

Post-Ferguson police reform stalls among racial divisions

ST. LOUIS – Ferguson became the Selma of the 21st century after Officer Darren Wilson killed Michael Brown seven years ago. Protests transformed Black Lives Matter from a hashtag into the nation’s leading civil rights movement and forged a potent political coalition that elected Black reformers to top St. Louis offices, from prosecutor to congresswoman to mayor.

Yet Ferguson reforms have faltered and Missouri is moving backward. This summer, Missouri became the only state since George Floyd’s murder to enact a [“Law Enforcement Officers’ Bill of Rights.”](#) The passage of the law, [drafted](#) by a lawyer for state police unions, got scant public notice. But it ties police accountability in knots, closes police misconduct records and allows courts to block the kinds of police budget cuts proposed by St. Louis Mayor Tishaura Jones.

Even as the nation was consumed by Floyd’s murder in Minneapolis and the killing of Breonna Taylor in Louisville, Kentucky, St. Louis paid little attention to similar deaths that occurred here involving “prone restraint” and mistaken “no-knock” warrants.

[Nicholas Gilbert](#) died of asphyxiation in a St. Louis police holdover in 2015 under prone-restraint, with six officers on top of him while he was handcuffed and his legs were shackled. And [Don Ray Clark](#), a 63-year-old Army veteran, was killed in 2017 during a SWAT team’s no-knock raid on his Dutchtown home based on a warrant application painting him as a criminal even though he had never been charged with a crime.



(Photo by Brian Munoz)

The City of St. Louis has continued to defend these police actions in court, even though the killings are similar to the Floyd and Taylor killings criticized publicly by city officials.

But that may be changing. When Jared Boyd, the mayor's chief of staff, was asked to explain the disconnect between the city's legal position and the mayor's public statements, he told St. Louis Public Radio that Jones is appointing a new city counselor who will reconsider the city's legal position in police cases. And the mayor appointed Sheena Hamilton, who became the first Black female city counselor in September.

The change is part of a larger police reform in the works in which the mayor is proposing an Office of Public Accountability that would employ civil service investigators with subpoena power to investigate serious allegations of police wrongdoing. The civilian investigators would "wall off" the police from involvement in these probes, Boyd said.

The proposed reform is intended, he said, to address weaknesses in post-Ferguson reforms.

The situation:

Here is evidence the Ferguson reforms have fallen short:

- St. Louis police [kill more](#) civilians per capita than any other big city department, yet no St. Louis-area police officer has ever been convicted of murdering a civilian.
- St. Louis-area officers killed 132 people between 2009 and 2019, according to an ArchCity Defenders report. Yet few of the names of the officers involved in the killings were reported in the media or released publicly.
- Three-fourths of the 79 St. Louis-area police officers known to have killed people between 2009 and 2017 were never publicly identified in the media or by police. Almost half remain active as police officers, according to state records.
- The St. Louis Civilian Oversight Board, set up as a post-Ferguson reform, [didn't review](#) any of the 21 police killings in the City of St. Louis from 2016 through 2019, nor has it heard 96% of non-lethal police abuse cases filed by citizens.
- The post-Ferguson creation of the Force Investigation Unit in the St. Louis Police Department has resulted in less, not more, public information about police killings. Officers' names aren't released nor are details. And there have been no prosecutions.
- Circuit Attorney Kim Gardner, elected by Ferguson reformers, has not issued prosecutorial judgments on the score of police killings on her desk, civil rights lawyers say.
- Racism has infected police misconduct. White officers badly beat a Black colleague at a Black Lives Matter protest in 2017 in downtown St. Louis because they thought he was a protester. The officers sent racist texts to each other before and after the assault

expressing their enthusiasm for beating Black people and their racial hatred for Gardner, the Black prosecuting attorney. Only one officer was convicted by a jury – partly because the federal criminal civil rights law has an especially high level of proof: a prime roadblock to police accountability.

- At the same 2017 protest, white officers “went [rogue](#)”, the city admits, and illegally “kettled” 125 Black Lives Matter protesters and downtown residents by closing them into a city block, spraying them with pepper spray and arresting them in what a judge found to be a violation of their rights.
- Gardner has identified about 60 officers who are not honest enough to testify in trials, yet the police union defends them.
- The police unions still are [effectively segregated](#), with the predominantly white Police Officers’ Association warring against the city’s first Black prosecutor, while the Black Ethical Society of Police defends her.
- Officers forced out by the St. Louis and St. Louis County police departments for wrongdoing [wander](#) to suburban departments such as St. Ann, where they often reoffend.

Elections don’t translate into reforms

The killing of Brown on a suburban Ferguson street in the summer of 2014 transformed #blacklivesmatter from a hashtag into the nation’s most visible civil rights movement and created a potent political coalition of young Black people and white progressives.

No one predicted either outcome when Brown crashed onto the pavement of Canfield Drive after Ferguson’s Officer Wilson fired 10 shots at him.

Four Black leaders have won top offices with the backing of

the reform coalition born on the Ferguson streets and led by Ferguson protest leaders such as Kayla Reed. Gardner became the first Black prosecutor in St. Louis in 2017 – one of the first of a nationwide group of progressive prosecutors stretching from Boston, Philadelphia and Baltimore to St. Louis, Kansas City and Chicago and on to San Francisco and Los Angeles.

Then Wesley Bell pulled off a political miracle defeating Bob McCulloch, the St. Louis County prosecutor and slain police officer's son who decided not to prosecute Wilson. Rep. Cori Bush ended the father-son dynasty of William and Lacy Clay in North St. Louis last November and Jones won the election this spring as St. Louis' first Black female mayor, with police reform at the top of her agenda.

After Brown's death in 2014, police reform made modest advances. But for every step forward there have been two back.

The Justice Department's pattern-or-practice investigation in Ferguson found entrenched unconstitutional policing and negotiated a consent decree requiring reforms.

The Missouri Legislature and Supreme Court discouraged municipalities from using traffic stops to fund their treasuries.

But ironically, a series of post-Ferguson reforms intended to bring more accountability in the City of St. Louis – the Force Investigation Unit, Civilian Oversight Board, and Gardner's review of police killings – have brought less accountability.

The Force Investigation Unit has released far less information about police killings than police released before it was created. The Civilian Oversight Board has investigated none of the 21 police killings from 2016 to 2019. And Gardner's office hasn't made any prosecutorial determinations.

But this spring, when Jones became the first Black female mayor, it became clear how ineffective the Civilian Oversight Board had been. Jones' Executive Order No. 1 required the police department to begin using the joint complaint form that had been intended to make sure the Civilian Oversight Board would see all complaints.

The executive order was necessary because the police department had sidelined the Civilian Oversight Board, using old complaint forms that weren't forwarded to the board. An [investigation](#) by the Missouri Independent and Reveal from The Center for Investigative Reporting found the board had received just 125 complaints while the police department had received 3,000. That means only 4% of all complaints were actually reported to the board.

None of the 27 deaths of civilians shot by police since 2015 had come before the Civilian Oversight Board. In a [report](#) this spring, the board blamed a bureaucratic maze for blocking its investigations.

Part of the post-Ferguson reform created that maze: a multi-layered review process that delays shooting investigations for years as they wend their way from a Force Investigation Unit to a review in Gardner's office, then back to the police department's Internal Affairs Bureau, on to the police chief and finally the Civilian Oversight Board.

Less transparent, not more

When St. Louis Police Chief Sam Dotson unveiled the Force Investigation Unit in 2014, he [said](#) that a mandatory review of all cases by prosecutors would ensure impartiality. He also promised that the name of every officer involved in a shooting would be publicly revealed, once it was considered safe to do so.

But a review of media coverage and department incident reports

found that officers' names were less likely to be made public following this post-Ferguson reform.

Emanuel Powell, a lawyer with ArchCity Defenders, confirmed in an interview that the unit created "a more secretive system," making it more difficult for the public to access information related to police killings.

Before the unit was created, incident reports would include an approximately eight-paragraph-long police narrative detailing what happened before, during and after a police killing. Since then, incident reports have been only one or two sentences long, and most no longer include officers' names.

Between 2015 and 2019 nearly 30 St. Louis Metropolitan Police Department incident reports omitted the names of officers who killed civilians on the job, a review of those reports disclosed.

The Force Investigation Unit commented in an email that it withholds the names of police shooters before a charging decision just as it does the names of civilian shooters.

The investigation from the Force Investigation Unit goes on to Gardner for a prosecutorial determination, but Gardner has yet to make a single determination. The [Intercept reported](#) this spring that more than 20 police shooting cases have not received a final legal determination from Gardner's office, including a controversial 2019 case in which Cortez Bufford was shot to death by an officer in a gangway in the Carondelet neighborhood after a police chase.

Some blame Gardner for the holdup. They say Gardner is herself a Ferguson reformer who has failed, as her poorly managed office fails to act on police shootings and holds prisoners in jail for months before trial.

Gardner counters that investigations by the Force Investigation Unit have been inadequate for making

prosecutorial decisions and she has not received the funds necessary for her reviews. She also points out that she has been the target of an all-out assault from the police union and the white power structure – a racial assault she unsuccessfully challenged in a Ku Klux Klan Act lawsuit last year.

Boyd, Mayor Jones' chief of staff, says the mayor's plan for an Office of Public Accountability is directly aimed at addressing the weaknesses of the Force Investigation Unit and Civilian Oversight Board. The mayor's office has been working with senior members of the Board of Aldermen's Public Safety Committee to come up with new legislation, he said.

ArchCity's Powell, who has been working with the families of those killed, says relatives of the dead civilians say "the whole system is bad." Ferguson reforms have done more harm than good, he says.

St. Louis' complicated process is at odds with the best practices for police shootings in big cities – based on the recommendations of the national Police Executive Research Forum. It recommends simultaneous administrative and criminal reviews.

“Rogue” police actions with racist overtones

Two high-profile prosecutions of St. Louis officers have faltered since Ferguson and continue to reverberate today with racial overtones. The story of these two entwined cases illustrates additional legal roadblocks to police accountability and the racist policing found in St. Louis law enforcement.

In 2017 a state judge acquitted Jason Stockley, a former St. Louis officer who, according to prosecutors, said during a car chase that he would kill the fleeing suspect, Lamar Smith.

“Going to kill this mother... don't you know it.” Stockley killed Smith at the end of the chase, claiming Smith had pulled a gun. No prints from Smith were found on the gun, just Stockley's.

But Circuit Judge Timothy Wilson bent over backwards to accept Stockley's story, writing that his threat to kill Smith might have been “a means of releasing tension” and that his 30 years on the bench caused him to doubt that a heroin dealer like Smith wouldn't have had a gun.

On Sept. 17, after the verdict, frustration boiled over among Black Lives Matter protesters on downtown St. Louis streets – in the shadow of the Old Courthouse where Dred and Harriet Scott once sued for their freedom and where, in 1836, Francis McIntosh became St. Louis' first official lynching victim.

A group of white police officers – who the city later admitted “went rogue” – beat Black undercover Officer Luther Hall, whom they mistook for a demonstrator. In the words of a federal [court](#), the “text messages between abusive officers revealed a plan to beat protesters and suggested that if they had beaten a real protester rather than an undercover detective, they would not be in any trouble.”

The police department's initial injury report – which hasn't been widely published – is reminiscent of the misleading police report initially filed in Minneapolis in the Floyd murder, obfuscating police responsibility with the use of the passive voice. The Hall report said, “As officers were making arrests, Officer Hall was knocked to the ground, striking the concrete.” Actually, police brutally beat Hall, leaving a hole in his lip and severe head and neck injuries.

A few hours later and a couple of blocks away, dozens of other abusive officers used what a federal judge found to be unconstitutional “kettling” techniques to surround a group of about 125 protesters and residents in the middle of downtown,

moving in from the edges to arrest, pepper spray and beat the crowd.

U.S. District Judge Catherine Perry was convinced by 18 witnesses that demonstrators did not hear the police declare an illegal assembly and could not exit the block that the police closed off before arresting and macing them. All the charges against the protesters were dropped.

Two St. Louis police officers pleaded guilty to violating Hall's civil rights. Two others were found not guilty by a federal jury. Another, Dustin Boone, was convicted in a second trial.

The difficulty of winning convictions illustrates another legal roadblock in criminal federal civil rights cases – the difficulty of proving “willful intent.” In other words, proving beyond a reasonable doubt that the officer meant to take away a clearly protected constitutional right.

One reason Boone may have been convicted in the second trial but not the first is that federal prosecutors introduced racist texts from Boone and others at the second trial. The officers also sent racist text messages before, during and after the brutal beating. Those texts helped prosecutors prove “willful intent.”

Boone wrote a few months before the attack, “There r n— running wild all across the city and even if/when we catch them... they don't get in any trouble because there are plate lips running the CA0!” CA0 is a reference to the Circuit Attorney's Office, run by Gardner, St. Louis' first Black prosecutor.

Boone attached a video camera to his uniform so he could livestream the beating of Hall to his girlfriend, now wife, Ashley Marie Ditto, who texted back, “That was S000000 COOL!!!!”

Christopher Myers texted fellow officers “let’s whoop some a–,” two days before the beating. Boone texted on the night of the beating, “A lot of cops gettin hurt but its still a blast beating people that deserve it.” He called protesters “animals.”

Boone, the only officer convicted by a jury, was sentenced in November to a year and a day by U.S. District Judge E. Richard Webber, even though prosecutors asked for the 10 years called for in federal sentencing guidelines. Boone’s own lawyers suggested 2 years, painting him as a victim of a department “where being cavalier about violence, particularly racial violence, was far too prevalent.”

Racism runs through it

There is also a strong racial element to the battle between Gardner, the first Black prosecutor, and Jeff Roorda, the business manager of the St. Louis Police Officers’ Association, who himself lost a police job in Arnold, Missouri, for alleged [dishonesty](#). Roorda said about Gardner, “This woman needs to go, she’s a menace to society,” adding that she must be removed “by force or by choice.”

The St. Louis Police Officers’ Association blames Gardner for high crime rates, just as the Philadelphia Fraternal Order of Police blames that city’s reform prosecutor, Larry Krazner. (Krazner grew up in St. Louis.) The St. Louis Association put it this way: “This is a prosecutor who has declared war on crime victims and the police officers sworn to protect them. She’s turned murderers and other violent criminals loose to prey on St. Louis’ most vulnerable citizens and has time and time again falsely accused police of wrongdoing. The streets of this city have become the killing fields as the direct result of Gardner’s actions and inaction.”

The Police Officers’ Association is the bargaining unit for all St. Louis officers, but it is controlled by white

officers. Black officers have long relied upon the separate Ethical Society of Police, who believe Roorda and the main union group have engaged in racial discrimination against Gardner.

Gardner has put 60 to 70 officers of the St. Louis department on the “Brady list” of officers she will not call to the stand because of past dishonesty, criminal convictions or racist statements on social media. Brady v. Maryland is the 1963 Supreme Court decision requiring the government to turn over evidence that might help clear a defendant.

Seven years after Michael Brown’s killing, St. Louis has pro-reform public officials firmly in place, but police accountability is weaker than ever with the failure of post-Ferguson reforms and new barriers to accountability posed by the Law Enforcement Officers’ Bill of Rights.

Two centuries after the Missouri Compromise, Missouri remains divided by race and living with unhappy bargains.

[Read more](#)

William H. Freivogel is the publisher of Gateway Journalism Review. Orli Sheffey is studying political science at Washington University in St. Louis.

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