The Price of Injustice: Taxpayer Payouts for Police Misconduct in Minnesota

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Introduction

There are millions of police officer-civilian interactions every year across the United States.\(^1\) By far the vast majority of them pose no problems. This is true despite the fact that these interactions can occur at incredibly stressful times where individuals are victims of a crime, are accused of a crime, or simply need assistance for a variety of reasons. Police officers are often a front line for the delivery of a variety of services and the interaction with civilians proceeds smoothly and peacefully. Most of the time, police officers act in a professional and respectful fashion.

The same is true in Minnesota. Police officers, whether they are employees of municipal police departments, serving as county sheriffs, the state police, or working for the University of Minnesota and the Metropolitan Council, similarly they provide a variety of services and they encounter the public thousands if not millions of times per year. Again, the vast majority of the incidents take place without incident.

Unfortunately, incidents do occur and police misuse their authority. The news in the last few years have captured stories of police misconduct in Ferguson, Missouri involving Michael Brown or more recently, in Memphis, Tennessee where five police officers were dismissed and subsequently charged with the death of Tyre Nichols. In Minnesota, the May 2020 murder of George Floyd at the hands of four Minneapolis police officers made statewide, national, and international news. It led to repeated questions about police misconduct and produced a national debate on how to address and mitigate future problems.

George Floyd’s death followed other high-profile ones that grew out of police encounters with other civilians in Minnesota. In Minneapolis there were officer shootings that led to the death of Jamar Clark and Justine Diamond. In Saint Anthony it was Philando Castile. And subsequent to George Floyd there were the deaths of Daunte Wright by a Brooklyn Center police officer and Amir Locke in Minneapolis by a police officer in that city.

In addition to any criminal prosecution that took place against the officers, surviving family members of the victims of police use of force have sued the respective cities for civil rights

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\(^1\) Exact estimates for the total number of police-civilian contacts or interactions vary. For example, Erika Harrell and Elizabeth Davis, “Contact Between Police and Public 2018—Statistical Tables,” Bureau of Justice Statistics. Located at Error! Main Document Only.\(^1\)\(^2\) (site last visited on June 12, 2023) (estimating that 61.5 million individuals had at least one contact with a police officer in the United States in 2018). Error! Main Document Only. The city of Mobile, Alabama had a population of 184,952 as of 2022 and it reported a total of 200,000 police-civilian interactions in one year. Mobile, Alabama, “200,000 Police/civilian Interactions a Year.” This means there is a police-civilian interaction ratio of 1.08 based on population. Located at https://www.mobilpol.org/police-interactions/ (Site last visited on June 10, 2023) (no date). In 2021, US Census estimated the Minnesota population to be 5.7 million, and Minneapolis to be 425,000. The US population in 2021 was 331.9 million. This means approximately 18.5% of the US population had some contact with the police each year. Assume Minnesota has a similar ratio of police to civilian contacts, then we can assume approximately 1,000,000 contacts per year or approximately 10,000,000 over the course of a decade (18.5% of 5.7 million equals 1,054,500 estimated individuals in Minnesota who had contacts with police in any given year. Some individuals may have had multiple contacts). Using the Mobile 1.08 interaction ratio, there should be 6,156,000 police-civilian contacts per year (1.08 x 5.7 million). Finally, Minneapolis’ population is 2.3 times that of Mobile. Using that ratio, assume Minneapolis alone to have (200,000 x 2.3) alone to have 460,000 police-civilian interactions per year. The point is that there are lots of ways to determine statewide police-civilian contacts per year, with the conservative figure of 1,000,000 per year or 10,000,000 for the decade being the base number that will be employed in this study.
violations. In the case of George Floyd the City of Minneapolis agreed to a settlement of $27 million. This was on top of the $20 million to Justine Diamond’s family and $200,000 to Jamar Clark’s family.

All of these payouts raise a series of important questions.

• How frequent is police misconduct such that the cities or government authorities they work for have to make payouts?
• What types of police misconduct are there?
• Are there some cities or government authorities more likely to engage in or pay for misconduct?
• What do we know about the race, class, or gender, of the victims of police misconduct?
• How much overall have taxpayers paid out for police misconduct?

These are just some of the questions that were raised in Minnesota after George Floyd’s murder and the Minneapolis’ settlement with his family.

Unfortunately, there is no central database that tracks governmental payouts. This is true nationally as well in Minnesota. While nationally we have databases such as the FBI Uniform Crime Reports to track crime, there is no parallel for police misconduct. There is a national database for police use of force which was started in 2015 and began collecting data in 2019. However it only collects data on the use of force, and it only has information for a few years.

In terms of the scope of the problem regarding governmental payouts for police misconduct, we simply do not know. The US Violent Crime Control and Law Enforcement Act of 1994 encouraged local governments to create a database of statistics regarding use of force. Largely that data-gathering never happened. What we do not have is good data or definition of what is considered police misconduct, including use of force,. We do not know how often force is used, type of force employed, reason for the use, against whom, and what resulted (death, injury, etc.). We have little idea on the scope of the problem, which is critical to fashioning solutions. Moreover, the 1994 Act only referred to use of force, it did not address other potential misconduct. Overall, neither nationally nor in Minnesota do we know the answers to the above questions.

This report seeks to fill in the gap, at least for Minnesota. It is the first effort to construct a survey of government payouts for police misconduct or abuse of authority.

The goal here is simply data gathering. It is to provide information for the public and policy makers to consider as they determine what steps they wish to take when it comes to addressing police misconduct.

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Holding Governments Responsible for Police Misconduct

When police misuse their authority, what happens? Prior to the 1970s allegations of police misconduct were rarely if ever criminally prosecuted. But beyond the criminal law, individuals who alleged police misconduct were limited to filing civil lawsuits or claims under state law against an individual police officer. These suits were difficult to win. But if someone prevailed the monetary damages were limited by the assets of the officer. Often this would be little if no compensation. Holding police officers individually responsible gave the cities or governments they worked for little incentive to change their behavior.

In 1978 the Supreme Court ruled in Monell v. Department of Social Services\(^3\) that in some instances state and local governments could be sued under civil rights laws for violations of the constitutional rights of individuals. This meant in the case of police, an individual officer, if acting as an agent of the local government, used what was deemed to be excessive force then the city itself could be held liable for damages.

The idea here was that holding a city responsible for the actions of individual officers would provide financial compensation and remedies to victims under federal law. Two, it would punish cities that failed to take appropriate action to end civil rights abuses. Three, it would deter future action, creating incentives for reform. Monell held out great prospects for change.

However, at least when it came to the area of use of force, state and local governments enacted laws that authorized when police could use it. But more importantly, in decisions such as Tennessee v. Garner\(^4\) and Graham v. Connor\(^5\) the Supreme Court drew limits on when police use of force crossed the line from reasonable to excessive, creating a qualified immunity for use of force or other forms of misconduct. Use of force would be judged excessive when judged from the perspective of a reasonable officer at the time of the incident, not with 20/20 hindsight, and would be considered reasonable when officers thought that the person posed a serious physical threat to them or others.\(^6\)

The logic of municipal or governmental responsibility for police officer behavior is simple: If governments have to make payouts for police misconduct there would be a financial incentive to reform police departments.

Unfortunately as argued elsewhere, this “reform or pay strategy” has had mixed results. There is no national database on government/taxpayer payouts for police misconduct. However, a survey of fifteen large US cities from 2010-2020 indicated they alone paid out $2.26 billion. The data gathering and reporting here was incomplete at best, but it offered a picture of what taxpayers are spending to pay for police misconduct.\(^7\)

\(^3\) 436 U.S. 658 (1978).
\(^6\) 490 U.S. at 396.
Methodology for this Study

This report is a project of researchers at Hamline University in Saint Paul, Minnesota, with data support from Public Record Media (PRM). Public Record Media is a public record research and transparency non-profit organization based in Saint Paul.

The Hamline University Chief Investigator was Political Science Professor David Schultz. At various times he was assisted by several students including Ella Ettlin, Abi Grace, Evelyn Humphrey, and Braeden Werner.

Funding for the research came from the Hamline University Political Science Department, the Hamline University College of Liberal Arts Dean’s Office, and several anonymous Hamline University donors. All the donations and funding was used to pay for the student assistants and cover expenses for postage, paper, envelopes, and printing. Some additional costs covered photocopy costs for the printing of requested materials noted below.

The opinions and conclusions in this report are not necessarily those of Hamline University or of Public Record Media.

Beginning in the Spring of 2021 and in to the fall 2021 the investigative team composed a Data Practices Act request under Minnesota law (a freedom of information request) asking the following:

Copies of the following data maintained by your agency between January 1, 2010, and December 31, 2020:
Any and all data that documents the following elements related to resolved police misconduct complaints that employees of your agency were the subject of; and which resulted in payments (via settlement or judgment) being made to the complainant:

A complete copy of the template or model request is attached in the appendix.

The request for this information was sent initially to the following governments in Minnesota.

- All Minnesota cities with a population of 10,000 or more individuals.
- All 87 counties in Minnesota
- The Minnesota State Patrol
- The Metropolitan Council Police
- The University of Minnesota Police

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8 It is important to note that the request was for a list of all police misconduct complaints which resulted in payments. This information was self-reported and had a governmental entity chosen not to report a payment because they did not deem it misconduct, they had the option of doing that. Whether a specific instance reported by a governmental actually constituted “misconduct” is a matter both of public debate and a decision by those in that government given the authority to settle a case. Whether the law enforcement in that government agree with the determination of what constitutes misconduct is a matter they should take up with their own elected officials or the attorneys that represent them.
Subsequently in the spring 2022 requests were sent to all remaining Minnesota cities with populations of 5,000 or more individuals. In the spring of 2022 and fall of 2022 follow up requests were sent to governments that had not initially responded to the first request.

Request for information were neither sent to the Tribal governments in Minnesota nor to the Metropolitan Airport.

The total requests therefore were:

- 149 All Minnesota cities with a population of 5,000 or more individuals.
- 87 All counties in Minnesota
- 00 The Minnesota State Patrol
- 01 The Metropolitan Council Police
- 01 The University of Minnesota Police
- 239 Total requests

Note that the requested information was self-reported. By that, the governmental entities chose what information to disclose, and had the option to not report information if they did not deem the payout to be for misconduct. This then means the reporting jurisdictions had the ability to define misconduct and payout according to their own definitions.

**Breadth of Coverage**

There are a total of 911 cities in Minnesota. Of those, 291 are identified as having police departments. The survey here made requests to 149 cities or 51.2% of all cities that were identified as having a police department.

As of the 2020 US Census, the population of Minnesota was 5,706,504. The 149 cities surveyed here had a total population of 4,045,474. This represents 70.9% of the total population in the state.

Many cities, especially those less populous and generally below 5,000 in population, often contract with the sheriff in their country to provide police services. All 87 counties were surveyed for this report.

Given the above, this report reached nearly if not exactly 100% of the population in the state and surveyed governments that perhaps represented nearly all the jurisdictions that police departments in Minnesota.

**Response Results**

We received responses from all 239 governments we contacted. In many cases the responses indicated that they did not have any information on payouts for police misconduct or that they had contracted with the County Sheriff to provide police services.
All of the governments but one that reported directly sent us the information requested. The one exception was Minneapolis which referred us to their Office Payouts Dashboard for the information we requested. We secured the information requested from Minneapolis from that dashboard.

Of all of the governments we contacted, 71 indicated some type of payout. This would suggest that 71 of 239 or 29.7% of those contacted made some type of payout for police misconduct.

However this percentage must be looked at with some caution. With many cities or local governments having no information or contracting out to another government for police services, it is possible that there is some under-reporting. It is possible that the percentage of governments paying out is higher than 29.7%, but assume that this is a baseline minimum.

Who paid Out and How Much

There were a total of seventy-one governmental units that made payments for police misconduct during the ten-year time period. The total number of police misconducts for which payouts were made, pending, or otherwise reported by a governmental units total 490. Table I and Chart I break down the top five governmental units which reported a police misconduct incident.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Incident</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minneapolis</td>
<td>172</td>
</tr>
<tr>
<td>Bloomington</td>
<td>126</td>
</tr>
<tr>
<td>Saint Paul</td>
<td>47</td>
</tr>
<tr>
<td>Washington Country</td>
<td>21</td>
</tr>
<tr>
<td>Ramsey County</td>
<td>9</td>
</tr>
<tr>
<td>Rest of State</td>
<td>115</td>
</tr>
</tbody>
</table>


10 A total of 490 responses were self-reported. For some of the reported responses, there was an indication of zero payment. There could be many reasons for this but we do not have enough information to reach a conclusion. The point here is that of total number of admitted, settled, or litigated instances of police misconduct, not all produced monetary compensation.
As we can see from the table Minneapolis accounted for 35.1% of all payouts for police misconduct, followed by Bloomington at 25.7% and then Saint Paul at 9.6%. The three largest cities in the state collectively accounted for 70.4% of the incidents resulting in payouts for police misconduct.

In terms of dollar amount, in total $60,784,822 was paid out by all governmental units for police misconduct.\textsuperscript{11} Charts II, III, and IV breakdown the payment amounts for those jurisdictions with

\textsuperscript{11} An earlier version of this report incorrectly reported Minneapolis’ payout as $136,535,708 and therefore the total state payout as $160,784,822. This original figure was the result of a coding error on the part of the researchers and it has now been corrected and verified with the Office of the City Attorney for Minneapolis. Apologies are due for this mistake.
the largest payout. Minneapolis paid out $36,535,708 during a ten-year period. That amount constituted 60.1% of the total local government payouts for misconduct during the ten-year period surveyed here.

Note that the figures here do not include the $27 million that Minneapolis agreed to pay to the estate of George Floyd on March 30, 2021. This settlement occurred outside and after the requested time period.

For the entire state the mean or average payout per incident was $124,500. For Minneapolis alone, the mean or average payout was $212,416. The mean or average for the rest of the state excluding Minneapolis was $76,255. Why the average payout was 1.7x the state average or 2.78x the rest of the state (excluding Minneapolis) raises many questions. For example, is it about the nature of the misconduct or what? We do not have enough detail to answer this.

However, the numerical mean or what we commonly call the average gives a skewed picture of payouts. Consider instead the median payout. The median is calculated by taking all the payments and ordering from the lowest to the highest and then identifying the one that is in the middle. In Minneapolis the median payout is between $26,282 and $28,010. For the rest of the state it is $6,500. The overall median pay out was $12,000. Minneapolis’ median payout is more than twice that for the entire state, or about 3.5x-4.0 times of the rest of the state. Again, why the difference in medians is a question we cannot answer here.

Chart II
Payout for Police Misconduct:
Minnesota January 1, 2010 to December 31, 2020
Chart III
Payout for Police Misconduct in Dollars:
January 1, 2010 - December 31, 2020

Chart IV
Payout for Police Misconduct:
Minneapolis Compared to the Rest of the State

Percentage of Total Payouts for Police Misconduct: January 1, 2010 to December 31, 2020

- Minneapolis: 39.90%
- Rest of State: 60.10%
In terms of incidents leading to payouts, Table II and Chart V organize the incidents by types. The most frequent is “not specified.” Here there is no data or information provided by the governmental unit regarding what exacting the incident was that led to the claim and payout.

Beyond not specified, damage to property, excessive use of force, and misuse of private information (violation of the State Data Practices Act) were the most frequent causes of complaint.\(^\text{12}\)

What is significant here is that with 195 incidents are specified to the cause, 39.7% of all incidents lack detail regarding the basis of the misconduct. Of those 88.2% are Minneapolis. It could be possible that of these 195 many might be regarding use of force or something else. But without more detail it is impossible to determine what the misconduct was.

<table>
<thead>
<tr>
<th>Classification of Misconduct Incidents</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Specified</td>
<td>195</td>
</tr>
<tr>
<td>Damage to Property</td>
<td>72</td>
</tr>
<tr>
<td>Excessive Use of Force</td>
<td>58</td>
</tr>
<tr>
<td>Other Violations</td>
<td>50</td>
</tr>
<tr>
<td>Data Practices Violation</td>
<td>47</td>
</tr>
<tr>
<td>Civil Rights</td>
<td>46</td>
</tr>
<tr>
<td>Illegal Traffic Stop</td>
<td>13</td>
</tr>
<tr>
<td>K-9</td>
<td>9</td>
</tr>
</tbody>
</table>

\(^{12}\) Note again that the classification here is based on information obtained from the FOIA or Data Practices request. In most cases the classification was offered by the governmental entity reporting. Whether the incidents covered here constitute misconduct is a decision made by the governmental entity in question when they responded to the FOIA request. Whether the law enforcement officials in that governmental entity agree with that characterization by their attorneys or public officials is a different matter.
Other Issues

Some argue that the police misconduct has a racial, class, or gender component. By that the argument is that persons of color, low-income individuals, or even women or members of the LGBTQ+ community are more likely to be victimized by misconduct.

The information received from the governmental units lacked detail or specificity to ascertain whether any of this is correct. When we inquired with some governmental units with questions about the demographics of the victims we were told either such information was not gathered or that it was not public information.

We also were unable to make determinations regarding specific locations with local governments where violations occurred. By that, were incidents located in low-income neighborhoods, neighborhoods with high percentages of people of color, or in neighborhoods of concentrated or high poverty. In short, the reported data made it difficult to undertake any significant correlations or make any statements about the victims.

It should be noted that in the case of Minneapolis, the names of the complaining party or case were indicated. It may be possible with a lot of work to match specific facts and demographics to each incident. However, such a process would be a difficult and time-consuming.
Additionally it would have been good to look for other trends in payouts for police misconduct. The information reported here finds most incidences occurred in the Twin Cities Metropolitan area, but that is also where most of the population exists. It would have also been good to match incidents of misconduct with the percentage people of color in a jurisdiction to see if there any correlation. Again, the reported data is inconclusive or incomplete in terms of being able to perform this analysis.

However, one point does stand out. In terms of the amount paid out and the number of incidents, Minneapolis stands out. In 2010 the population of Minneapolis was 383,078, or 7.2% of the State’s 5,303,925 population. In 2020 the population of Minneapolis was 429,014 or 7.5% of the State’s 5,706,494 population. In terms of number of incidents and payouts for police misconduct, Minneapolis clearly had more of each as a percentage of the state than its population should warrant.

Conclusions

Think of police-civilian interaction as a flowchart or funnel. At one end there is the total number of police-civilian interactions that occur in the course of a day, week, month, year or decade. For the purposes of this study, we assumed a conservative figure of one million police-civilian interactions per year, or ten million from January 1, 2010, to December 31, 2020.

Out of those assumed ten million interactions, 490 resulted in payouts for police misconduct. This means that 99.9%+ of interactions result in no payouts for misconduct. This could mean that only a small fraction of all interactions result in some form of misconduct. But somewhere between total interactions and those that result in compensation or payout, there are at least three other layers or statistics. One is the total number of interactions that result in misconduct. Two, of those where civilians are aware of the misconduct. Three of those where civilians file a claim or sue for misconduct.

We have no information on these three levels and how great their numbers are is a source of much speculation but little data. One does not know how prevalent the possible misconduct is. The focus is this study was simply on gathering data regarding payouts or compensation for police misconduct.
The first conclusion is that governmental payout for police misconduct is not an isolated issue or problem for one city. One finds nearly thirty percent of the governments in Minnesota reported payouts. This study did not look at all incidents of allegations of misconduct or determinations of misconduct. It only looked at payouts. It is unclear how many individuals may have had legitimate complaints but did not know or were lacking the means or resources to sue or seek restitution.

For both those who are supportive and critical of the police, this report provides critical information. One the one had it appears that only a few isolated instances of police-civilian interaction result in compensable payouts. On the other hand, $60 million paid out over a decade is a lot of money. Money spent on civil liability is taxpayer resources not used for other purposes.
Second, the report points to how incomplete the reporting or information is. If the Data Practices Act is supposed to be a tool to bring transparency to government action in order to promote accountability and highlight corruption, there is insufficient information here to do that. The report cannot resolve issues regarding, for example, how race relates to use of force or other misconduct.

Third, as noted in the beginning of this report, the premise of holding local governments responsible for police misconduct was premised in part on the idea that lawsuits and payouts for constitutional violations would force them to reform policing. This has not happened. As the principal researcher has argued elsewhere, payouts for police misconduct appear in some cases to have become a cost of doing business as opposed to an impetus for reform.

Fourth, based on this report, there is a need for mandatory standards and reporting on police misconduct and payouts. As noted in the beginning of this report, there is neither in Minnesota, in any other state, or nationwide a database that gathers this information. This research is a first-of-its-kind effort to assemble this data. It points to how fragmentary and incomplete our knowledge is regarding police misconduct.

At the very least, there needs to be mandatory reporting and standards in Minnesota. It should include information on the race, class, gender, and other demographics of the victims. It needs to provide details on the events or facts leading to the misconduct, and it needs to pinpoint other information such as geography, time of day.

If we wish to take seriously the idea of improving or reforming policing, data gather is the first step. We have here a record of 490 instances of payouts. What we need to do is to look at these 490 instances. What factually happened here that led to the payouts? By focusing arguably on those few situations where something went wrong might offer us the opportunity to determine ways to improve policing. By improving data gathering and examining case studies of where policing led to payouts for misconduct public officials will be better positioned to make policy decisions.

Finally, please note this report is a basis-guess estimate regarding total payouts for police misconduct in Minnesota during the ten-year period in question. For anyone questioning the accuracy of the report, such questioning proves the conclusion or point of this report that without mandatory reporting and standardization of data, we will not have an accurate and certain answer to this and other important questions regarding police conduct.
Re: Data Practices Act request

Dear [Name] (or “Responsible Authority”),

I am making a request for access to public, government data under the Minnesota Government Data Practices Act (MGDPA), Minnesota Statutes, Chapter 13. Through this request (the "Request") I am seeking copies of the following data maintained by your agency between January 1, 2010 and December 31, 2020:

1. Any and all data that documents the following elements related to resolved police misconduct complaints that employees of your agency were the subject of; and which resulted in payments (via settlement or judgment) being made to the complainant:
   a. The complainant’s name;
   b. The complainant’s race, if complainant race data is maintained by your agency;
   c. The complaint or allegation made by the complainant, including the year the complaint or allegation was filed with your agency;
   d. The settlement or judgment that resolved the complaint, including the date of the settlement or judgment, and the amount of the settlement or judgment. Settlement also includes payments made through any insurance policies or funds that the city may have.

For the purposes of this Request, please consider “police misconduct complaints” to pertain solely to complaints related to actions taken by police officers during their on-duty time, as opposed to actions taken by police officers during their off-duty time.

Please consider this Request to be a formal request for the indefinite retention of the requested data, pending resolution of its status. Per Minnesota Statutes 13.03, Subd. 3(f), I am requesting that in the event that any portion of the Request is not granted, that your
department certify in writing that that portion of the Request has been denied, and cite the specific statutory section, temporary classification, or other provision of law upon which the denial is based.

I am willing to pay for all copy fees up to $50.00 without prior notice. If copy fees are expected to exceed this amount, please notify me before incurring those additional copy fees.

If you have questions regarding this Request, I can be reached at 651-200-9204; via U.S. post; or via electronic mail at mkaszuba@publicrecordmedia.org.

Sincerely,

/s/Mike Kaszuba
Public Record Media