

City settles lawsuit for \$265,000

By Kevin Murphy For the Beloit Daily News | Posted: Monday, April 9, 2012 4:00 pm

MADISON — The city of Beloit has settled a lawsuit alleging a teenager was strip searched and was slammed into a car window causing a concussion.

City officials confirmed the lawsuit was settled for a payment of \$265,000, which will come from the city's insurance carrier.

According to court documents, Conner Poff, who was 16 at the time, was searched on Jan. 10, 2010 when police were called to the 1200 block of Partridge Avenue to investigate suspected drug activity. Officer Kerry Daugherty and two other officers arrived, and while patting down Poff asked him to expose his genitals, because it was suspected he was hiding drugs in his pants. Daugherty reportedly grabbed Poff by the throat and slammed him with such force that it shattered the rear windshield of the car Poff had been sitting on and Poff suffered a concussion.

Daugherty reached into Poff's underpants and retrieved a small amount of marijuana. Daugherty handcuffed Poff and took him to the station where another officer conducted a strip search.

According to Beloit Police Chief Norm Jacobs the incident was investigated but the officer didn't receive discipline from the department.

"Based on the information we had from the investigation, there were no violations of department policy," Jacobs said.

According to police reports, Daugherty said he attempted to stabilize Poff on the trunk of the vehicle at which time the back of Poff's head struck the rear window of the vehicle causing it to shatter. Poff had refused medical attention stating he had a small bump on his head but didn't need a doctor.

Forcing Poff to expose himself on the street violated his right to be free of unreasonable search and seizure guaranteed by the Fourth and Fourteenth amendments, the plaintiff argued.

Poff's attorney, Amy Scarr, alleged that her client never posed a danger to any officer, wasn't carrying a weapon or resisted arrest.

In pre-trial documents the defendants argued that a public strip search didn't occur because Poff voluntarily exposed himself. Daugherty testified in a deposition that he didn't intend for Poff to show him his genitals, but merely the marijuana. However, attorneys for the city and Daugherty conceded that the officer could have more clearly articulated what he wanted Poff to "show him."

In an order setting the suit for trial on April 16, District Judge Barbara Crabb ruled that the officer's intent was irrelevant in determining if Daugherty violated the Fourth Amendment, but if the order is ambiguous it becomes a matter for the jury to decide if Poff's response to Daugherty's order was reasonable.

Crabb also concluded that a jury would have to determine if the city had a policy or custom of unlawful strip searches at the time of the Poff incident. When Scarr asked Daugherty in a deposition why he didn't take Poff into the station to conduct the search, Daugherty responded;

"It's just not the way we operate. We continue the investigation on the street where we were," according to court documents.

Crabb wrote that the statement implies the city has a custom of conducting public strip searches depending on who Daugherty was referring to in using the word "we."

In his deposition Police Chief Jacobs did not clarify the department's policies and his answers to Scarr's questions, were often "inconsistent and evasive," Crabb wrote.

"If anything, Jacobs's testimony confused the issue by not adequately articulating the official policy of the Beloit Police Department. Within the span of a few pages of deposition transcript, Jacobs stated that defendant's conduct did not qualify as a strip search, that his conduct was a search but not a violation of the strip search policy, and that his statement 'Show me' was an unlawful order," Crabb wrote in the order issued in February.

Earlier this month, the U.S. Supreme Court upheld the constitutionality of jailhouse strip searches on all inmates regardless of the seriousness of their offenses. However, the Poff suit involved a strip search in a public area, circumstances that courts still uniformly condemn.

Poff's suit went to mediation on March 27 but didn't result in a final settlement, however, within days the parties notified the court they had reached an agreement.

The reported settlement is among the largest the City of Beloit has been involved with in recent memory but comes on the heels of another sizable settlement reached last summer, City Attorney Tom Casper said in an interview this morning. The amount will not be paid with direct taxpayer dollars but rather through the City and Villages Mutual Insurance Company, or CVMIC, of which the city is a member, making annual premium payments to cover unanticipated losses, Casper explained.

"We are not paying this settlement," he said. "That's coming out of CVMIC."

In July 2011, the city agreed to pay \$270,000 to settle allegations it sold a building with asbestos issues. The property, a former public works department building, was purchased by Dan Langone and he sued the city in 2009, according to Beloit Daily News archives. That settlement was not covered by CVMIC, Casper said.

Outside these two cases, there's been "nothing of the scope ... in recent times," he said.

Scarr and City Administrator Larry Arft weren't available for immediate comment this morning on the suit.

Reporters Will O'Brien and Hillary Gavan contributed to this report.