

# Minneapolis cops rarely disciplined in big-payout cases

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Despite nearly \$14 million in payouts for alleged police misconduct over the past seven years, the Minneapolis Police Department rarely concluded that the officers involved did anything wrong, according to a Star Tribune analysis.

Of 95 payouts from 2006 to 2012 to people who said they were victims of misconduct, eight resulted in officers being disciplined, according to records from the police and the city attorney's office.

The 12 costliest settlements were for cases that did not result in any officer discipline, the Star Tribune found. They included the \$2.19 million paid in the case of Dominic Felder, a mentally ill man shot dead in 2006 by police, and the \$1 million paid in the case of Rickia Russell, a woman severely burned by a police flash grenade in 2010.

Last month, the City Council agreed to pay \$3 million to settle a lawsuit brought by the family of David Smith, a mentally ill man who died after being restrained by two officers at the downtown YMCA in 2010. It was the city's largest settlement in a case of a civilian harmed by police.

The city has called the death a "tragic accident" and defended the actions of officers Timothy Gorman and Tim Callahan; department policies require

that officers turn a suspect in a prone position on his side as quickly as possible to prevent asphyxiation.

“Unfortunately, payouts in lawsuits are a hard fought cost of policing,” Police Chief Janeé Harteau said in a written statement in response to questions posed by the newspaper. She succeeded Tim Dolan as chief at the end of 2012. “Although there were 110 cases over the past seven years, our officers interact with more than a million citizens every year. I am unable to explain the details and rationale behind every past case, but I can assure you we vigorously look at each individual one for any policy, training and/or discipline needs.”

Attorneys who have sued the Minneapolis police say the department is reluctant to discipline wayward officers. Robert Bennett, the attorney who represented the family of David Smith, has extracted more large payouts for alleged police misconduct in Minneapolis than any other attorney. He said he believes the department does not discipline “at least on these big cases” because it will hamper its defense in the courtroom.

City Attorney Susan Segal denied that assertion, and said decisions on discipline and whether to defend or settle lawsuits are separate.

“Does the Police Department not discipline because we are afraid of liability?” said Segal. “The answer to that is a categorical no. In fact, officers have been disciplined while litigation is going on. It obviously complicates things, but that is the right thing to do.”

From 2006 to 2012, the city paid settlements ranging from a low of \$150 to a high of \$4.5 million. The allegations include officers using excessive force

that led to death or injury; damaging property during raids; and using racial slurs, among other misbehavior.

In the cases in which the city made payouts and issued discipline, five officers received reprimands. One got a last-chance agreement. Three were terminated.

There also were 15 payouts in which the officers involved weren't named. City records show no officers were disciplined for any incident that occurred on those dates.

In 2010, the city settled an \$8,500 case with Nicholas Dahl, who allegedly was pushed off his bike after officer Peter Ritschel said Dahl had failed to obey a traffic officer. Ritschel was terminated after he failed to complete a force report and then later "intentionally made false statements during a formal statement," city records show.

Off-duty officers Daniel Anderson and David O'Connor received letters of reprimand for an illegal strip-search of a man in 2009. The city paid a \$76,500 settlement in that case.

Anne Otieno, Kyle Walton and Meghan Wong received a \$169,500 settlement after a confrontation with two off-duty officers outside a Warehouse District nightclub in 2007. Wong had a laceration on her chin that required stitches. The three claimed they were targeted and mistreated because of their race.

One of the officers, David Hansen, was reprimanded.

Cyndi Barrington, a Minneapolis police spokeswoman, noted that during the years 2008 to 2012, the city prevailed in 64 of 136 lawsuits.

Said Segal: “The vast majority of cases that go to trial, we win.” She said her office might recommend settlement of a case “even when the officer involved has not violated any police policies that would lead to discipline.”

“We are weighing all the risks of what a jury might do in a case, where an officer, operating in real time, makes an honest mistake. They didn’t check the right box on a form, or an address gets transposed, and even things like that have led to decisions on a settlement.”

Others are troubled by such disparities between settlements and officer discipline.

Lou Reiter, a retired deputy chief of the Los Angeles Police Department and a consultant to police departments for the past 30 years, said he is unaware of any other analysis of the crossover between payouts and discipline in major city police departments. But he said he suspects other cities would have similarly low percentages.

“The failure to discipline leaves officers with the impression they are immune from being sanctioned because they know they did something wrong,” Reiter said.

He noted that cities often do not learn the full extent of misconduct in a case until the lawyers for an alleged victim have spent a year or more in the discovery phase of the lawsuit, long after a disciplinary decision has been made. He said it is therefore incumbent on police to do a thorough investigation early on.

Minneapolis' oversight of cops who cross the line has come under fire before.

In 2010, the Civilian Review Authority, which investigated alleged police misconduct, issued a performance review of Dolan stating that “he has not made discipline of officer misconduct a priority.” It also said the board “has no confidence that Chief Dolan and the MPD command staff will issue discipline on sustained allegations of misconduct going forward.”

The authority also wrote: “A lack of discipline in the MPD fosters a culture of impunity which will likely lead to further cash payouts related to police misconduct lawsuits for the foreseeable future.”

At the time, Dolan denied he was lax on discipline; Mayor R.T. Rybak said Dolan had fired more cops than any previous chief. Last year, the authority was dissolved and replaced by a new Office of Police Conduct Review, in which civilian and police investigators work side by side.

Asked about the Star Tribune's analysis, Donald Bellfield, who chaired the authority from 2008 to 2012, said last week, “It appears to be business as usual for the nondisciplining of officers.”

Bellfield said he will reserve judgment on how Harteau will discipline officers in the future. “We'll see what the new chief is going to do.”

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