

# Cities are safe from demise

As an attorney long-experienced in dealing with federal civil rights claims, I write to clarify assertions made by the April 25 front-page article "For Brooklyn Center, suit could be crushing."

Quite to the contrary of the theme of the piece, the likelihood that any Minnesota municipality could be "crushed" by a lawsuit is nearly zero. And, of course, no city would volunteer to settle a lawsuit that would put it in bankruptcy.

Instead, the real problem with police officer lawsuits and municipal liability in civil rights actions is quite different from the problem posed by the article.

As a result of a variety of arcane rulings by the U.S. Supreme Court, municipalities can now almost choose when to avoid liability — while exposing individual officers to liability that may send them to bankruptcy and that also strips plaintiffs of any real prospect of recovery.

This is especially true where officers have been fired or accused of crimes.

And while cities may be directly sued, they are actually unlikely to ever face a real risk of large judgments entered against them directly. Such direct civil rights actions only happen if the city itself has a policy or custom that caused the violation of constitutional rights.

Indeed, the Supreme Court has made it clear that cities (unlike other employers) are not automatically liable for the civil rights violations of their own officers. That liability only can occur under state law — and Minnesota "caps" or limits that liability by statute.

Therefore, the possibility of a smaller city like Brooklyn Center facing insolvency is just not a calculus worth considering.

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