Race an issue in Salem arrests

Salem

Complaints:

Lawsuits and audit question officers’ conduct.

By RYAN LESSARD

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SALEM — Ernest Hicks, 65, of Salem, is an African-American. As a bailiff at the Plaistow District Court and a 29-year veteran of law enforcement, Hicks said he has a good reputation in the halls of justice.

But last year, he sued the town of Salem and two of its officers — Dan Nelson and Sgt. Jason Smith — for illegally detaining him when he was driving through an intersection, and hurling profanities at him.

Hicks, who retired as a captain in the Middlesex County Sheriff’s Office in Massachusetts, alleges in his suit that on Feb. 2, 2016, Nelson, who was directing traffic at the time, approached the car and inexplicably began yelling profanities at him while instructing him to roll down his window and open his door.

Smith later approached the car and, according to...
The department is not alone. Law enforcement agencies throughout the state struggle to recruit and retain minority officers.

In the car with Hicks when he was stopped was his longtime friend Richard English, who is also African-American, Hicks’ then-19-year-old autistic son, Sheldon, and his son’s teenage friend. Hicks said he remained calm throughout the interaction and the officers eventually let him go. After collecting himself, he went to the police station and complained to the officer in charge. But he didn’t feel like his case was taken seriously, so he later sued.

“That’s the problem with Salem; they always cover stuff up,” Hicks said.

He withdrew the suit because he didn’t have the money to pursue the case, Hicks said. But he said the officers lied by saying he refused to stop. Hicks said they could have arrested him if that’s what happened.

After the incident, his son was traumatized and briefly hospitalized, Hicks said.

Another lawsuit filed by Reynaldo Gonzalez of Nashua in 2013 alleges he flagged down Officer Nick Turner to ask for directions while driving with his wife. Instead of offering directions, Turner allegedly unholstered his weapon, pointed it at Gonzalez and began using profanities and asking about “knives.”

Turner then allegedly pulled Gonzalez from the car, unlawfully searched him and found no weapons or contraband, according to the suit. Gonzalez says it was racially motivated. His case was settled.

In a 2010 suit filed by Dillon Coleman, an African-American resident of Derry, Coleman alleges officer Chad Clark beat and kicked him about the head and body while he was handcuffed. The suit alleges Clark made racially offensive remarks to and about Coleman, including bragging that he had taken care of that “Jimi Hendrix guy.”

The suit argues the “excessive” force was motivated by racial animus. His case was settled.

She said this particular officer, whose name is redacted in the report, was told his posts, on his private Facebook account where he self-identifies as a Salem officer, should be taken down. But she said those concerns were ignored. McKean told Kroll the same officer is active on the Salem, NH Residents Facebook group and posts things there that make her “cringe.”

Current Human Resources Director Anne Fogarty said McKean was successful in getting some Facebook posts that were racial in nature pulled down. Former Town Manager Leon Goodwin said an officer, whose name is also redacted, posted comments on Facebook about Muslim individuals that he found to be “completely inappropriate” and almost “equivalent to hate speech.”

After that officer was counselled about his posts, the officer called the HR director and threatened her, telling her to stay out of his business, according to Goodwin.

The Union Leader filed a Right-to-Know request for an unredacted copy of the report, which Salem town officials denied, citing privacy around personnel issues.

**Officer diversity**

Fogarty is quoted in the report saying the department is “only hiring white, single, young men and not being very diverse.”

In a written response to the Kroll report, Chief Paul Donovan — who tendered his resignation Thursday, effective Dec. 31 — addressed this statement directly, saying it was untrue and would be inappropriate and unlawful.

“We do not make hiring decisions based on one’s race, color, religion, sex (to include gender identity and sexual orientation or pregnancy), national origin, age, or marital status, as that would be a discriminatory practice,” Donovan said.

He said they hire the best qualified candidates, but are unable to control the pool of candidates.
Coleman was later arrested in Manchester in 2016 and charged with simple assault and resisting arrest. According to court records, he took a plea deal for two years of good behavior and time suspended for six months.

Attorney Larry Vogelman, who represented the plaintiffs in each of the three cases, said he thinks a general lack of supervision and discipline has given license to certain police officers in Salem to behave badly.

“It’s the culture of the department,” Vogelman said.

**Citizen W**

A recently released 177-page redacted audit report by Kroll Inc. found a pattern of inadequate internal affairs, frequently ignored or discouraged complaints, incomplete records and a culture that chafed against town oversight. It also recorded the current and former town human resources directors as citing instances of certain Salem officers making racist comments on social media.

Kroll described citizens complaining about racial discrimination, including Hicks, who is unnamed in the report. In another case, the report described a complaint of a racially motivated vehicle stop and search that was allegedly disregarded.

According to the report, a man identified as “Citizen W” filed a complaint with Salem police, alleging a civil rights violation and an unlawful search and seizure of his vehicle. He claims he was “racially profiled.”

But a police officer who recorded the complaint told Citizen W (and noted so in a memo) that he didn’t believe his complaint had any basis in fact.

“This causes one to speculate if this opinion, which was asserted prior to any investigation, could have influenced the outcome of the investigation,” the report states.

The report also said the seriousness of the allegations would have warranted a formal internal affairs investigation.

“We are inclusive of everyone,” Donovan said.

Fogarty said in the audit report that the department used to have a formal hiring process that involved tests for physical agility, writing and an oral board, but they recently did away with that. She said they also recently hired someone who is the best friend of a newly hired employee.

Brian Pattullo, the newly hired civilian administrator for Salem police who is a former Andover, Mass., police chief, is skeptical of claims of racial bias within the department.

“Do I believe they’re targeting people? I don’t, I really don’t,” Pattullo said Friday.

He said he hasn’t reviewed what the department has done in terms of training, but suggested some “sensitivity training” might be in order.

The 65-member force in Salem has three sworn female officers, two Hispanic officers and an officer of Asian descent. The rest are white males.

In contrast to New Hampshire police departments of comparable size, its lack of diversity is not unique.

In Derry, where the town population is slightly larger than Salem’s and the current sworn police complement totals 56, they have three females, and no Hispanic or black officers, according to Derry Police Captain Vern Thomas.

Since 2012, Salem’s insurer has spent more than $279,800 to settle 16 lawsuits claiming police misconduct. So far, $186,000 of that is in settlement payouts for eight claims.

In contrast, Derry has had zero police misconduct claims in the same time period. Town Manager Christopher Dillon, though, pointed out that Salem receives more calls for service than Derry.

Londonderry Police Chief William Hart said his department has 66 sworn officers, including four female officers, one black officer and four Hispanic officers.
investigation but it was only handled as an informal inquiry. Citizen W even filled out the formal complaint form, which many found to be intimidating because complainants are asked to sign the form affirming that they attest to the facts under pains of perjury.

Still, Kroll found there was no documented investigation other than the case of Citizen W’s conversation with the officer with whom he filed the complaint.

Citizen W told the supervisor, identified in the report as Supervisor B, that he was filing the complaint in case the white officer later kills a black citizen. At that point, the supervisor told him to leave.

Rogers Johnson, the chairman of the Governor’s Advisory Council on Diversity and Inclusion and the president of the Seacoast NAACP, said many police departments struggle when it comes to hiring minority officers.

“They don’t really know where to go to get minority recruits,” Johnson said.

Pattullo agreed.

“You can only hire people that come to the plate,” he said.

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