadfly thinks we should know more about how we handle police conduct cases here.

Do we have a situation in which an officer charged with excessive use of force on multiple occasions but cleared can continue to serve without some adjustments such as an early warning system or a citizen review board?

Gadfly implies no failures by our police department. These are simply questions that need to be asked. This is simply information that needs to be discussed.

Selections from Holly Bailey, “Former Minneapolis police officer charged in George Floyd’s death seeks to bar evidence of past neck and body restraints.” Washington Post, November 17, 2020.

Derek Chauvin, the former Minneapolis police officer who held his knee at George Floyd’s neck for more than nine minutes and is now charged with his murder, has asked the judge in his case to block prosecutors from introducing evidence of his allegedly having used similar neck and body restraints on other suspects. Chauvin’s lawyer argues in new court documents that his “use of force” in those cases was legal and cleared by police supervisors.

Prosecutors have said they want to cite eight incidents from Chauvin’s 19-year career as a Minneapolis police officer to show a pattern of excessive force and behavior similar to the Memorial Day encounter that left Floyd dead. Prosecutors want to include four cases from 2014 to 2019 in which they claim Chauvin restrained suspects “beyond the point when such force was needed.”

In a court filing Monday, Eric Nelson, Chauvin’s attorney, asked Hennepin County District Judge Peter A. Cahill, who is overseeing the case, to block that proposed evidence, arguing that his client had used approved force and, after routine investigations, had been essentially “acquitted by MPD supervisors of applying force in a manner that was either unreasonable or unauthorized.”

“The state attempts to characterize Mr. Chauvin’s use of force as ‘unreasonable’ or ‘beyond what was needed,’ ” Nelson wrote, noting that Chauvin had reported his use of force in each of the incidents. “And

in every single one, it was determined by a supervisor that Mr. Chauvin's use of force was reasonable in the circumstances and authorized by law and MPD policy."

One of the cases prosecutors have sought to mention at Chauvin's trial is a July 2019 domestic disturbance incident in which a caller reported that a man had poured gasoline throughout a house and was armed with a knife. In seeking to subdue the suspect and keep him from reaching for scissors on a nearby table, Chauvin allegedly "delivered a single kick" to the man's midsection and then applied a neck restraint, causing the man to lose consciousness.

Chauvin later told a supervisor that he realized the man had passed out and placed him in a "recovery position" until he "came to," prosecutors said, something they say the officer did not do when Floyd complained of struggling to breathe.

In what appears to be a new defense argument, Nelson repeatedly claimed Chauvin did not use a neck restraint on Floyd but rather what he called "body weight control techniques."

That is a shift from previous defense motions, in which Nelson defended how Chauvin handled Floyd by arguing that he used an approved neck restraint. In an August motion to dismiss charges, Nelson filed exhibits that included past department training materials with photos demonstrating the knee-on-neck hold similar to the one Chauvin used on Floyd and argued that his client "did exactly as he was trained to do."

Prosecutors said in a filing Monday that they want to show the jury body-camera video of one of the incidents: a September 2017 encounter where Chauvin allegedly hit a 14-year-old boy in the head with a flashlight during a domestic assault investigation and then restrained him with a knee to the back for 17 minutes even though the child was handcuffed

and complained of struggling to breathe. According to prosecutors, the boy's mother, who had called police, repeatedly asked Chauvin to get off her son, who was bleeding from the ear and later received stitches. Prosecutors described Chauvin's behavior as "far more violent and forceful" than his police report had implied.

[Defense attorney] argued that allowing the incidents to be cited as evidence before a jury would violate Minnesota legal precedents on how past acts can and cannot be used in current cases. Nelson wrote that he thinks prosecutors want to use past incidents to "illegally prove propensity," which he argued is not allowed under state law and would be "unfairly prejudicial."

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