



Taser Lawsuits Cost State Over Quarter Million Dollars

State government and local towns have paid out \$269,500 since 2004 in seven different lawsuits alleging Taser abuse by Vermont police.

None of the cases went to trial; all were settled out-of-court. The cases involved a man Tased after being dragged out from under a neighbor's pick-up truck, a man climbing out of a hot tub in his home, two men leaving a bar, a man at a wedding reception, a man with Down syndrome, and an epileptic man Tased to death. The highest single amount, \$135,000 was in the wedding reception case, when a man was Tased nine times after he had already been shackled.

In none of the cases did police admit any liability. The explanations offered by the governments' attorneys for the settlements were financial – a desire to avoid a more expensive outcome. “This was, frankly, a business decision...whenever you go to trial, you risk not getting a favorable outcome,” an assistant state attorney general told a reporter in explaining a \$40,000 settlement.

Four of the seven cases involve the Vermont State Police; the three others involve Brattleboro police, Rutland police, and St. Johnsbury police.

In the state cases, cash to pay the settlements came from a self-insurance pool maintained by several different state agencies. Settlements in the local department cases came from an insurance trust operated by the Vermont League of Cities and Towns. Ultimately, though, in all the cases, the money came from taxpayers.

The outcome of at least one other lawsuit involving Tasers is unknown. It is believed the case settled, but no information has been released about it. The case involves Springfield police.

While circumstances in each case are different, the wide latitude given officers to use a Taser is similar from department to department.

Here are details of the seven cases; the information came from news reports, court documents, and state or municipal records obtained through public records requests:

- **Brattleboro hot tub case, \$37,500, 2004.** Jeffrey Scott was in a hot tub in his Brattleboro home when local police kicked in the door of his house, dragged him wet and naked from the tub, and Tased him numerous times in order, police said, to take him into custody. Police said Scott had been driving drunk. Charges against Scott were dropped, however, after police video and audio recordings raised questions about the officers' behavior. Scott accused police of assault and battery, negligent and intentional infliction of emotional distress, and negligent use of a Taser. In 2008, the cash settlement was reached.
- **St. Johnsbury bar patrons, \$10,000, 2005.** Friends at the Dawg House bar were leaving the establishment one night. Jarrid McKee, allegedly drunk, was crawling into the back seat of his girlfriend's car for the ride home. A St. Johnsbury police officer came up to him, grabbed him, and threw him to the ground. The officer began to handcuff him when McKee "briefly protested," asserting that he had done nothing wrong. The officer then grabbed his Taser and shot McKee. When one of McKee's friends similarly protested that McKee hadn't done anything wrong, the officer Tased him, too. McKee was never charged, and charges initially filed against the friend were dropped. The attorney representing the two men in the lawsuit said the officers' action were "a clear case of excessive force." The attorney representing the officer insisted the officer was justified in his actions, acting "in good faith and with probable cause."
- **Wedding altercation, \$135,000, 2005.** Two Vermont State Police troopers responded to a call concerning a fight at a family wedding at an Arlington inn. Upon arrival, one of the troopers confronted Kevin Farnan, one of six people supposedly involved in the fight. He was arrested, handcuffed, and then pepper-sprayed because he wasn't cooperative as the troopers took him to their cruiser. The second officer then struck Farnan in the face with his fist wrapped around a metal "Maglite" flashlight. The first officer also used his flashlight to hit Farnan in the face. The troopers shackled Farnan and then Tased him a total of nine times. VSP director Col. Thomas L'Esperance said of the settlement, "I want to make it clear that the business decision to settle the case had no bearing on the actions of the troopers involved. The troopers involved have my support." It's unknown if the \$135,000 was in any way apportioned among the different types of force used by police in an allegedly excessive manner. A VSP spokeswoman said she was prohibited from releasing information about internal affairs investigations and disciplinary matters.
- **Fairbrother case, \$40,000, 2006.** Emergency personnel called state police to a home in Fairlee, where Lawrence Fairbrother, then 54, was having a seizure. He had also reportedly been drinking. Three troopers arrived and found Fairbrother flailing under a parked pick-up truck. His medication lay on the ground. When Fairbrother didn't come out from the truck, troopers dragged him out. When he wouldn't move his right arm as troopers tried to pull his arms behind his back, an officer Tased him. When Fairbrother asked, "What did I do?", the officer replied, "That's what we're going to find out." Fairbrother was charged with driving under the influence even though no officer had seen him driving. The charge was thrown out in court. Police had no suspicion of

criminal wrongdoing, the judge said, and were not right to seize and try to restrain him with a Taser or other means. Fairbrother charged excessive force in his lawsuit. The officer who Tased Fairbrother later became the Vermont State Police Taser instructor.

- **Seat-belt refusal, \$10,000, 2007.** A 20-year-old man was arrested by Rutland police for attempting to start a fight on a downtown street. The man was handcuffed and put in a cruiser for the short drive to the station for booking. Before they headed off, the arresting officer said he asked the cuffed man to buckle his seat-belt. The man allegedly refused, and the officer Tased him as he sat in the front seat of the car. The man sued for use of excessive force. Rutland police said the Tasing was justified because the man wouldn't comply with police commands. A second lawsuit resulted from a remark made by a city alderman following the settlement. The alderman said, "We're not necessarily doing a professional job arresting people." The police officer who had Tased the handcuffed man sued the alderman for libel and slander; the suit was settled a year later with no cash exchanging hands. The officer had sought \$10,000 in damages.
- **Disabled Coventry man, \$7,000, 2011.** A young man in his 20s, five-feet tall, weighing 110 pounds, with Down syndrome didn't want to go to a new placement arranged for him; he was refusing to get dressed and to accompany his caregivers from the residence where he had been living. The caregivers called the state police. Troopers arrived and tried to escort the man from the residence, but the man "physically pulled away" from the troopers. One of the troopers then fired his Taser at the man; "subsequently," according to police, "the man was assisted into his care provider's vehicle." Disability Rights Vermont sued on the man's behalf, saying such excessive force should not be used on someone not fully able to understand what police were asking of him. In a settlement, Vermont State Police agreed to alter their policy regarding Taser use on disabled persons; the VSP also paid money into a trust fund set up to help cover the cost of the man's care. (Even though the VSP Taser policy change came before the Macadam Mason incident, the change was not sufficient to prevent officers' use of a Taser on Mason, also disabled.)
- **Macadam Mason death, \$30,000, 2013.** Mason, mentally ill and an epileptic, was killed by a Taser shot to his chest in June 20012 at his girlfriend's home in Thetford. State police had gone to the home after reports that Mason was out of control and threatening to harm himself or others. His girlfriend, who had left work to return home and help Mason, explained to police that Mason was coming out of one of his periodic epileptic fits and often acted this way; he just needed time to calm down. Police left, but later returned for unstated reasons, tried to take Mason into custody, and Tased him, they said later, when he resisted. The lawsuit was brought to compensate the girlfriend for the emotional distress she endured, not for Mason's death. Another lawsuit is expected to be brought by Mason's estate.