

For Brooklyn Center, a civil rights settlement could be crushing

Insurance limits and lack of funds are not a defense that will shelter Brooklyn Center — or any city — from multimillion-dollar judgments, legal scholars say.

By Shannon Prather (<https://www.startribune.com/shannon-prather/6370507/>) Star Tribune |

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It's the excruciating calculus that inevitably follows a fatal police shooting.

Families file federal civil rights lawsuits, and local governments must either negotiate with grieving loved ones to compensate them for a life lost or allow a jury to decide damages.

Minneapolis set records with the [\\$20 million settlement](https://www.startribune.com/minneapolis-agrees-to-pay-20-million-in-fatal-police-shooting-of-justine-ruszczyk-damond/509438812/)

(<https://www.startribune.com/minneapolis-agrees-to-pay-20-million-in-fatal-police-shooting-of-justine-ruszczyk-damond/509438812/>) paid to Justine Ruszczyk Damond's family in 2019 and the \$27 million settlement paid to George Floyd's next of kin in March, [hailed](https://www.startribune.com/minneapolis-to-pay-record-27-million-to-settle-lawsuit-with-george-floyd-s-family/600033541/#:~:text=Minneapolis%20to%20pay%20record%20%2427%20million%20to%20settle%20lawsuit%20with%20George%20Floyd's%20Live&text=Minneapolis%20leaders%20on%20Friday%20agreed,of%20killing%20him%20is%20beginning,) (<https://www.startribune.com/minneapolis-to-pay-record-27-million-to-settle-lawsuit-with-george-floyd-s-family/600033541/#:~:text=Minneapolis%20to%20pay%20record%20%2427%20million%20to%20settle%20lawsuit%20with%20George%20Floyd's%20Live&text=Minneapolis%20leaders%20on%20Friday%20agreed,of%20killing%20him%20is%20beginning,>)

as the largest pretrial settlement in a civil rights wrongful-death lawsuit in U.S. history.

The big payouts made by Minneapolis and other large cities are raising the stakes for smaller cities like Brooklyn Center, where a police officer shot and killed a Black man, Daunte Wright, earlier this month. Smaller communities may struggle to pay settlements in the tens of millions, and have to resort to tax increases, borrowing, and in the most extreme circumstances, face financial insolvency.

"It leads to the really uncomfortable situation where it looks to an outsider as though your life is worth more or less depending on whether you were killed by the police in a big city versus a small town," said University of Chicago Law Prof. John Rappaport, who researches police misconduct and liability. "People think, 'Well if George Floyd's family got \$27 million, Daunte Wright's family should get \$27 million because he is just as worthy.'"

Minneapolis is self-insured, relying on its relatively deep coffers to cover settlement costs. The vast majority of Minnesota cities, including Brooklyn Center, rely on an insurance trust that limits basic coverage for most incidents at \$2 million.

But at a time when footage of police killings is commonplace and calls for accountability and reform are reaching a fever pitch, insurance limits and lack of funds are not a defense that will shelter Brooklyn Center — or any city — from multimillion-dollar judgments, legal scholars say.

Because payouts are typically both "compensation" for a life lost and "punishment" designed to motivate cities to reform policing, amounts could continue to rise, said University of Minnesota Law Prof. David Schultz.

"I am convinced [at some point] you are going to get a jury that comes back with \$100 million punitive," he said. "You are going to get some jury who will say, '\$27 million here, \$10 million there — it's not working,' and they are going to nail the city."

Former Brooklyn Center police officer Kimberly Potter shot and killed 20-year-old Wright during a traffic stop on April 11. Police said Potter, who is white, unintentionally fired her handgun after mistaking it for her Taser. She has resigned from the department and is charged with second-degree manslaughter.

Payouts are limited

A 1978 U.S. Supreme Court decision first opened the door for local governments to be sued for damages under federal civil rights claims, Schultz said. In 1980, Minnesota cities formed the League of Minnesota Cities Insurance Trust "in the face of a hard commercial insurance market that made it difficult and expensive for cities to find traditional insurance," trust administrator Dan Greensweig said in an e-mail.



DAVID JOLIS - STAR TRIBUNE

A protester shoots phone video of a law enforcement officer outside the Brooklyn Center Police Department.



RICHARD TSONG-TAATARII - STAR TRIBUNE

Lamar Pettis brought his children, from left to right, Lauren, 14, Lamar, 9, Lamiyah, 9, and Zaniya, 6, to pay their respects to Daunte Wright

The trust provides liability coverage for 827 of the 853 cities in Minnesota. Cities pay into the trust each year, and about one-third buy extra liability coverage capped at \$5 million annually. Brooklyn Center has only purchased additional coverage for its municipal liquor store operations, Greensweig said.

[The Brooklyn Center Police Department \(https://www.startribune.com/daunte-wright-killing-brings-fresh-scrutiny-to-brooklyn-center-police-department/600047240/?refresh=true\)](https://www.startribune.com/daunte-wright-killing-brings-fresh-scrutiny-to-brooklyn-center-police-department/600047240/?refresh=true) had eight police misconduct payouts from 2007 to 2018, two of which were among the most expensive police payouts in the state during that time, according to a Star Tribune analysis including data from the insurance trust.

Greensweig said the trust has never paid out on a claim above its limits, but some cities have settled cases for amounts higher than their coverage, pulling funds from their own reserves.

According to insurance trust payout data from 2007-17, the largest payouts during that time were around \$3 million.

In 2017, the insurance trust, on behalf of member city St. Anthony, paid [nearly \\$3 million \(https://www.startribune.com/philando-castile-family-reaches-3m-settlement-in-death/430840813/\)](https://www.startribune.com/philando-castile-family-reaches-3m-settlement-in-death/430840813/) to the family of Philando Castile, a Black man shot and killed by police during a traffic stop in nearby Falcon Heights. The officer who shot him [was charged with \(https://www.startribune.com/ramsey-county-attorney-choi-to-announce-update-in-castile-shooting/401484635/\)](https://www.startribune.com/ramsey-county-attorney-choi-to-announce-update-in-castile-shooting/401484635/) felony manslaughter and reckless discharge of a firearm and [acquitted on all counts \(https://www.startribune.com/yanez-verdict-only-widens-divide-between-police-community/429147783/\)](https://www.startribune.com/yanez-verdict-only-widens-divide-between-police-community/429147783/).

Despite recent high-profile settlements, the trust has not adjusted coverage limits since 2014.

"With the excess coverage we make available for cities that desire it, we are comfortable we're currently striking an appropriate balance between providing adequate coverage for claims at a cost that does not place an undue burden on local taxpayers," Greensweig said. "We will continue to monitor that, however."

Who pays?

For smaller cities, one huge payout for police conduct could equal a year of taxes.

Brooklyn Center's 2021 property tax levy — the amount of money the city collects in property taxes — is about \$20 million.

The suburb of 31,000 just north of Minneapolis is one of the poorest in Hennepin County with 15% of people living below the federal poverty level, according to census data. Most residents identify as people of color. Brooklyn Center is already spending about 40% — nearly \$9.8 million — of its \$23.8 million general fund this year on day-to-day police salaries and operations, according to its most recent truth-in-taxation hearing.

City leaders did not return a request for comment, but Mayor Mike Elliott attended Wright's funeral and has expressed strong support for the family and police reform.

Attorneys for the Wright family also did not respond to a request for comment.

A community's ability to pay and its insurance limits can be fodder in negotiations with a victim's family, but it doesn't preclude them from demanding more.

A huge settlement may be viewed as partial justice for the grieving Wright family. But it could also create an uncomfortable situation in which one of the state's most diverse communities, where some residents feel at odds with their own Police Department, is paying additional taxes to cover the cost of police misconduct.

"Given the demographics of the city, it's a lot of people who look like Daunte Wright who are going to wind up paying," Schultz said.

Rebuilding trust

Despite the financial pressure, large settlements can be a means for cities to publicly acknowledge the harm done and rebuild community trust, said attorney Rick Petry, program manager for diversity, equity and inclusion at Mitchell Hamline School of Law.

Cities "have to look at exposure, but we also need to look at this politically to try to figure out something we can do to restore some sort of faith in the community," he said.

In Minneapolis, the settlement in Damond's killing shattered the previous payout record — and then was surpassed by the Floyd settlement, which forced the city to dip into its reserves (<https://www.startribune.com/record-settlement-in-george-floyd-case-forces-minneapolis-to-dip-into-its-reserves/600034723/?refresh=true>). Officers were convicted in both (<https://www.startribune.com/five-takeaways-from-the-noor-verdict/509334751/>) cases (<https://www.startribune.com/derek-chauvin-convicted-of-murdering-george-floyd-in-minneapolis-is-led-away-in-handcuffs/600048324/>).

Going forward, Petry said, city leaders will face intense scrutiny if they try to pay out lower amounts. The trend has raised the suggestion that individual officers should indemnify themselves — though the costs could be prohibitive for officers, Schultz said.

"Also," he said, "I can't imagine any insurance company would touch it."

Staff writer Jeff Hargarten contributed to this report.

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