



**Request for City Council Committee Action  
From the City Attorney's Office**

Date: March 8, 2007  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** Dana Canty v. City of Minneapolis  
Court File No. 27-CV-06-9110

**Recommendation:** That the City Council approve the settlement of this case by payment of \$70,000.00, payable to Dana Canty and his attorneys, Larry Leventhal and Associates, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

**Previous Directives:** None.

Prepared by: Timothy S. Skarda Phone: (612) 673-2553

Approved by:   
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

**Financial Impact** (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).  
 Action requires an appropriation increase to the \_\_\_\_\_ Capital Budget or \_\_\_\_\_ Operating Budget.  
 Action provides increased revenue for appropriation increase.  
 Action requires use of contingency or reserves.  
 Business Plan: \_\_\_\_\_ Action is within the plan. \_\_\_\_\_ Action requires a change to plan.  
 Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000  
 Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact:** Build Community

**Background/Supporting Information**

This incident arose on October 8, 2004, at approximately 8:00 p.m. when Dana Canty, a 53 year old Native American male, was sitting in a vehicle with two other individuals near the corner of 16<sup>th</sup> Avenue N.E. and 2<sup>nd</sup> Street. Officers responded to a call concerning the noise being made by the individuals in the vehicle during the arrest, force was used against Mr. Canty. The arrest and use of force have resulted in the current lawsuit in Hennepin County District Court asserting assault, battery, intentional infliction of emotional distress, false arrest, withholding medical care and negligent hiring, supervision and training.

Mr. Canty alleges that he was sitting in the front passenger seat and that the front door was broken and difficult to open. He alleges that when he did not get out of the vehicle fast enough, an officer pulled him from the vehicle and threw him onto the ground. Mr. Canty alleges that he began to walk into his home which was adjacent to the parked vehicle when he turned and asked for the officer's badge number. Mr. Canty alleges that the officer rushed toward him and pushed him backward causing him to fall and strike his head on the sidewalk. He alleges that he briefly lost consciousness, was handcuffed and his head struck the door frame of the squad car as he was being placed into the back seat.

Officer Alan Williams testified that Mr. Canty would not get out of the vehicle and was pulled from the vehicle by his shirt or shoulders. Officer Williams does not recall how Mr. Canty fell, only that he fell onto the boulevard. Officers Williams and Anne Moryc testified that Mr. Canty got to his feet, picked up some bottles that had fallen from the vehicle and began to walk toward his house. Mr. Canty turned, threw down a bottle to the ground, said 'arrest me' and walked more quickly than normal back toward the Officer Williams. Mr. Canty had his arms at his sides and his hands were empty as he approached the officer. The officer raised his arms and pushed Mr. Canty backwards causing him to fall and strike his head on the sidewalk. The officers handcuffed Mr. Canty, discovered an outstanding warrant and transported him to the Hennepin County Adult Detention Facility. The officers observed no injuries to Mr. Canty.

Witnesses at the scene offer a variety of testimony. A neighborhood resident indicated that Mr. Canty took a step toward the officer and the officer pushed him hard in the shoulder apparently aggravated by Mr. Canty's action. The owner of the vehicle indicated that the officer pulled Mr. Canty out of the vehicle through the passenger window and tossed him on the sidewalk. Mr. Canty's 11 year old daughter stated that he was walking to the house when the police officer said something and that the police officer shoved her father very hard causing him to fall backwards.

Mr. Canty posted bond at the jail was discovered walking home by his family at approximately 2:30 a.m. He complained of headaches and was taken by his family to North Memorial Medical Center where he was diagnosed with a fractured skull described in the medical records as a complex fracture of the right temporal bone and mastoid with hemorrhage in the right middle ear cavity, intracranial hemorrhage, head contusions, traumatic brain injury with left temporal intracerebral hematoma and smaller bilateral hemorrhagic contusions involving the temporal lobes and the left frontal lobe. Mr. Canty alleges functional losses including persistent headaches, depression, anxiety, memory loss and hearing loss and post traumatic stress disorder. The Social Security Administration has determined that Mr. Canty is disabled and related the disability to the incident in question.

The City conducted adverse medical and psychological examinations of Mr. Canty and, while not contesting the initial skull fracture, relate most of his ongoing problems to pre-existing medical and psychological issues. Mr. Canty has been incarcerated for a variety of alcohol and theft related charges. He has been in the methadone maintenance program through Hennepin County for the past 14 years.

Court ordered mediation was held on February 15, 2007, with retired Federal Magistrate Jonathan Lebedoff. Mediation was attended by Timothy S. Skarda, assistant city attorney, Inspector Robert Skomra, representing the Minneapolis Police Department and Officer Anne Moryc, the officer who assisted Officer Williams, on behalf of the City. A proposed settlement was reached in the amount of \$70,000.00, including attorneys' fees and costs. Chief Dolan has reviewed the proposed settlement and recommends its approval. The proposed settlement would be taken with the City and the officers dismissed from the litigation. At the time of the mediation, the City had a summary judgment motion pending and the Plaintiff had a motion to amend the Complaint to add counts pursuant to 42 U.S.C. § 1983. We believe that the assault and battery allegations would likely survive summary judgment and that the Plaintiff would be allowed to amend the Complaint to allow causes of action entitling him to attorney's fees and costs. The proposed settlement has been reviewed by the City Attorney Litigation Committee and all parties believe that the proposed settlement is in the best interest of the City and recommend approval by this Committee and the City Council.