



THE COSTS OF POLICE VIOLENCE: MEASURING MISCONDUCT

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MEASURE
Community Led. Data Driven.

About MEASURE

MEASURE, an Austin-based nonprofit, works to empower people impacted by social disparities and the accompanying narrative.

MEASURE believes that, when used strategically, data provides a common language upon which community members can meet and increase their knowledge about the causes and work together to create equitable change and increased awareness.

WHAT IS POLICE MISCONDUCT?

This report provides data on the costs associated with police misconduct in Austin, TX, during the years 2012 through early 2020. Police misconduct encompasses the violation of Austin Police Department policies or individuals' constitutional rights by police officers in their duties or the illegal or unethical actions of police officers on duty. Police misconduct can range from verbal assaults to bystanders to excessive force that results in a person's death. The goal of this report is to understand how much taxpayer dollars are spent on police misconduct. One article from an Austin NPR news radio story that discusses some of the challenges of measuring police misconduct costs said that the decision to settle a case of misconduct that early ends up saving money for attorney's fees and can result in a lower settlement.[1] Insurance policies and local budgets usually pay for judgments and claims in cases of police misconduct.

1 Corley, C. (2020, September 16). How Police Misconduct Affects Cities And Taxpayers Financially. Retrieved December 21, 2020, from <https://www.npr.org/2020/09/16/913693664/how-police-misconduct-affects-cities-and-taxpayers-financially>

We cannot put a value on community suffering...

IMMEASURABLE COSTS

There are also immeasurable costs to police misconduct, and while they are not the focus of this report, they are worth noting. We can tally deaths, track settlements paid, and examine city budgets, but we cannot put a value on community suffering or distrust; there is no dollar amount you can assign for the pain of losing a child. The ripple effects of police misconduct run deep, and by focusing on the measurable, we will only scratch the surface of its real impact (see Figure 1).

“Nothing can give me David’s life back. Nothing. I’m still going to be hurt, I’m still going to be in pain, I’m still going to think about David every single day.”

Ketty Sully, reflecting on the death of her teenage son David, who was shot and killed while unarmed by an Austin City Police officer.[2]

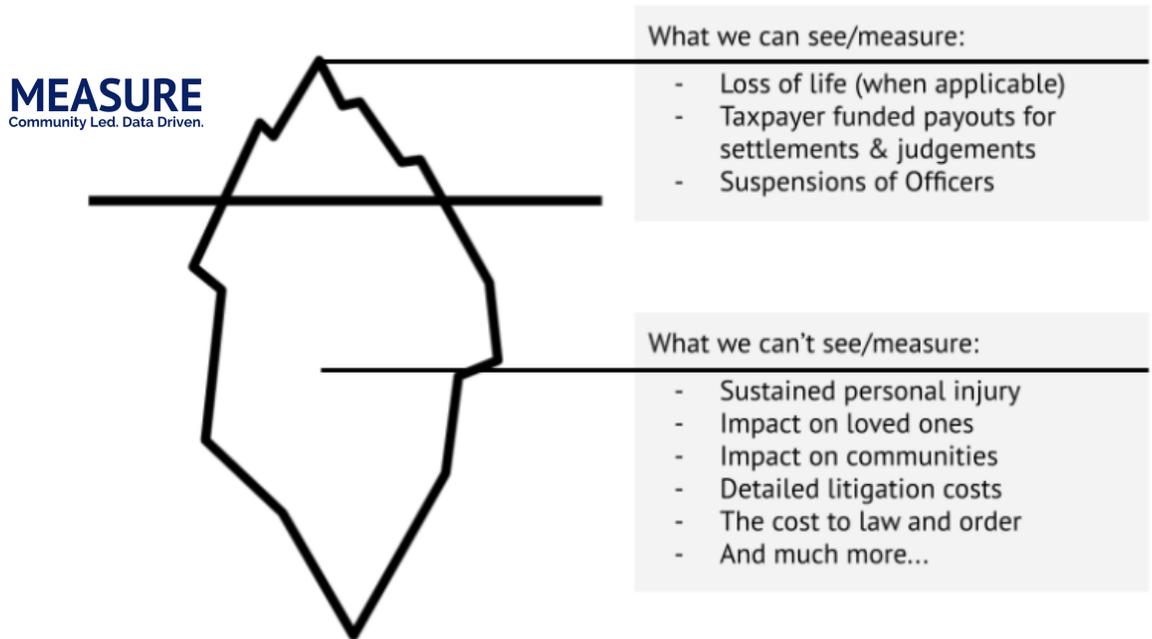
“...less than a second after the taser was deployed, the other two officers unloaded more than a dozen bullets, six of those striking Munroe.”

Events leading to the death of Richard Munroe, who called 911 seeking help while experiencing a mental health crisis. The civil lawsuit was settled for \$895,000 (not including legal fees). [3]

2. “A Cop Shot My Son: An Austin Mother Reflects on Shared Loss.” KUT Radio, Austin’s NPR Station, 28 Sept. 2016, www.kut.org/austin/2016-09-26/a-cop-shot-my-son-an-austin-mother-reflects-on-shared-loss.

3. April Molina, News 4 San Antonio. “San Antonio Man Shot by Austin Police 27 Minutes after Tearful Call to 911.” WOAI, WOAI, 27 Oct. 2016, news4sanantonio.com/news/trouble-shooters/san-antonio-man-shot-by-austin-police-27-minutes-after-tearful-call-to-911.

FIGURE 1. WHAT WE CAN AND CAN'T SEE/MEASURE ABOUT POLICE MISCONDUCT



DATA COLLECTION METHODOLOGY

This report's conclusions are based on two datasets retrieved from the City of Austin via separate open records requests.

The first request was made to the City of Austin for payouts due to police misconduct, specifically those involving excessive force. This data was provided by the City of Austin in July of 2020 and included the lawsuit name, the year of the case, the outcome, information on representation, and various legal costs for claims judged, settled, and dismissed. This dataset includes lawsuits directed towards Austin Police officers from 2012-2018 involving 57 cases of potential officer excessive use of force.

The second request asked for APD offenses and violations that were sex-related, substance-related, violence-related, or related to family violence or racial profiling from the last five years. Central Records provided data in October 2020 that spanned December 2014 to March 2020. The dataset contained formal complaints that were both sustained and resulted in suspension. There were 102 complaints, 99 of which were formal internal complaints. The external complaints were excluded from the final analysis as there were not enough external complaints to conduct a meaningful analysis. The dataset included the following variables: type of complaint, general orders, incident date, command decision, disciplinary value, suspension days, and internal affairs description.

In addition to these datasets, we supplemented our analysis with historical litigation costs from the Austin City Law Department from 2013-2015, which allowed us to estimate better the total monetary cost of trials involving police misconduct.[4]

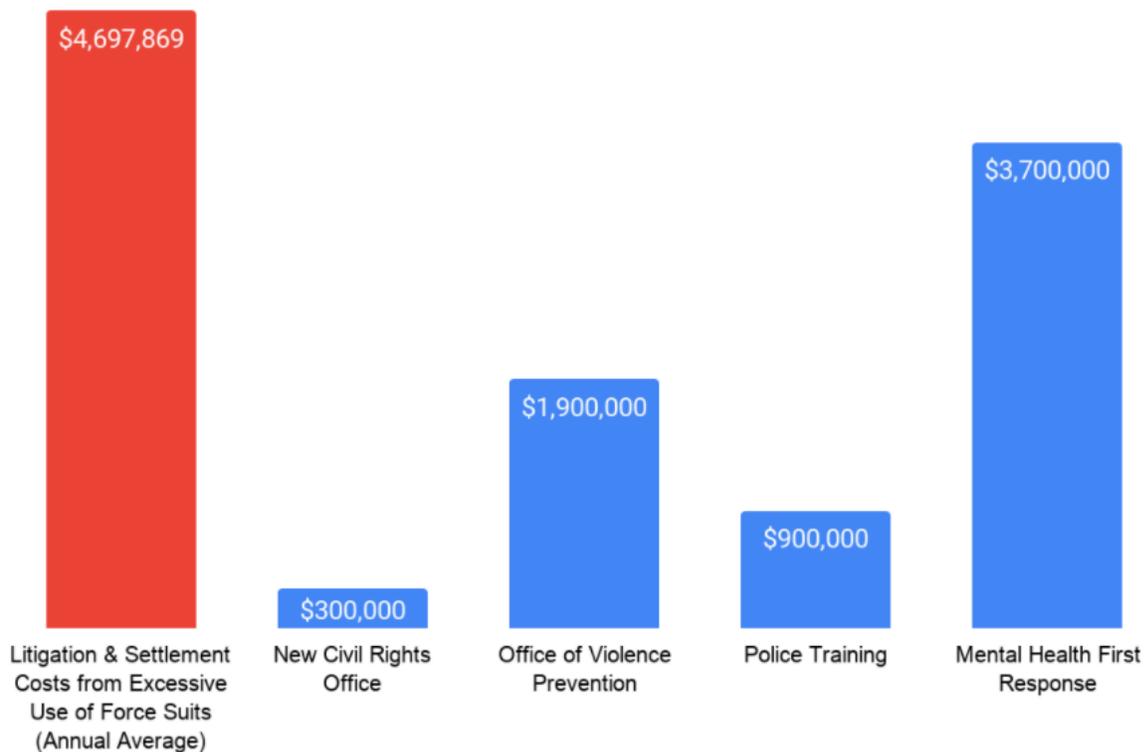
ANALYSIS OF EXCESSIVE FORCE LAWSUITS

When police misconduct goes to trial, there are several direct, monetary costs associated with each case beyond the amount of the settlements and judgments in favor of the victim. Between 2012-2018, the city of Austin reached a cumulative settlement and judgement amount of over \$8 million due to police misconduct involving excessive force, averaging about \$1.15 million annually in taxpayer-funded payouts. However, these payouts are only a fraction of the total monetary cost each trial demands.

4. Governing: The Future of States and Localities. (n.d.). City Lawsuit Costs Report. Retrieved November 21, 2020, from <https://www.governing.com/archive/city-lawsuit-legal-costs-financial-data.html>

Using data sourced from the City of Austin Law Department from 2013-2015, over each year, for every \$1 directed towards payouts, there was approximately an additional \$3 in litigation costs.[5] While the city did not offer detailed data to track litigation costs specific to excessive force cases, the ratio of payouts to litigation costs from the City of Austin Law Department was used to estimate the average annual litigation costs. Using this ratio, it is estimated that the City of Austin spends on average about \$4.7 million dollars in litigation and settlement costs for excessive force suits (See Figure 2).

FIGURE 2. AVERAGE ANNUAL COST OF EXCESSIVE USE OF FORCE CASES COMPARED TO RELATED ITEMS FROM NEW AUSTIN CITY BUDGET (FY21).[6]



From 2012-2018, there were 57 cases brought against the city (over 8 per year) and at least one case was settled or judged against the city each year. The consistency and frequency of these cases suggests a costly, systemic issue.

5. Governing: The Future of States and Localities. (n.d.). City Lawsuit Costs Report. Retrieved November 21, 2020, from <https://www.governing.com/archive/city-lawsuit-legal-costs-financial-data.html>

6. City of Austin. "City of Austin Approved Budget 2020-21." Austintexas.Gov, City of Austin, Oct. 2020, assets.austintexas.gov/budget/20-21/downloads/2020-21_Approved_Budget.pdf.

ANALYSIS OF INTERNAL COMPLAINTS

Excerpts from Internal Affairs' descriptions of complaints detail the experiences of people who are mistreated by police officers. Internal complaints include but are not limited to the following:

- An officer sprayed a subject who was arrested and restrained in the face with pepper spray.
- An officer grabbed a suspect's hair, yanked their head back, pushed their head into the ground, and yelled at them in a derogatory manner.
- Officers kicked and stepped on the head of a suspect who was on the ground with their hands behind their back. The officers did not report using force during the arrest.
- An officer verbally and physically assaulted a person who was filming a traffic stop lawfully.
- A person was wrongfully arrested and spent two days in jail after a photo of their vehicle ended up in the wrong case file.

Cumulatively, these actions represent violations of the following APD General Orders: chemical agent guidelines, reasonable use of force guidelines, employee reporting guidelines for force incidents, honesty policies, public recording of official acts, acts bringing discredit upon the department, and an officer's responsibility to their community.[7]

In this dataset, all sustained internal complaints resulted in suspensions. The costs for internal complaints is calculated using days of suspension and the average salary of the officer's rank. This is not an exact calculation for two reasons. First, when an officer is suspended, they can either be suspended with or without pay. Second, 24 of the 99 violations in the dataset result in indefinite suspensions, which indicate that an officer was fired, but does not indicate a specific number of suspension days.

Thus, when estimating the costs of internal complaints, the average daily salary for a specific police rank is multiplied by the number of suspension days at that rank. Indefinite suspensions were set to 90 days, as this is the maximum length for a definite suspension according to the 2020 APD General Orders. Note that this is likely a conservative estimate of the cost of an indefinite suspension. The 99 complaints resulted in 3,775 suspension days (including 90 days for indefinite suspensions) and an estimated total cost of **\$882,131.75** over an approximately five year period (see Table 1).

Table 1. Costs of Internal Complaints from December 2014 - March 2020

Rank	Suspension Days*	Suspension Cost**
Officer	3027	\$657,646.85
Corporal	94	\$24,284.58
Detective	195	\$50,377.58
Sergeant	224	\$64,987.31
Lieutenant	135	\$45,041.73
Commander	100	\$39,793.70
Cumulative Total	3,775	\$882,131.75

*Indefinite suspensions (indicating an officer was fired) are set to 90 days, as definite suspensions range from 0 to 90 days according to the APD's 2020 General Orders.

**Suspension cost multiplies the number of suspension days by the average daily salary for a specific police rank. Annual salary ranges for each rank were retrieved from <https://www.apdrecruiting.org/pay-benefits>.

Lastly, when looking at the number of violations in each year that can be attributed to an officer who had previously committed a violation and been suspended for that violation, 10 out of the 95 violations that happened between 2015 and 2019 were committed by officers who had previously committed a violation and been suspended for that violation. Furthermore, 4 of the 19 violations committed in 2019, over 20%, were committed by officers who had previously committed a violation and been suspended for that violation. The dataset of internal complaints did not include a full year of data for 2020 thus the year 2020 was excluded from this analysis of internal complaints by officers with who had a previous violation compared to officers with no previous violation within the dataset.

FIGURE 3. INTERNAL COMPLAINTS BY OFFICERS WITH REPEAT OFFENSES VERSUS OFFICERS WITH NEW OFFENSES (2015-2019).



CONCLUSION

The trauma and other ripple effects that people in communities experience due to illegal or unethical actions dubbed as police officers' misconduct are immeasurable. With limited datasets, the estimated costs of police misconduct present a substantial financial burden to taxpayers. The datasets were not wholly inclusive of all of the various types of misconduct that people experience at the hands of police. Also, the two data sets received did not precisely overlap, so it was impossible to gather a cumulative yearly estimate for the various kinds of violations and misconduct by police officers, which presents another limitation to the findings. Additionally, what's missing from the cost analysis is the costs for public relations and other administrative activities to manage these cases.

The datasets used in this report did not include demographic data. However, when looking at who experiences police violence in Austin, Texas, reports from the Austin Police Department and the City of Austin's Office of Police Oversight on officer-involved shootings show that there are racial disparities. From 2008-2017, people who were subjects in an officer-involved shooting were most commonly White (48%), followed by 31% Black, and 20% Hispanic. [8] In comparison, the City of Austin demographic profile from the 2010 Census shows the racial makeup to be about 48% White, 8% Black, and 35% Hispanic.[9] In 2018, of the 12 officer-involved shooting incidents, 5 resulted in fatalities and only non-White persons were involved in fatal incidents.[10] In addition, geographic maps from the reports highlighted Austin's eastern crescent as an area with higher numbers of officer-involved shootings.

Based on the findings, it is recommended that the systems that capture data should be redesigned to increase transparency and aid in the continuous restructuring and improvement of the institution of policing. The city data sources lack transparency, particularly in the area of litigation and the associated costs. Thus it is recommended that processes be created to record and make that data accessible to the public. Furthermore, with the substantial burden police misconduct imposes, state and local policymakers should begin reform on policies like qualified immunity in order to increase accountability for police misconduct.

8. Austin Police Department. (2018, May). Officer-Involved Shootings: 2008-2017. Retrieved from https://www.austintexas.gov/sites/default/files/files/Police/OIS_Report_2017.pdf

9. City of Austin. (2011, July). Demographic data. Retrieved February 24, 2021, from https://www.austintexas.gov/sites/default/files/files/Planning/Demographics/city_of_austin_profile_2010.pdf

10. City of Austin Office of Police Oversight. (2020, June). City of Austin 2018 Officer-Involved Shooting Report. Retrieved from https://joplin3-austin-gov-static.s3.amazonaws.com/production/media/documents/2018_OIS_Report.pdf

GLOSSARY OF TERMS

APD General Orders - “the General Orders are designed to assist all employees in accomplishing the Department’s mission in a professional and lawful manner. Adherence to these orders also helps safeguard employees and the Department against civil litigation and ensures that employees will be protected when their individual actions are scrutinized, especially after a critical incident”

Excessive force - any force that is beyond that which is objectively reasonable

External complaint - complaint filed by person who is not a member of the Austin Police Department.

Internal complaint - complaint filed by member of Austin Police Department.

Objectively reasonable - An objective standard viewed from the perspective of a reasonable officer on the scene, without the benefit of 20/20 hindsight, and within the limitations of the totality of the circumstances presented at the time of the incident.