

Lawsuits accuse Phila. police of resuming 'nickel rides'



"Why can't I get some justice here? What if I'd broke an officer's neck?" - Jimmy McKenna

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LAST UPDATED: Sunday, December 8, 2013, 2:01 AM

POSTED: Saturday, December 7, 2013, 1:00 PM

The Inquirer

This is what Philadelphia police say about James McKenna's conduct: He was drunk and belligerent - and broke his neck banging his head against cell bars.

McKenna has a different account of what happened that June night in 2011.

He says police arrested him outside a Center City bar and tossed him unrestrained into the back of a police wagon that sped along, then stopped abruptly again and again until he fell and broke his neck.

"I went down two or three times," McKenna said. The fourth time he fell, he said, he couldn't get up. "I couldn't muster the strength."

The next sudden stop, he said, threw him into a slide toward the front of the van. According to McKenna, his skid was halted when he crashed against the barrier separating the driver's seat from the rear compartment.

In hospital records obtained by The Inquirer, McKenna's story has some corroboration. "While being transported, pt. hit his own head against divider as reported by arriving officers," reads one notation in McKenna's hospital chart.

Another hospital note says he "hit [his] head on police car door."

McKenna alleges police subjected him to a form of abuse - a jolting and dangerous ride in a police wagon - that has a long, dishonorable history in Philadelphia.

The practice was entrenched before the department vowed to end it a dozen years ago after an Inquirer investigative series. The articles detailed crippling injuries, including paralysis, suffered by people placed unrestrained in the vans.

In recent years, at least four lawsuits or complaints have been brought alleging that people were injured during police transports. The three most recent complaints are detailed in this article.

In a city in which police make about 80,000 arrests every year, it's unclear whether these complaints are isolated allegations or point to a larger problem.

Police Commissioner Charles H. Ramsey declined repeated requests for an interview on the issue. His department also rejected requests to provide a statistical breakdown of cases in which police were disciplined for violating policies on transporting suspects.

Craig M. Straw, the chief deputy city solicitor who directs city lawyers who respond to lawsuits alleging police misconduct, said his unit couldn't provide a count of suits alleging mistreatment during police transport. But he said the allegation was not common. "It's not that prevalent," he said.

In the last decade, the department has reequipped its 80 vans in a way that police officials say has made them safer but that critics say has made them more dangerous for prisoners.

Police commanders say the force has retrofitted almost all the wagons to replace seat belts with so-called grab belts. These are belts that run behind prisoners' backs. Suspects, seated with their hands cuffed behind them, are expected to hold on during rides.

Police Capt. Raymond Convery, commander of fleet management for the department, says the new approach has spared prisoners from potentially harmful entanglements with belts and kept police from having to reach over hostile suspects to strap them in.

But critics say it's unreasonable and unsafe to expect handcuffed prisoners, sometimes already injured or intoxicated, to secure themselves by holding on to a belt behind their backs.

"You can't depend on a person just to hold on with their grip, especially on a belt," said Lawrence Schneider, a professor in the University of Michigan Transportation Research Institute's Biosciences Group. He helped advise the ACLU in Chicago when it successfully fought to block police there from using vans to transport prisoners.

Critics also say the grab belts pose an obvious hazard for prisoners in an accident.

"They just can't deal with the forces that would be exerted on you in a crash," Schneider said.

The 'nickel ride'

Among Philadelphia police, the ritual of taking suspects for rough rides dates back decades. The practice even has an archaic name: "nickel ride," a term that harks back to the days when amusement-park rides cost 5 cents.

As The Inquirer reported in a 2001 investigative series, critics said the rides were a witness-free way for police to punish unruly, uncooperative, or arrogant

suspects - without ever laying a hand on them. For rogue police, it was a literal way to deliver "street justice."

The cost to prisoners was serious injury, and in some cases, paralysis. The financial cost to the city was massive civil settlements, including one in which the city paid \$1.2 million to a South Philadelphia man permanently immobilized from the neck down.

In response to the newspaper's reporting, then-Police Commissioner John F. Timoney said he saw no systemic problem but pledged "as much as humanly possible, to reduce . . . the number of incidents where prisoners get hurt in the back of these vans."

At the time, only 10 of the department's 86 wagons had padding or belts.

Timoney pulled all vans without restraints off the streets and swiftly reconfigured the fleet to equip them all with belts.

But the department has continued to use vans even though some analysts maintain that such wagons, with their side-facing seats, are inherently less safe than others.

Unlike forward-facing seats, side benches provide little for prisoners to brace against in the event of sudden stops or starts, or crashes.

Martin F. Horn, a lecturer at John Jay College of Criminal Justice who drafted inmate-transport policies as commissioner in charge of New York City's prison system for six years, called wagons with side seats an anachronism.

Still, New York City police policy does not even require people taken into custody to be strapped in, a department spokesman said.

Police policy on transporting suspects differs widely nationwide. For example, the Chicago and Los Angeles departments have abandoned the use of vans to transport those under arrest.

Police in Los Angeles use only patrol cars to transfer those under arrest, according to a department spokesman. The cars - Ford Crown Victorias, a police favorite - all have seat belts and front-facing seats.

Chicago stopped using vans after injured passengers sued the police force. It last used a van in 1996.

Schneider was an expert consulted by the ACLU in bringing the Chicago class-action lawsuit. The lead plaintiff was a man who bit off his own lip while

rolling about in a police van.

In Chicago, police called the abuse "joyrides" or "green-light rides."

A fateful encounter

There is no doubt McKenna, 36, a stonemason from Ireland, and Police Officer James O'Shea, 35, an 11-year veteran, had a physical encounter just after midnight on June 23, 2011.

O'Shea was off duty and in plainclothes at the time. He says he was forced to subdue McKenna and arrest him after McKenna punched a bartender in a Center City tavern.

"He was highly intoxicated and highly aggressive," O'Shea said in an interview.

McKenna denies hitting a bartender. He said the incident began after he saw a woman he knew at the bar and sent her and a friend a drink. When the women refused the drinks, McKenna said he went over to ask why.

At that point, he said, O'Shea flashed his badge and told him to leave. As he started to walk away, McKenna said, the officer jumped him from behind.

O'Shea summoned police and they arrived in an emergency patrol wagon.

"F- this guy up," McKenna said O'Shea told his fellow officers.

O'Shea denied that. "That's completely false, 100 percent," he said.

Handcuffed, McKenna was put in the back of a police wagon. He said he wasn't strapped in.

He said the van took off, taking turns at high speeds, then braking suddenly, throwing him from the seat and to the floor.

McKenna was charged with simple assault, a misdemeanor. At a trial, the bartender testified that McKenna had struck him, but McKenna said he had not seen the bartender that night. The judge found McKenna not guilty.

In his testimony, O'Shea said he was not among the officers in the wagon that carried McKenna. He said he drove from the bar and met the van at the police station to help process the arrest.

At the station, he testified, McKenna injured himself in a cell.

"He banged his face multiple times off the iron steel bar, which caused a laceration, which caused an injury," O'Shea testified.

Police took McKenna to Hahnemann University Hospital. Doctors treated him for three broken vertebrae in his neck.

They also took notes.

One typed physician's assessment says, "Mechanism of injury: banged head against cell in police custody hit head."

But another staffer's handwritten notation reads: "While being transported, pt. hit his own head against divider as reported by arriving officers."

A note from a third staffer said, "Hit head on police car door." This notation doesn't specify who told that to the staffer.

McKenna sued the Police Department in 2012 but withdrew his lawsuit this year.

His lawyer quit the case after McKenna's neck surgeon, Jay Zampini, said he might testify it was possible McKenna could have inflicted the injury on himself, McKenna said. Zampini didn't respond to numerous requests for comment for this article.

O'Shea, in the interview, said McKenna's initial lawsuit had been "laughed out of court."

For his part, McKenna said he planned to refile his suit. He was interviewed at his kitchen table overlooking Quincy Bay, outside Boston. He said he had left Philadelphia because he no longer felt safe there.

"Why can't I get some justice here?" he asked. "What if I'd broke an officer's neck?"

A second complaint

Daniel Waters ended up in a police wagon last summer after refusing a ride in an ambulance.

His wife had called an ambulance for him, worried that he had taken too much pain medicine. At the time, he was recovering from back surgery.

Police arrived at his home on July 14 after Waters, who says he is bipolar, would not leave his house with paramedics.

According to a complaint Waters filed with police Internal Affairs, a police supervisor confronted him when he refused to leave his bedroom.

In his complaint, Waters contends the supervisor threatened him with a gun and hit him three times in the face.

While in the bedroom, Waters brandished a screwdriver at police, hospital records say.

Finally, with his hands cuffed behind him, Waters was taken downstairs by several officers. They took him to a waiting wagon.

It's unclear whether the van was equipped with a lap belt or the newer grab belt.

"They threw me all over the back of the van. I knew they're supposed to secure me," Waters, 52, said in an interview. "I was being thrown around."

His daughter, Shanita Jones, 33, said she watched the vehicle drive away.

"They started the car up, then they slammed on the brakes," she said. "They were running fast."

Waters was later taken to the Misericordia division of Mercy Catholic Medical Center in West Philadelphia. Based on observations during his three-day stay, a doctor's note said Waters had "signs of trauma likely related to the trouble with the police." Records say he had a sore jaw and blood around his tongue and lips.

Waters has hired Philadelphia lawyer Patrick Geckle, who filed a complaint on his behalf with Internal Affairs.

"I just want them to know that's not right," Waters said in an interview.

The department has yet to give its account of what happened that afternoon. Waters' case remains under Internal Affairs investigation.

The third complaint

Ryan Roberts died at 31 in 2011, two weeks after police picked him up as a burglary suspect. He was taken to the hospital in a police van and arrived with

scrapes and bruises "on all 4 extremities and trunk," medical records say.

A lawyer for Roberts' estate blames his injuries on his ride in the van and says it may have contributed to his death.

Police reject that. They say Roberts' injuries happened before he was arrested and note that the city medical examiner attributed the death to cocaine abuse.

According to eyewitness accounts from neighbors, Roberts was high when police arrested him July 21, 2011.

"The guy was so out of it," Barbara McKay recalled. "He was falling all over. They were trying to keep him up."

According to another neighbor, Roberts raged at police. "He was actually spitting on them and calling them names," she said.

After arresting Roberts in a garbage-strewn alley littered with syringes, police put him in a van equipped with the grab belt he was expected to hold on to.

According to a police Internal Affairs report, officers unsuccessfully tried to have Roberts sit on one of the benches on either side of the wagon's rear compartment.

"We tried to get him into the seat, but we couldn't because he kept falling over, so we put him up against the side of the wagon," one officer told Internal Affairs investigators.

That was the only reference to this issue in the Internal Affairs report. Investigators asked no follow-up questions of the officers or other police.

Once the wagon arrived at the hospital, doctors found Roberts had the extensive scrapes and bruises, a cut on the back of his head, and an unspecified injury to his stomach, medical records show.

Police initially took Roberts by police wagon to Temple University Hospital's Episcopal Campus, and he was soon transferred to the hospital's main campus. He never spoke during the two weeks there leading up to his death, according to his mother, Kathy Newton.

The death certificate said he succumbed Aug. 8, 2011, to the delayed effects of "cocaine intoxication."

This year, Newton hired Philadelphia lawyer Paul J. Hetznecker and sued the city.

The suit says the unsecured ride in the back of the van left Roberts badly hurt - and possibly fatally injured.

Roberts' condition when he reached the hospital "was highly unusual and suspect," Hetznecker said.

The Internal Affairs investigation concluded officers did not violate department policy. The inquiry concluded that Roberts suffered his injuries before police arrived.

In interviews, neighbors differed about what happened before police got there.

One resident, McKay, told both Internal Affairs and The Inquirer that Roberts was badly beaten by neighbor Jeffrey Evans, whose home he had tried to break into. "He hit that guy bad," she told the newspaper.

The Inquirer was unable to locate Evans. He told Internal Affairs he had not hit Roberts.

And three neighbors said they saw no such beating.

"He was just holding him on the ground, telling him not to move," neighbor Hector Rojas said.

Once police arrived, Rojas said, two officers picked Roberts up by his arms and legs and carried him to the waiting van.

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James McKenna describes what he says was a "nickel ride" while in a Philadelphia Police Department vehicle:www.inquirer.com/van

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