

The face of **FORCE**

After Leon Ford survived a police shooting, his story became part of criminal justice reform advocates' calls for changes in Pennsylvania's use-of-force laws. By Rob Taylor Jr.

Emmai Alaquiva



Police shooting survivor Leon Ford, center, is lifted up literally and figuratively by friends and colleagues in his Pittsburgh community.



IN

November 11, 2012, is a date that Leon Ford will never forget. Before the day ended, he would become both a paraplegic and a police shooting survivor who would later add his voice to the growing calls for greater police accountability.

The evening began as normal as any other, with Mr. Ford driving a silver Infiniti G35x through Pittsburgh's Highland Park neighborhood without hesitation or concern.

Mr. Ford, who is African American, was 19 years old at the time and living in Shaler Township, north of Pittsburgh. But on this day, he was in Highland Park when city police directed him to park along a street curb, a police cruiser stopping behind the car he was driving, lights flashing.

What could he possibly have done to be pulled over?



According to police video recordings and news reports of courtroom testimony, this is what happened next:

Officers Michael Kosko and Andrew Miller initially stopped Mr. Ford's vehicle because they said the car was speeding and running stop signs.

After the officers obtained Mr. Ford's driver's license, registration and insurance information, they called another Pittsburgh police officer, Detective David Derbish, to the scene to ascertain if Mr. Ford was actually another person, Lamont Ford, a known gang member from Homewood who was wanted on an outstanding warrant.

Collectively, the officers, all white men, believed that they had just pulled over Lamont Ford, and not Leon Ford. "It's gotta be him," Mr. Derbish was heard saying in the video recording of the incident.

Moments later, Mr. Kosko and Mr. Miller ordered Mr. Ford to get out of the car, but Mr. Ford refused because, he said later, he was scared. That's when Mr. Miller reached inside the vehicle and grabbed Mr. Ford, prompting Mr. Ford to grab onto the car's gearshift so he wouldn't be pulled from the car.

Mr. Derbish said he thought Mr. Ford might have had a gun in his pocket (he did not), so the detective jumped into the passenger side of the car to remove and arrest Mr. Ford, but the car began to roll forward. Mr. Derbish then shot Mr. Ford multiple times, and the car ran up on a curb, crashing to a stop seconds later.

Police Use of Force

Across the country, the level to which officers use force against African Americans compared to the level used with other ethnicities has been a constant topic of discussion, but there is little data collected nationwide on the issue. The Federal Bureau of Investigation this year began the National Use-of-Force

Data Collection—which the bureau called “the first of its kind”—at the request of other major law enforcement agencies. Its goal is to offer a comprehensive view of the circumstances, subjects and officers involved in use-of-force incidents nationwide, according to an FBI press release. No statistics have been released from the collection program, so far.

The federal Bureau of Justice Statistics released a report in 2015, which found that from 2002 to 2011, African Americans were 2.5 times more likely than white people to experience nonfatal force during face-to-face contacts with police. African Americans also were more likely than white individuals to perceive the nonfatal force used by officers as “excessive.”

Other findings from the report included that black people were twice as likely as whites to experience non-fatal force while undergoing a personal search during their most recent interaction with police.

As part of its Pulitzer-winning series on police shootings in America, The Washington Post created a database in 2015 to track the shootings annually in the absence of national statistics elsewhere. In 2018, the Post found that there were 992 people fatally shot by police. Of those, 229 were African American, or 23%. African Americans accounted for only 13.4% of the U.S. population last year.

The numbers were eerily similar in 2015, when, out of 994 people shot and killed by police, 258, or 26%, were African American, twice their proportion of the U.S. population. The Washington Post database also found that in the same year, among the 113 people killed by police during a traffic stop, 37, or 32%, of the victims were African American, again disproportionately higher than their representation in the country. Of the remaining victims, 53, or 46%, were white; 19, or 16%, were Hispanic; and two were Native American. In two cases, the race was undetermined.

Leon Ford's Case

The traffic stop and subsequent police shooting of Mr. Ford did not result in a fatality, but Mr. Ford was left paralyzed from the waist down.

Whether the officers were justified in using near-deadly force in Mr. Ford's case was an issue that was fought not only in the courtroom, but also in hearts and minds across Pittsburgh, particularly the city's African American community.

Brandi Fisher, head of the grassroots organization Alliance for Police Accountability, has been unrelenting in calling out the police for what she views as unnecessary use of force tactics.

His criminal charges behind him, Mr. Ford began focusing on a federal lawsuit he had filed in 2013 against the city and the police department. He asserted that his Fourth and 14th Amendment rights were violated by the officers, "including the right to body integrity, the right to be free from excessive use of force and the right to be free from unreasonable searches and seizures," according to court documents. Mr. Ford's civil lawsuit also claimed assault and battery, false arrest and imprisonment.

U.S. Magistrate Judge Maureen Kelly dismissed the city, the supervisors and Mr. Kosko from the lawsuit, but allowed the suit to proceed on accusations of excessive force

by Mr. Derbish and assault by Mr. Miller. The civil trial began in October 2017 and ended later in the month with the jury throwing out the assault claim against Mr. Miller but deadlocked on the claim against Mr. Derbish, the officer who shot Mr. Ford.

Before a second civil trial was to begin on Jan. 22, 2018, the city announced that it had reached a \$5.5 million settlement with

Mr. Ford, putting an end to more than five years of trials—literally—and tribulations.

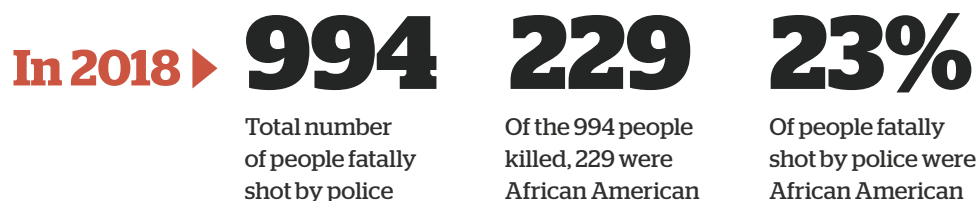
"After five years of arduous litigation, all parties are pleased to announce that we have reached an amicable resolution in the federal lawsuit Leon Ford brought following the Nov. 11, 2012, shooting incident," Mayor Bill Peduto said in a Jan. 17, 2018, statement. "This settlement is in the best interest of Mr. Ford, Officer Derbish and the City of Pittsburgh, and will provide all involved the closure needed to move forward in a positive direction."

A Fatal Police Encounter

Six months and two days after Mr. Ford's settlement agreement, the term "use of force" came to the forefront again when 17-year-old Antwon Rose II was shot and killed by then-East Pittsburgh Police Officer Michael Rosfeld as Antwon fled a felony traffic stop. He was shot three times, with the fatal shot to his back.

The encounter became national news: An unarmed black teenager was killed by an officer who was spending his first hours as an official member of a small town police force. Protests halted highway traffic, Downtown Pittsburgh traffic, East Pittsburgh traffic. The police department, for years questioned about its cost to the small community, was eventually dissolved in December 2018, with state police taking over law enforcement duties.

Many African Americans—as well as people from other racial backgrounds—were outraged about Antwon's death.



"Often these [use of force tactics] are crimes that are committed, and not just violations of policy," she contended. "We see that the way the law is written has been used as justification for murder, aggravated assault and the use of excessive force by police officers."

Ms. Fisher was one of the primary voices at press conferences alongside Mr. Ford throughout his years-long legal battle with the police department and the City of Pittsburgh. After his encounter with police, Mr. Ford not only endured the trauma of being shot multiple times and becoming paralyzed, but he was subsequently charged with aggravated assault, resisting arrest, escape and reckless endangerment.

On Sept. 15, 2014, an Allegheny County jury found Mr. Ford not guilty on the two counts of aggravated assault charges, but deadlocked on the remaining charges.

Four months later, the Allegheny County District Attorney's Office announced it was dropping the remaining charges against Mr. Ford. Among the reasons given by District Attorney Stephen A. Zappala Jr. in public statements were that "a jury acquitted on the assault allegations against the persons immediately at risk—the police officers. Those issues cannot be re-tried," and that "given the efforts of Chief [Cameron] McLay to improve police and community relations, it is my hope that not proceeding to a second trial will assist both the chief and our community in this regard."



Chancellor Humphrey

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Leon Ford

Yes, they understood that the vehicle Mr. Rosfeld pulled over had its back window shot out and had been involved in a drive-by shooting in North Braddock, a nearby borough also outside of Pittsburgh. But they couldn't understand why Mr. Rosfeld, after pulling the car over, would fire his service weapon multiple times at a person who was unarmed and running away from the officer, seemingly placing the officer in no immediate danger.

Mr. Ford, now somewhat distant from the spotlight, was so upset by the deadly force used on Antwon that he decided his response to police-involved shootings would be to run for a seat on Pittsburgh City Council.

During his campaign kickoff event on Nov. 11, 2018, exactly six years after he was shot by Pittsburgh police, Mr. Ford said that running for City Council was the perfect place "to effect change—it's important for my journey."

He told the crowd that afternoon that one of his best qualities is his ability to be an "active listener."

"I'm able to listen to people even if they have a perspective that's different than mine. I'm able to listen to people even if they're saying things I don't agree with," he said. "I might be frustrated, I might be angry, but I'm able to put my personal emotions aside for the betterment of my community—and that's something I've shown for the past six years."

But as the number of candidates ballooned for the council seat he was seeking, Mr. Ford decided to withdraw his candidacy, citing other commitments that took up most of his time.

“I feel it is best for me to make room for someone who has the true ability to devote to this honor,” he wrote in a March announcement on his Facebook page. Ten days after Mr. Ford withdrew from the City Council race, Mr. Rosfeld was acquitted on criminal homicide charges stemming from Antwon’s shooting death.

Efforts to Change Use of Force Laws

Jurors in both the Mr. Rosfeld criminal and Mr. Ford civil trials indicated that because of Pennsylvania’s use-of-force laws, they couldn’t reach guilty verdicts against officers who used their weapons and fired upon suspects who were trying to flee—even when the individuals were found to be unarmed.

In response to those decisions, local state Reps. Summer Lee and Ed Gainey led the push for House Bill 1664, proposed legislation co-sponsored by two dozen members of the Pennsylvania House that would amend the current use-of-force laws in the state. The bill mandates that a police officer is justified in using “reasonable”—not “any”—force deemed necessary to carry out an arrest and “reasonable”—not “any”—force considered necessary to defend the officer or others from bodily harm. The use of deadly force would be justified only when the officer “reasonably” believes that such force is necessary.

The current Pennsylvania use-of-force laws allow officers to use “any” force deemed necessary to complete an arrest or to defend themselves or others from bodily harm. An officer also is justified in employing deadly force “only when he believes such force is necessary” to prevent a suspect from escaping and who has committed or attempted to commit a forcible felony.

“Our legislation seeks to eliminate effectuating an arrest as a justification for the use of deadly force,” Reps. Lee and Gainey wrote in a memorandum to all House members on March 29, a week after the not guilty verdict for Mr. Rosfeld. “Our proposal would mandate that de-escalation and non-lethal force options be exhausted prior to lethal force being deployed and that lethal force only be used and justified to prevent imminent threat to life.”

The bill was referred to the House Committee on the Judiciary on June 24. Meanwhile, those advocating for revisions in the law, such as Ms. Fisher of the Alliance for Police Accountability, say the changes can’t come soon enough.

“The [current Pennsylvania use-of-force] law is used as an excuse,” Ms. Fisher argued. “First, it’s created to be biased, then the mass media brainwashes society that we have to abide by these laws when we can change them.

“If the law is not right, then you should change it . . . We should focus on changing the law so it is equitable.” **h**