

The Hit Parade Revisited

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Sometime after midnight on July 29, 2003, Charles and Angela Rostance were roused from bed by flashing lights and the blare of police sirens outside. The recently married graduate students, in town from Arizona to visit Charles's father, went to their bedroom window looking out on 35th Street in south Minneapolis to see what the commotion was about. As Charles Rostance later described the incident in a sworn deposition, he saw a man seated on a motorcycle with a cop car pulled up close behind. The police officers had gotten out of the car. Their guns were drawn and pointed at him.

They ordered the man to get off the bike and put his hands on top of his head. According to Rostance's statement, the man immediately complied. At about this time, Angela joined her husband at the window, watching as the cops directed the motorcyclist to get on his knees in the street. He promptly followed this order as well.

At this point, according to separate statements given by both Charles and Angela, an officer ran up to the man being arrested and kicked him between the shoulder blades. "His face bounced off the pavement," Charles recalled in May. "Nothing broke the fall except for his face."

According to Angela's deposition, two more squad cars arrived at this point. A group of officers surrounded the downed motorcyclist and kicked him at least three times in his side. She added: "I couldn't really see the guy very well but I saw several cops around him kicking and I saw bright lights and I said, 'Oh my God, they're tasing him.'"

Seeing this, Angela Rostance phoned 911. "I said something along the lines of, 'There are a bunch of cops that are beating this guy up,'" she noted in her deposition. "They seemed extremely annoyed and said, 'If there are cops there, I'm sure the situation is under control.'"

When Angela returned to the window, the motorcyclist was handcuffed and led to a squad car by an officer. But before the man was placed in the back seat, according to Angela, the cop got in one more lick, ramming the motorcyclist's head into the door frame.

The man being arrested, Sherif Mahmoud Mansour, was subsequently charged with driving under the influence and fleeing a police officer. Mansour, a native Egyptian, pleaded guilty to drunk driving, but the latter charge was ultimately dismissed by a judge. "He's a nice guy," says his attorney, David Shulman. "He just looks like a terrorist by our standards."

Roughly a year after the arrest, Mansour filed a lawsuit in U.S. District Court. The civil complaint charges that the cops repeatedly punched, kicked, and used a stun gun on him for no reason. Minneapolis Police

Department officers G.T. Moore, Matthew St. George, and Brian Thureson are named as defendants in the case.

Mansour's case against the city of Minneapolis and the officers is still pending in federal court. According to Shulman, the two parties are currently in settlement talks.

If Mansour ultimately receives compensation for his treatment by MPD officers, his would join a long list of settlements and jury awards paid out by the city for allegations of police misconduct. In 1994, City Pages published a story, called "Hit Parade," about the MPD's most notorious and costly cops. What's changed in 10 years? Not much.

Since 1995, Minneapolis taxpayers have coughed up some \$10.4 million in 190 cases stemming from MPD actions. Last year, Minneapolis disbursed more than \$2 million in damages to aggrieved citizens--the highest one-year total in the city's history. And so far in 2005, the city has agreed to pay out \$915,769.37 to 21 plaintiffs in cases against the MPD.

Minneapolis's track record stands in stark contrast to that of St. Paul. Between 1998 and 2004, the city across the river paid out just over \$800,000 in 29 police-related lawsuits--barely more than a third of the sum Minneapolis dispensed in 2004 alone. During that period, the city of St. Paul prevailed in 28 other cases. Although St. Paul has a smaller police force than Minneapolis--by roughly a third--that fact hardly explains the massive discrepancy.

"Their officers obey the Constitution more often," surmises local civil rights attorney Robert Bennett, who has won a number of large settlements in MPD cases. "St. Paul has run a tighter ship from a disciplinary standpoint."

MPD Deputy Chief Donald Harris doesn't seem to disagree. "I think there is a confidence level in terms of the way St. Paul police officers approach their work," he acknowledges. "There is a credibility level with that agency as a whole that has definitely never existed within this department. We think we are the absolute best. The rest of the world doesn't really think that."

Conventional wisdom, in Minneapolis as elsewhere, says that police brutality cases are typically the byproduct of a few bad cops, but it's worth noting that the cases in recent years have involved a wide range of police officers. And, in 14 cases reviewed by City Pages that were settled for more than \$50,000 each in the last five years, personnel records released by the MPD indicate that one cop was fired. But the rest were never even disciplined. In fact, most of the officers who have cost the city tens of thousands of dollars over the years remain on the force to this day. Some have been promoted to high-ranking posts.

The problem shows no sign of abating. These cases reflect only a small segment of the population who feel they've been mistreated by the cops. Attorney Bennett estimates that he agrees to represent roughly only one of every 50 people who call his office looking to file a lawsuit. For David Shulman, another lawyer who handles such cases, the ratio is approximately one in 20. "A kick to the nuts, in my book," says Shulman, "that's not enough anymore."

The common element in most of the cases where the city has agreed to pay six-figure settlements in recent years is the presence of Bennett. In 2004, three of his clients collected more than 75 percent of the

\$2 million paid out by the city in civil rights cases. All three cases settled before going to trial. Part of the explanation for Bennett's success is that he thoroughly screens potential clients to ensure that they are credible and sympathetic. He generally won't take on clients who are chemically dependent, mentally ill, or have multiple criminal convictions.

But another common element to cases in which the city has agreed to pay out large settlements is that the plaintiffs are mostly white. This is despite the fact that most civil rights lawsuits are filed by minorities. All three Bennett cases that settled for more than \$200,000 last year involved white plaintiffs.

Race can play a factor in cases that go to trial as well. The vast majority of civil rights cases are tried in federal court, where jurors are selected from across the state. This means that it's extremely difficult to get substantial minority representation in a jury pool. Attorney Jeffrey Hassan says that he now avoids filing civil rights cases in federal court in part for that reason. He recently won a \$356,000 jury verdict in a case involving a black mother and daughter that he brought in Hennepin County District Court. The city had offered only \$75,000 prior to trial. The Minneapolis City Attorney's Office denies that either race or the presence of Bennett play any role in the decision to settle a case.

Any efforts at reform in the MPD will face long-standing systemic barriers. In recent years the MPD's Internal Affairs Division has been largely moribund, rarely sustaining complaints against officers even when their actions have resulted in major payouts for the city. Over the years, IAD has earned a reputation as the place where misconduct cases go to die. The city's cops also have a very strong union, the Police Officers' Federation of Minneapolis, that historically has fought tenaciously on behalf of officers accused of wrongdoing. And the city's Civilian Review Authority--an eight-person panel that investigates allegations of officer misconduct--has been largely ineffective for years, despite an overhaul three years ago.

McManus, who has been on the job for 17 months, acknowledges the department's historical shortcomings. "I don't think that there was enough accountability, in terms of the way we investigated these incidents, in terms of any discipline that was handed out," he says. "And I think the culture got a little bit sideways in that area."

Around 10:15 at night on March 31, 2003, officers Lee Meili and Matthew Hobbs were dispatched to investigate a domestic dispute in the Morris Park neighborhood at the southern edge of Minneapolis. Upon arriving, the officers found Michael Polley and his wife, who had both been drinking, seated on the front steps of their home.

When the officers asked what was going on, Polley responded by pleading with them to "Just take me--don't take my wife." He then proceeded to open the back door of the squad car and climb in. At this point, according to a complaint subsequently filed in U.S. District Court, one of the officers grabbed Polley by the hair, yanked him out of the squad car, and slammed him to the ground. Then, as Polley lay on the ground offering no resistance, one of the officers kned him forcefully in the abdomen.

Polley was then handcuffed, bundled into the squad car, and taken to the Hennepin County Adult Detention Center. Despite being in excruciating pain, Polley did not have any visible injuries. He was booked into the jail.

"I don't think they realized how badly they'd hurt him," says Bennett, who was Polley's attorney. "If they can take somebody in who is hurt and get them accepted by the jail, that's a good thing. They don't have to spend four hours or five hours in the emergency room babysitting this person."

But it quickly became clear to jail personnel that Polley needed medical attention. Upon arrival at Hennepin County Medical Center, he was in critical condition, diagnosed with "blunt trauma to the abdomen" and immediately dispatched to the operating room. After he was given anesthesia, Polley's blood oxygen level "dropped precipitously." He was on the verge of death. In emergency surgery, doctors discovered that Polley had a wounded spleen, a tear to his colon, and internal bleeding. Surgeons were forced to remove portions of his small intestine and his colon.

Polley remained hospitalized for seven days. His medical bills totaled \$35,000. He missed more than a month of work. He will suffer significant digestive difficulties for the rest of his life. Yet despite the life-threatening injuries he suffered, neither Meili nor Hobbs reported using force during the arrest, as they are required to do. In subsequent depositions, according to Bennett, each of the officers continued to deny that they had done anything to cause Polley's internal injuries.

In June of last year, the city agreed to pay Polley \$995,000 to settle the matter--making it the most expensive police misconduct case in the city's history. (The previous high, \$980,226, was paid to a man named Craig Mische in 1995 over claims that MPD Lieutenant Mike Sauro had savagely beaten the St. Thomas University student.) Despite the record payout, the personnel files for Meili and Hobbs make reference to no disciplinary action in the case. In fact, both officers have completely clean records.

Polley's reign at the top of the money pile will likely be brief. That's because another Bennett client, police officer Duy Ngo, is currently seeking damages that would dwarf any previous settlement. Ngo was shot numerous times by fellow officer Charles Storlie while working undercover in February 2003. Bennett is seeking \$9.5 million in compensation for his client's injuries. No trial date has been set.

Through the years, Minneapolis has seen no shortage of police chiefs pledging to set right whatever was wrong at the MPD. Back in the 1980s, Tony Bouza charmed many of the department's critics and earned a measure of celebrity in national policing circles with his open criticisms of police business as usual. He also alienated many city pols and, more consequentially, the rank and file and their union leadership. His successor, John Laux, was to date the last chief promoted from within the department. Laux tried to temper police behavior through quiet, back-channel means, if personnel files are any indication.

Robert Olson, the chief chosen by Mayor Sharon Sayles Belton in 1995, hit town just as a one-year spike in the local murder rate was generating a lot of worried talk about the changed state of affairs in "Murderapolis." Prevailing sentiments at City Hall favored more aggressive policing, not more restraint. Robert Bennett, for one, believes that Olson initially tried to clean house, but grew tired of fighting the police union and its friends in city government. Whatever the obstacles, the city's ongoing payouts amount to a pretty strong argument that no MPD chief in the past 25 years has made a lot of progress toward solving the problem.

When current Chief Bill McManus got to town a year and a half ago, he wasted no time in making a number of high-profile moves seemingly aimed at shaking up the long-lamented internal culture of the

department. McManus immediately drew fire from numerous quarters for suspending several high-ranking officers, and in the following months he set about reshuffling top MPD brass. One of his more pivotal decisions concerned how the department policed its own.

McManus appointed Don Harris to oversee a new operation called the Office of Professional Standards. (McManus later promoted Harris to deputy chief.) That project has entailed a substantial overhaul of the old Internal Affairs Division. According to Harris, a 17-year veteran of the force, IAD "barely" functioned when McManus arrived. Only three cops were assigned to the unit, which had a backlog of 150 cases. McManus responded by assigning five more investigators to Internal Affairs and inaugurated a policy whereby every reported use of force by an officer is investigated as soon as possible.

That's a diametric switch from the old IAD approach, says Harris. In cases where lawsuits were filed, he notes, IAD would refrain from investigating until the litigation was resolved. Now investigations are launched as soon as a complaint comes to light. What's more, Harris claims, there has been a change in the way discipline is meted out: "Instead of two days for a particular violation, now you're going to do close to ten days for that same violation. And that's absolutely a message that's gotten out."

There is more at stake in the Office of Professional Standards than McManus's ideas about reform. In recent years, the federal Department of Justice has been watching the "patterns and practices" of the Minneapolis Police Department. A series of high-profile incidents in 2002, including one in which officers fatally shot a mentally ill, machete-wielding Somali man near Franklin Avenue, drew the attention of the DoJ. Around the same time, some community leaders contacted a mediator from the Justice Department's community relations branch in hopes of starting DoJ-brokered talks directed at changing some of the MPD's alleged habits. The situation came to a flash point in August 2002, when a riot broke out in the Jordan neighborhood after a bullet from a cop's gun grazed the arm of an 11-year-old boy. Federal mediator Patricia Campbell Glenn was in Minneapolis by the next night.

Discussions between the DoJ, MPD, and community members proceeded by fits and starts for a period of months. Hanging over the proceedings was the possibility of the MPD's being forced into a state known as "receivership"--meaning that the DoJ's civil rights division would appoint a monitor to oversee the department and mandate changes to its policies and practices as defined in a document called a consent decree. Similar arrangements were in place at the time in Detroit, Pittsburgh, Los Angeles, and Miami. In Detroit, for example, two consent decrees required the police to rewrite their use-of-force policies and teach "de-escalation" techniques for defusing dangerous situations.

Right before outgoing Chief Robert Olson left office last December, he signed on to a federal mediation agreement that purported to raise the bar on local policing practices. It contains provisions dealing with use-of-force techniques--such as chokeholds--as well as the use of "less lethal" weapons, and policies for handling mentally ill suspects. The agreement also led to the formation of a Police Community Relations Council, which meets regularly to review MPD actions. Ultimately, though, the agreement is not legally binding: The only recourse community representatives would have should the MPD fail to live up to the deal is to call in the mediator again. (Many participants had hoped that there would be a stipulation allowing the civil rights division of DoJ to come in and investigate any failures.) Even so, the specter of the Justice Department looms large, and may provide McManus with some additional political capital in pushing reforms.

Attorney David Shulman is wary of reform talk, which has issued from the MPD on many previous occasions. "When they start firing cops," he says, "I'll believe it."

And there's part of the trouble. Common sense and management theory both dictate that one of the most effective means of changing an entrenched institutional mindset is to get rid of the most prominent exemplars of the traits you want to eradicate. But here McManus, like MPD chiefs before him, runs smack into the thick blue wall that is the Minneapolis Police Federation. In an age when the political power of unions is mostly a memory, the federation is an auspicious exception. Citywide office seekers routinely wrestle for the endorsement of the union. For their part, MPD union leaders and attorneys regularly show up at press conferences and city committee hearings--especially when the police budget is on the agenda. And when it comes to settling federal cases, a union attorney--sometimes co-representing accused officers along with the city--usually will sit in on final negotiations.

William Finney, the former chief in St. Paul, understands how a union can become so entrenched. "If you have a revolving-door chief of police, what becomes stable is the police union," Finney says, noting that St. Paul had just three chiefs during his 34 years on the force. "It doesn't change much, and so they become stronger. So the police officers watch that and they say, 'Who's the power in the department?'" (The MPD, by contrast, has had 12 chiefs since 1971.)

There's little doubt the union has its guard up. In the latest issue of *Roll Call*, the *Bi-Monthly Newsletter of the Police Officers' Federation of Minneapolis*, federation head John Delmonico writes that the union has filed 20 grievances so far this year, on pace to set a record. He notes the newly invigorated internal affairs department and the heightened zeal of the Civilian Review Authority. (Delmonico did not return repeated calls for this story.) The very next page features Sgt. Bob Kroll's primer on giving statements to internal affairs investigators.

McManus seems loath to criticize the federation. "The union's job is to represent their members, and that's what they do," he says. "If you understand the purpose of unions, and the reasons why they exist, you probably wouldn't look at them as an impediment. There is a reason they do what they do...." McManus pauses. "I'll leave it at that."

Largely forgotten in all this is the city's Civilian Review Authority, a citizens' group created to hear complaints about police misconduct. Limited in its powers from the start and frequently plagued by dysfunction, the CRA has had little to no impact for years, and the group plays no role in McManus's reform plans. Michael Friedman, who was named CRA board chair in 2003, says the overhauled CRA has been dismissed, for the most part. Since McManus took office, the CRA has sent 47 cases--where a complaint of misconduct was "sustained"--to him. Up until two months ago, when City Pages contacted him for this story, the chief had reviewed 10. He has now reviewed 26, and in only two of those cases did he "reprimand" an officer. In most cases, he disagreed with the CRA finding. There are still 21 cases to be reviewed.

Harris and McManus don't do much to hide their disdain, chortling out loud when the subject of the CRA is raised. "I deal with the cases as they come across my desk. There's nothing that I'm sitting on," McManus insists. "When the cases come back from CRA we review them and in many cases we find that

their determinations, their findings, are based on conjecture, lack of knowledge of police procedure, those types of things."

Late last year, Mike Quinn, a retired Minneapolis cop who put in 23 years on the force, self-published a book that many feared would be a tell-all about the MPD. But *Walking with the Devil: The Police Code of Silence* is a frank meditation on "The Code"--the understanding that cops never out each other over bad policing. Quinn often sat in on CRA hearings when he was with the police force, and one salient passage from the book hints at the problems inherent in an independent civilian board. Quinn found himself contradicting testimony of a chief's aide, who was minimizing the actions of accused officers. "The panel believed him, not me," Quinn writes. "I wasn't surprised. I've heard cops from across the nation voice the opinion: 'I'd rather go in front of Civilian Review than Internal Affairs.' I could see why. The panel members were completely taken in by the chief's aide."

Even so, Quinn says he sees value in any CRA. "If [McManus] wants an effective CRA, he's gotta work with it--it can still be an effective tool," he says in an interview. "The chief has to be responsive to the community, and there is a need for an outlet outside of the department."

One rank-and-file cop who asked not to be identified framed the problem a little differently: "IA and CRA offer no remedy to those who feel wronged. All they get is some sort of hope that the officer might get in trouble. The civil lawsuit has become the new IAD. You can jam the cops up and get money for it. In the eyes of many, this is a great concept."

Quinn agrees up to a point. "The cost of litigating has gotten so high that it's easier for the city to settle a case for \$5,000 rather than litigate it for \$40,000," says Quinn, who trained new cadets when he was on the force. "More and more people are aware of that. And when the city settles, and there's no discipline, it validates the behavior of the cops involved. And it shows the young cops that this is how we do it."

It's an expensive practice. For the last three years, the city has been mired in a budget crunch, and while there have been cuts across the board, the MPD has taken some of the hardest hits. For 2005, the police department has an operating budget of \$102 million, but the number of sworn officers on the payroll is at a low point. In 1998, the department had 930 street cops; by 2004, that number dwindled to 794. There are 785 sworn officers on the force now. "Frankly, we are running ourselves ragged, especially at bar close," notes William Palmer, a 12-year veteran of the force. "However, the citizens are the ones who suffer the most from the low numbers."

While it's often claimed that a diminished number of police on the streets will lead to more crime, the effect it has on police behavior is rarely discussed. Quinn, for one, says that the low numbers have made many officers "edgy" when answering even routine calls. When the proposed 2005 budget was being floated, it included layoffs and early retirements of about 43 sworn officers. The council later dug up some money to save nine officers, but the outline for budgeting through 2009 suggests the department will be staffed at levels lower than at any point since the early 1960s.

McManus has said that the budget outline leaves him about \$12 million short of what he'd like to do with the department, and Don Harris says the current staffing in the Office of Professional Standards is about half of what he'd consider ideal. Last week, it was announced that some state dollars had been restored to

the city's budget, and some 60 officers would be added to the force in the next year. But city finance director Pat Born warns that the money is a onetime boost, and longer-term budget issues remain unresolved. One place city leaders could theoretically look for money is in the city attorney's office. The average starting salary for a first-year Minneapolis cop is \$43,080.96. But with benefits and other costs included, the city figures it spends about \$65,000 annually for each sworn officer. Put another way, the \$2 million in settlement proceeds paid in 2004 alone was equal to the salaries of about 31 additional officers.

Gayna Wiggins was returning home from the bank on October 18, 2002 at about 10:30 a.m. Traveling south on Penn Avenue, near Hawthorne Avenue, she executed a U-turn and pulled up in front of the house that she shared with her then-75-year-old mom, Rayma. Very shortly afterward, a white car pulled up behind her and a heavyset, white-haired man climbed out of the vehicle. According to court records, the man allegedly began banging on Wiggins's car window and screaming obscenities at her.

Unbeknownst to her, the man was not just any road-rager. He was homicide detective Phillip Hogquist, who routinely worked plainclothes and drove an unmarked squad car. Despite Wiggins's inquiries, the man did not identify himself. When he withdrew to his own car, she jumped out of hers and ran toward the house yelling for her mother. She got hold of a phone and called 911 with the man's plate number. It was then that Wiggins learned that the man she was dealing with was a police officer. Wiggins claimed that she then went to apologize to Hogquist, who allegedly responded by chasing her around the vehicles and calling her a "black bitch."

Shortly afterward, uniformed officer Michael Chiapetta arrived on the scene. He corralled Wiggins and placed her in the back of a squad car. Around this time, 75-year-old Rayma Wiggins approached the scene to find out what was happening. When she got close to the squad car where her daughter was being kept, Hogquist suddenly charged the old woman and shoved her to the sidewalk--"like a linebacker," in the words of Rayma Wiggins's attorney, Jeffrey Hassan. (Hogquist claimed in court documents that he shoved Wiggins because he was afraid the grandmother and retired schoolteacher would get hold of Chiapetta's gun.)

Gayna Wiggins was arrested and taken to jail. She was released the next day and never charged with any crime. Rayma Wiggins was taken to Abbott-Northwestern Hospital. Ultimately, she would need hip-replacement surgery, purportedly as a result of injuries sustained in the incident. The formerly active septuagenarian is now largely a shut-in and requires a walker to get around.

Hogquist, a storied figure in the MPD, was commonly known to colleagues as "Boss Hog." His personnel file records some colorful behavior during his more than two-decade career. In 1983 Hogquist was issued a letter of reprimand for firing his weapon--off-duty--at Hidden Beach on Cedar Lake while intoxicated. It notes that he sought treatment for chemical dependency the day after the incident. Hogquist was issued another letter of reprimand in 1986 for calling a woman a "fucking bitch" while responding to a domestic dispute call. The next year, he was again chastised for using vulgar language while interacting with a citizen. Finally, in 1991, Hogquist received another reprimand for failing to follow orders and dispersing confidential personnel information without permission.

Two eyewitnesses, both of whom are white, corroborated the Wigginses' version of events. The Wigginses filed a lawsuit in Hennepin County District Court in October 2003.

Attorney Hassan was surprised that the city didn't settle the case prior to trial. "If you see a 75-year-old grandmother who's been assaulted, it doesn't matter what your background is, you're going to feel sympathy and outrage for that person," he notes.

The jury awarded a total of \$355,775.83 in damages in March 2005, the bulk of it for the injuries and medical bills incurred by Rayma.

Hogquist, however, is one officer who won't be costing the city any money in the future. He retired from the MPD in January 2003, and now lives in Texas.