

# Minneapolis City Council OKs \$1 million police brutality settlement

LIBOR JANY DECEMBER 04, 2020

The city of Minneapolis has tentatively agreed to pay nearly \$1 million to settle a lawsuit by a man who suffered a traumatic brain injury after being assaulted by an off-duty police officer.

The proposed settlement was reached at a City Council session Friday. During the discussion, Council President Lisa Bender broke from protocol to relay to viewers what she had told colleagues in private.

Bender, who has announced she will not run again, said she recognizes that some of her colleagues had “solid reasons” for wanting to settle the matter out of court, but she worried that doing so “is creating an environment where we’re not motivated to take the actions that we need to take as a city” and that she would vote no.

“Having served for seven years and voted for many settlements, I find myself hearing over and over that the legal weaknesses we have as a city, that the potential legal risk that we have can be remedied by actions of reform and policy change,” Bender said. “Yet the lawsuits keep coming. Yet the actions don’t seem to be taken to change those policies and practices in a meaningful way so that we’re not back in the same place again and again and again.”

Still, the council voted 8-5 to approve the payment.

Bender's sentiments were echoed by Council Member Jeremiah Ellison, who like Bender has been among the strongest voices advocating for downsizing the city's police force. Ellison said he believes that continuing to sign off on settlements in police misconduct cases sends the message that officials are "accepting these kinds of incidents as simply the cost of doing business when it comes to public safety in Minneapolis."

"I have voted for settlements that felt wrong internally, but felt like the right thing to do economically, but [that haven't] led to the kind of change that we need," he said.

Bender's and Ellison's comments underscored how decisions that in the past might have been avoided or addressed with less emotion are being viewed in a new light since the May 25 death of George Floyd.

The City Attorney's Office and the Minneapolis Police Department both declined to comment on the matter.

The case stemmed from a December 2017 incident at the 1029 Bar in northeast Minneapolis, where Lucas McDonough got into an altercation with off-duty officer Clifton Toles, who was out of uniform and apparently had been drinking, according to the lawsuit. Toles reportedly walked up to the group McDonough was with and accused McDonough of being disrespectful.

Toles then announced himself as a Minneapolis police officer and, without provocation, used a chokehold to drag McDonough out of the bar with a bouncer's help, the lawsuit claimed. Toles then allegedly punched McDonough in the face, fracturing his cheekbone, knocking him unconscious and causing him to fall and injure his head.

McDonough said the incident left him with a serious brain injury that deprived him of his senses of smell and taste.

He sued the city in federal court, arguing that the department should have done more to screen, train and supervise Toles, who was named as a co-defendant along with Fossland-Olson Inc., which operates the 1029 Bar.

Security footage from inside the bar captured Toles' use of a chokehold, according to McDonough's attorney, who likened it to the controversial tactic that led to the death of Eric Garner in New York City in 2014. The maneuver is banned under Minneapolis police policy.

Former city attorney Susan Segal said at the time the suit was filed that the city had "no liability here" because Toles was not working in his official capacity as a police officer, either on or off duty. Police union officials defended Toles, saying he had been asked by "bar employees to help remove an unruly patron."

Historically, the city has sought to settle such lawsuits to avoid protracted, expensive court battles. But the approach hasn't been without its critics.

Police union president Bob Kroll has for years accused city leaders of being too quick to settle and said that doing so is an implicit admission of guilt. At the same time, activists have maintained that it slows reform, arguing that the department has no interest or incentive to make changes on its own.

Friday's proposed settlement was reached as council members took a break from tense budget deliberations, including on whether to pay for mental health services, crime prevention and other measures by taking money from the police budget.

They also met privately to discuss an expected settlement in Floyd's death, which could rival the \$20 million payout to the family of Justine Ruszczyk Damond, killed by a Minneapolis officer in 2017.

**Libor Jany** is the Minneapolis crime reporter for the Star Tribune. He joined the newspaper in 2013, after stints in newsrooms in Connecticut, New Jersey, California and Mississippi. He spent his first year working out of the paper's Washington County bureau, focusing on transportation and education issues, before moving to the Dakota County team.

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