

Secretive case cites sex abuse | Ex-S.D. cop accused of lewd acts while on duty

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A lawsuit claiming a rogue cop took advantage of people he was paid to protect has been making its way quietly through the San Diego courts.

It was filed against the city of San Diego and former Officer James Dossett by a woman who says she was sexually assaulted when Dossett responded to her 911 call. The lawsuit also claims Dossett made inappropriate sexual advances toward another woman and a girl.

Lawyers on both sides of the case have gone to extraordinary lengths to keep the lawsuit secret. They agreed to a gag order, and in January took the highly unusual step of having Superior Court Judge Charles Hayes seal the file.

But that order never was communicated to the court clerk's office, and the lawsuit has been available for review. Prompted by inquiries, Hayes held an emergency hearing Friday and said he had made a mistake by signing the order.

The case is set for trial Jan. 17, but lawyers for the woman say in court papers that information is being kept from them.

The lawyers, Tom Adler and James Eischen, are seeking personnel records and police internal investigations of Dossett, who left the San Diego Police Department in February 1994, five months after the alleged assault occurred.

Lawyers for Dossett and the city say the records are confidential, and turning them over would violate Dossett's privacy.

"It is hard to conceive how Dossett's criminal acts and the city's ratification of those acts are entitled to protection by the court at the expense of (the woman) receiving a fair trial against either Dossett or the city," Adler said in court papers.

The lawsuit, filed in October 1994, says that the woman's civil rights were violated and that the city did not properly supervise Dossett. Court records indicate she is seeking \$1.8 million in damages. The Union-Tribune is not identifying the woman in keeping with its policy of not naming alleged sex crime victims.

All attorneys in the case said they and their clients declined comment because of the gag order, which is still in effect.

A 911 call

The lawsuit says the woman called 911 on the morning of Sept. 8, 1993, and reported she had been sexually assaulted. She was a dancer for an escort service, on leave from her job as a flight attendant because of depression.

She and her driver had gotten into a dispute over whether to split the \$400 she had earned that night. The woman said that when they returned to the escort service office in Clairemont Mesa, the driver sodomized her, took all her cash and left. She said she was stranded at the office.

When Dossett arrived in response to the call, he learned that the woman had a history of psychiatric problems and was on medication, the lawsuit says. It says he offered to drive her home to Oceanside in his police car.

When the woman noticed the shotgun in the front seat between her and Dossett, she said, he stroked the barrel and said, "A lot of women like my shotgun," according to the lawsuit. The woman said he told her, "You're so pretty. I can see how this could happen to you."

She said that while they were riding in the police car, Dossett touched her breasts. When the two got to her apartment, he pushed her down on her bed and sexually assaulted her, the lawsuit said.

Afterward, the woman said, Dossett repeatedly asked her, "Is everything OK?" and, "Are you OK?" She said she felt he would not leave until she answered, so she said, "OK."

After Dossett left, she took off the dress and threw it in a corner of her apartment, the lawsuit says. She said Dossett called her numerous times in the next week and talked about going out with her. She said she was afraid Dossett would retaliate against her if she reported him.

Two weeks later, two San Diego police officers -- one from the internal affairs division and one from the sex crimes unit -- unexpectedly came to the woman's apartment, the lawsuit said.

"The officers point-blank and without any provocation asked if anything happened with Dossett," the lawsuit said. The woman said she broke down and gave them her account of the alleged assault.

The officers took the dress she had worn as evidence.

According to court papers, Dossett initially denied any sexual contact with the woman. However, when confronted with genetic evidence from the semen on the dress, he said the woman consented to have sex with him.

A legal battle

The city has refused to defend Dossett in court, saying the alleged assault was outside the scope of his employment. He is being represented by a lawyer hired through his homeowner's insurance policy, according to court files.

In documents, Dossett has denied the woman's claims. If he did have sex with the woman, it was the result of "suggestive, lascivious and wanton" behavior by her, Dossett's lawyer said.

Dossett has countersued the city, saying his supervisor ordered him to take the woman home without following appropriate procedures and left him open to what he said is an unfounded lawsuit.

Dossett left the department in February 1994, and court documents do not indicate where he is or what he is doing now. The woman's lawyers said in court papers they are not sure if Dossett was fired or resigned. Police spokesman Dave Cohen said he is not allowed to comment.

According to the lawsuit, "A police officer overheard Dossett bragging in a locker room before Dossett's `resignation' that his `consensual' version of the incident was inaccurate, but he would never be caught."

The department submitted the allegations against Dossett to the District Attorney's Office for possible criminal charges. A spokeswoman for the office, Gayle Falkenthal, said the case was rejected because prosecutors believed the sexual act appeared to be consensual.

The woman's lawyers say in the lawsuit that Dossett's supervisors knew he had made inappropriate sexual advances to

females he encountered on the job, but did not take action soon enough to prevent the last alleged attack.

They said in court papers they believe Dossett was first investigated by the Police Department after a female motorist made a complaint that Dossett improperly searched her and her belongings during a routine traffic stop.

A second incident they mention involved a girl -- no age given -- who said Dossett came to interview her after she said she had been a victim of a sex crime. The girl said Dossett improperly touched her during a meeting he requested in a secluded Pacific Beach alley.

Judge Hayes has allowed the woman's lawyers to have the names and addresses of witnesses in the two incidents, as well as Dossett's training records, performance evaluations and commendations, but he turned down a request to have the city turn over its reports on Dossett's behavior. His ruling was upheld by an appellate court. It is on appeal to the state Supreme Court.

"The court's review of the evidence was conducted in the context of attempting to ensure and maintain both Officer Dossett's right to privacy and the right of the plaintiff to a fair trial of her claims and to discovery of evidence relevant to the subject matter of her claims," Hayes said in his April 30 ruling.

Other lawyers who have fought in court to obtain police records said it is always a tough battle. State law places strong protections on police officers' personnel records.

"The judges are very, very stingy about turning over those documents," said attorney Michael Crowley, who has filed lawsuits alleging police misconduct. "If, as everybody says, there's a small percentage of bad officers, the only way we're going to help the system get better is to have that information available."

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Abstract (Document Summary)

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