

City paid \$193M in 5 years for big legal payouts

Lack of accountability is common theme, says lawyer who has won cases

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Sometimes it's a simple mistake — a fender-bender involving a city vehicle. Other times the legal claims stem from infrastructure failures, like a broken water main or a clogged storm drain that floods someone's house.

But millions of dollars in payouts by the city of San Diego are the result of more worrisome allegations: beatings by police, workplace harassment or retaliation against employees who reported misconduct or were just doing their job.

Adding up just its more expensive settlements and jury awards, the city paid out almost \$200 million to plaintiffs who were injured, threatened, harassed by San Diego workers and even shot or killed by police, records show.

Since 2019, San Diego taxpayers have paid more than \$193 million to people who filed claims or lawsuits after allegedly suffering damages at the hands of city employees or property.

The total is even higher. The records provided by the City Attorney's Office do not include payments of less than \$50,000 — claims that can be paid administratively, without approval of the City Council.

Total expenses for the council-approved payouts fluctuate year by year, but they consistently cost the city treasury millions of dollars annually, documents show.

Those costs listed also do not include the money paid to deputy city attorneys and investigators, or the millions of dollars San Diego pays to private law firms hired by the city. San Diego officials say they do the best they can to keep claims and legal fees as low as possible, negotiating payments to lower-than-expected resolutions.

“The city of San Diego is sued more than 200 times a year,” City Attorney Mara

Elliott said in a statement. “We defend the taxpayers in these cases and our successes mean more money for city needs and neighborhood services.”

But lawyers who represent people who say they were harmed by city workers or practices have a different perspective.

They say the city has a yearslong history of failing to hold managers and rank-and-file workers to account, and choosing to pay off claimants rather than investigate allegations thoroughly and impose meaningful reforms.

“Why do these things keep happening, and why do they keep having to pay out large sums of money?” asked attorney Michael Marrinan, who has won millions of dollars in judgments in lawsuits alleging misconduct by San Diego police.

“One of the common denominators is the lack of accountability,” he said.

A top adviser to Mayor Todd Gloria declined to comment on the assertions from plaintiffs’ lawyers that city officials rarely hold staff accountable for missteps or other behaviors that lead to lawsuits and settlements.

But Deputy Chief of Staff Nick Serrano said the mayor is known as an infrastructure advocate who has prioritized upgrades to city streets and sidewalks since he was elected.

“Not only do these improvements help reduce our legal exposure, but they create a better quality of life for all San Diegans,” he said by email. “After decades of neglect, we believe San Diegans are ready to support long-lasting solutions for our streets and sidewalks, and that is what we are determined to deliver.”

Serrano also declined to share information on the number of claims under \$50,000 the mayor has approved for payment over the five-year period, or the total amount paid.

The cost of such lawsuits against the city appears to be rising considerably.

San Diego auditors issued a report in 2020 identifying some \$220 million in payouts and legal fees over the nine years between 2010 and 2018.

The 111-page review said the city should adopt a more centralized approach to preventing claims by improving training and prioritizing higher-risk infrastructure repairs.

Trips and falls

Early last month, as the City Council was considering a pair of claims for a

combined \$287,500, The San Diego Union-Tribune requested the historical record of payments made from the city's public liability fund over five years.

The mayor's press office did not respond to the request for public information. But the City Attorney's Office subsequently released a 29-page list of all the payments of \$50,000 or more that the city had made since 2019.

All told, records showed the city made payouts of \$50,000 or more on 219 individual claims over the past five fiscal years, for a total of \$193,050,837 — money that otherwise could have been invested in streets, parks or other public services. To guard against extremely high claims, San Diego participates in a joint powers authority with hundreds of member cities and other agencies that pays a portion of the latest damage awards.

By far the most common type of claim for which large payments were awarded was trip-and-fall incidents allegedly due to negligent conditions, including uneven sidewalks, potholes, cracked asphalt and exposed pipes or manhole covers.

The 50 trip-and-fall cases amounted to almost one-quarter of the claims. The largest among those, \$3.8 million, was for a 2018 incident in which someone tripped and fell on the sidewalk.

Mark Brownlee was walking home from dinner in Pacific Beach when he tripped on a buckled sidewalk along Diamond Street, CBS 8 reported.

The fall shattered his shoulder and he suffered a serious brain injury, court records said.

City work crews had visited the site at least three times in the 11 years before the accident but neglected to repair the sidewalk, Brownlee's lawyers said.

After a two-week trial in 2022, the jury found the city had "notice of the dangerous condition for a long enough time for the city of San Diego to have protected against it," records show.

Police payouts

The most expensive group of claims by far involved San Diego police.

Allegations of negligence or misconduct by the San Diego Police Department cost the city \$66.3 million in large payments since 2019 — more than one-third of the total sum from large payouts over the five years, even though there were only 31 claims paid.

The payments were made in cases that ranged from wrongful deaths and arrests to

police cruisers hitting pedestrians or vehicles. They also came from police shootings, excessive use of force accusations and police dog bites, among others.

The largest police-related claim was \$16 million for a 2019 incident in which motorcyclist Elleesa Chavez was struck by an officer driving a police car. She lost her right leg, shattered her hip, fractured an elbow, wrist and rib and suffered other injuries.

The joint powers authority picked up \$13 million of the total claim.

San Diego paid Rebecca Brown \$11.2 million after a jury ruled that police detectives contributed to the 2014 suicide of her husband, the former SDPD criminalist Kevin Brown, who had been wrongly implicated by police in a decades-old murder.

“I feel like Kevin has been vindicated,” the high school teacher told the Union-Tribune after the verdict. “My voice was heard. His voice was heard.”

Jurors blamed San Diego cold-case investigators for the suicide, because they had wrongly linked the criminalist’s DNA to the notorious strangulation and sexual assault of 14-year-old Claire Hough at Torrey Pines State Beach in 1984.

‘It costs more’

Other types of personal injury cases are another major expense for San Diego taxpayers, records show.

Among large payouts alone, the city paid over \$38 million to people who said they suffered serious injuries in bicycle crashes related to potholes, uneven or cracked pavement and other dangerous conditions on public property.

Juan Carlos Vinolo of La Jolla collected almost \$24 million after he was paralyzed in a 2014 accident on Fiesta Island.

Court records show Vinolo was struck by a driver who was under the influence of methamphetamine, but his legal team was able to show that San Diego had failed to properly maintain the road.

“The city created, fostered and maintained Fiesta Island in such a manner to exponentially increase the risk of serious injury to cyclists that use Fiesta Island Road,” the lawsuit asserted.

And San Diego City Council members last year agreed to pay Christopher Buffin some \$3 million after he was thrown off his bicycle when he struck a patch of sunken asphalt on Santa Fe Street in Bay Ho. In a familiar legal argument, Buffin said city officials knew about the dangerous condition and did not take action to

protect the public.

Circulate San Diego, the nonprofit advocacy group that lobbies for bike lanes and other alternatives to cars, said the city should do more to improve the infrastructure for those people who choose not to drive.

“It costs more to have dangerous streets than it does to just go ahead and fix them,” said William Moore, the organization’s policy counsel. “The costs show up directly in liabilities for the city.”

San Diego paid just over \$16 million in large claims to people who were involved in crashes with city vehicles, not including police cars. Other claims paid by the city involved alleged violations of laws like the California Environmental Quality Act and the California Public Records Act. The city has been repeatedly sued — and lost — for withholding documents from the public.

Wrongful terminations

Questionable behavior by San Diego employees, including managers and even elected leaders, also has cost taxpayers millions of dollars.

Since 2019, San Diego has paid at least \$25 million in labor and employment claims — often to employees who said they were wrongly fired, harassed, retaliated against or otherwise discriminated against.

Former Chief Deputy City Attorney Marlea Dell’Anno, for example, won almost \$6 million in her lawsuit against the city after she accused her then-boss, former City Attorney Jan Goldsmith, of wrongful termination.

Mark Skeels, another senior lawyer in the City Attorney’s Office, said that when he sided with Dell’Anno in a sworn declaration related to her lawsuit, he too was fired. He filed his own lawsuit and collected \$542,500 earlier this year.

Employment law attorney Joshua Gruenberg, who has won dozens of lawsuits against the city of San Diego and other agencies, said public officials too often fail to follow through on equal opportunity and anti-discrimination policies. Rather, he said, human resources officials tend to avoid tough questions because they want to limit liability or avoid making difficult personnel decisions.

“I don’t think the city’s Human Resources department makes an effort to drill down and ask all of the pertinent questions to get to the bottom of what the complaint is about,” said Gruenberg, who represented Dell’Anno and Skeels.

“There is nothing illegal per se about a hostile work environment, or a toxic work environment,” he added. “If they can pass off what’s happening as non-

discriminatory and not illegal, then they will.”

For her part, Elliott provided a list of more than a dozen cases her office has won — legal work she said saved San Diego taxpayers millions of dollars.

“We do substantial work to improve outcomes,” the city attorney said. “We also adhere to a position of preferring to go to trial, as opposed to settling cases, which we believe makes the city a less attractive target for frivolous lawsuits.”