

DEFENDING LAW ENFORCEMENT IN COURT AND IN THE COURT OF PUBLIC OPINION

Ronald T. Hosko

Last August, the country looked on in horror as the town of Ferguson, Missouri descended into rage and chaos. A young police officer, **Darren Wilson**, had shot and killed 18-year-old Michael Brown who, only moments after stealing cigars from a convenience store and menacing its clerk, resisted Officer Wilson's attempt to detain him by assaulting Wilson in his SUV and struggled with the officer for his gun.



A witness to the encounter, **Dorian Johnson**, also known as “Witness 101” in a lengthy Department of Justice report on the matter finally made public almost eight months later, had fled the scene but returned to the camera lights. Johnson relayed a fabricated tale of how his friend Brown was grabbed by the throat by Wilson and pulled toward the officer’s SUV before the officer shot Brown while his hands were in the air during an attempted surrender. Shortly thereafter, hundreds of protestors – some from far outside the city limits of that small Missouri town – took to the streets to demand immediate charges against Officer Wilson. Many emulated the invented pose of their supposed martyr who, in their contrived view, was wantonly gunned down because of his skin color. In the weeks that followed, thousands marched in far flung protests to the chant of “Hands up! Don’t shoot!” The truths of the fatal encounter no longer mattered.

Throughout the fall, the media and public engaged in an ongoing debate about the nature of the relationship between law enforcement and the communities they serve. The case of Staten Island man, **Eric Garner**, only exacerbated racial tensions, with cops using a neck hold to subdue a suspect illegally selling loose cigarettes – a tactic that was deemed a contributing cause of his death, but one a grand jury found insufficient to indict the arresting officers. Protesters in New York City made their feelings clear when marching to the chant, “What do we want? Dead cops! When do we want it? Now!”

These unconscionable wishes were realized only days later when two cops in nearby Brooklyn, New York, were gunned down while sitting in their patrol car by a career criminal bent on avenging the deaths of Brown and Garner.

Two and a half months later, Attorney General **Eric Holder** announced what DOJ had known since the fall – that there would be no civil rights charges against Darren Wilson for the justifiable actions he took in self-defense seven months prior. Holder concurrently announced the results of a “patterns and practices” report on the Ferguson Police Department and its municipal court system, a hundred page dissection of what DOJ regarded as an abusive system meant to take advantage of those who could least afford it. But, for some protestors, the criticisms of the Ferguson Police Department and courts simply weren’t enough. Enraged by the news of no charges against Darren Wilson, hundreds flocked to police headquarters and then spread

across the small town leaving a wake of looted, vandalized, and torched property in their wake.

Throughout the crisis that was Ferguson, politics in America have been on full display. Comments uninformed by the facts of the Wilson/Brown encounter came from politicians, government appointees, an array of mainstream media reporters and commentators, and other opportunists. Criticizing the police became a national pastime, capped by an interim report by the President’s Task Force on 21st Century Policing, which listed dozens of recommendations and action items pointed solely at perceived failings within law enforcement.

Of course, there are very real concerns about policing, especially as it regards the delicate balance between respect for our citizenry and the necessity of performing certain actions in the line of duty. But, the vast majority of law enforcement personnel are committed to a life of service, a life that commonly demands too much while paying too little.

For more than 20 years, the non-profit **Law Enforcement Legal Defense Fund (LELDF)** has been rising to the defense of police officers like Darren Wilson. The fund recognizes the harm that can come to well-intended law enforcement officers who are put into incredibly difficult circumstances by virtue of the oath they take. That harm can be financial, emotional, and professional. It ends promising and productive careers and can result in convictions for homicide, manslaughter, or other felonies.

Case in point: West Valley Utah police officer **Shaun Cowley** was, in early November 2012, with his partner conducting surveillance in a suspected drug-trafficking area and white supremacist stronghold. In plainclothes, the officers approached a suspected drug buyer, 21-year-old **Danielle Willard**, outside some apartments. They had just seen a small SUV driven by Willard arrive at the apartment lot and park next to their police vehicle. They saw a man approach her, get inside, and then depart, entering an apartment a short time later. After looking suspiciously at their car, Willard moved her vehicle to a different parking spot within the complex. Believing they had witnessed a drug transaction, Cowley and his partner, Kevin Salmon, approached her vehicle on foot to engage the suspected buyer.

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Cowley approached the driver's side and Salmon the passenger's side of Willard's parked SUV. Cowley saw the driver put something in her mouth. He knocked on her window, identified himself as a police officer, and demanded she open her door and spit out the substance. Both detectives attempted to open the locked doors of her car, and Salmon also pulled out his weapon, but kept it pointed at the ground, as a show of force. Both officers had their police badges on neck chains during the early afternoon encounter.

When Willard refused to open her door, Cowley began to return to his vehicle to get a tool to break her window. As he began to walk away, he heard the screech of tires, turned, and saw Willard reversing the SUV directly toward him. Unable to see his partner, Shaun feared the worst and thought Officer Salmon may have been run over. Salmon believed Willard's fleeing vehicle struck or was about to run over Cowley. The two officers fired their weapons simultaneously – Cowley twice at the driver just as he was struck by the SUV and falling to the ground, and Salmon four times. Willard was fatally struck by one of Cowley's two shots and died at the scene. The shooting was the first time Cowley fired his weapon at a threat while serving in the West Valley City Police Department.

Shaun had perhaps less than two seconds to make a fateful decision that day. But the Salt Lake district attorney took a year and a half to look at the evidence, hire outside laboratories, evaluate, re-examine, and second-guess. In June 2014, 18 months after the incident, the DA indicted Shaun Cowley for second degree manslaughter, punishable by up to 15 years in jail.

Learning of the case through the Fraternal Order of Police, the LELDF contacted the defense team to learn more about the facts of the encounter. With investigative reports in hand, information was circulated to our board, which agreed to financially support the Cowley defense. With the help of the local FOP, a defense team was assembled and facts put before a Salt Lake City area judge in the fall of 2014. The judge dismissed the manslaughter indictment. Despite a request by the DA to the Utah Attorney General's office to appeal the dismissal, the Attorney General's office recognized the weakness of the case and the dismissal stood.

While the Cowley case may seem like a resounding victory, a dedicated law enforcement officer was left without a job, his family

and finances broken by the experience. He is not alone. One need look no further than the experience of former Ferguson Police Officer Darren Wilson for proof of that assertion.

With events of the last nine months in the forefront, law enforcers, and those like the LELDF which rises in support, have their work cut out for them.

The LELDF is doing its part. In addition to selecting a handful of important cases to back, we are expanding our purpose. Once almost singularly dedicated to raising funds to defend individual officers who are charged with a crime after engaging in legitimate and appropriate duty-related actions, we are now expanding our presence.

In response to recent civil unrest and an unfair, unbalanced portrayal of law enforcement by biased or uninformed citizens, politicians, and the press, the LELDF is committed to countering an anti-police narrative and raising public trust in law enforcement. To this end, LELDF commentary has been featured on Fox News, CNN, MSNBC, CBS, ABC and various other networks across the U.S. We have also garnered coverage in the New York Times, Washington Post, Wall Street Journal, USA Today, and dozens of other prominent publications. In each instance, our aim is to transform the media's limited understanding – and, in turn, public opinion – of the challenges facing law enforcement each and every day.

Additionally, our organization recently invested in a "use of force" simulator, and hired a police training veteran and use of force expert to provide instruction to media and pundits in its use. This equipment allows participants to experience the split-second decision-making law enforcement of all kinds must undergo in difficult situations, where their choices – often made for the sake of self-preservation or the protection of others – mean the difference between life and death, and especially lately, indictment or public support.

It is abundantly clear that now more than ever, the Law Enforcement Legal Defense Fund is an important resource not only for police who find themselves confronting perilous legal situations, but also, for our honorable industry at-large. While police unions and other organizations are vital, the LELDF fulfills a unique role in our world. Without the generosity of our supporters, it would not be possible.

You can learn more about the LELDF by visiting www.policedefense.org. Together, we can stand with each other to remind the public of the great value of our profession, the impartiality of justice and our service to the country.

About the Author: Ronald T. Hosko currently serves as the president of the Alexandria, Virginia-based Law Enforcement Legal Defense Fund. He retired as assistant director of the Federal Bureau of Investigation in April 2014 after a distinguished 30-year career with the agency. He is also an attorney.

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Dr Rita Villarreal-Watkins is currently the Executive Director of the LEMIT. Rita previously served as the Project Manager for the Leadership Command College (LCC) at the Institute.

During Dr. Villarreal-Watkins' employment at the Law Enforcement Management Institute of Texas, she has become involved in many facets of education. Her teaching and research has concentrated in the areas of cultural diversity issues, leadership development, interpersonal communications, conflict resolution, investigative techniques and diverse workplaces.

Rita is still a licensed peace officer in Texas and also a licensed professional counselor. In her post life after LEMIT, Rita would like to continue working with officers and veterans who are struggling with any emotional issues related to their careers. She is very passionate about taking care of those who have served us in their careers.

Rita is adamant that any female officer interested in attending the FBI National Academy should make every effort to attend. She says they should just "Go for it" as the support will be there. The long term benefits of attending the NA are numerous and invaluable in terms of, networking, training and lifelong contacts you will make at the Academy and subsequent re-trainers and conferences.

Dr Villarreal-Watkins is an example of the many outstanding men and women who have attended the FBI National Academy and gone on to benefit their respective jurisdiction(s) with the knowledge and experience gained. Rita remains close to many of her FBINA classmates and understands they are her supporters, and lifelong friends. They FBINA experience is not just a network but a family.

If you know of an outstanding NA grad in your area who you would like interviewed for the NA Magazine please contact Terry Lucas the National Historian at tlucas@fbinaa.org. Stay safe out there!