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Trenton settles police lockup suit, councilman leery as tab nears \$1 million

By Isaac Avilucea, The Trentonian

TRENTON >> The family of a man who died in police lockup in 2011 has settled a wrongful death lawsuit with the city for \$690,000.

The out-of-court settlement between the family of Kenneth Howard and the city of Trenton, which must still be reviewed and approved by City Council, puts at nearly \$1 million the amount the city agreed to pay out just last month to settle three lawsuits brought against the city's beleaguered police force.

Howard's wrongful death lawsuit, which was scheduled to go to trial a week before it was settled, accused three police department employees of covering up his death when he fell ill while he was in a holding cell in police lockup on warrants.

A police officer and two aides, who were deposed in the lawsuit, were charged with tampering with public records to make it appear they had performed mandated checks on Howard.

Howard, who was on several different medications to treat liver problems, was left unattended for more than seven hours while the police employees, Trenton Police Officer Joseph Schiaretti and two aides, Jose Millan and Richard Reyes, blew off their duties and

watched the NFL playoffs.

Mercer County prosecutors decided to drop all charges against the three men, who all retained their jobs following an internal affairs investigation conducted by city police.

While the city did not admit that it or any of the police employees did anything wrong, Howard's attorney and a city councilman who spent decades on the police force said the substantial amount of the settlement suggests otherwise.

"While giving the Howard family nearly three-quarters of a million dollars, the city did not admit any wrongdoing," said Robin Lord, who along with attorney Cliff Bidlingmaier represented the family. "What happened to Mr. Howard was a disgrace. I don't know how any of the officers can live with themselves, and I don't know how they're still employees. I just don't know how the city of Trenton turned a blind eye to what happened to Mr. Howard. If Mr. Howard was a white surgeon who got picked up for parking tickets, I wonder if the result would have been the same."

Councilman George Muschal, a former Trenton cop who has faced backlash for making what some police officers have perceived as anti-cop remarks denouncing police director Ernest Parrey Jr., said he was concerned about a lack of transparency over any discipline meted out to the three police employees.

After prosecutors dropped the charges and referred the matter back to the police department for internal discipline, the three men were suspended with pay amid an internal affairs investigation.

The outcome of internal affairs investigation is shielded from public because officials contend it was a personnel matter, and the results of the investigation were not clear from a review of court

documents. A protective order issued by a Superior Court judge kept those police records under wraps.

A police spokesman, Lt. James Slack, who was filling in for Lt. Stephen Varn, said he could not comment.

Muschal said the whole episode speaks to a lack of accountability.

“We can’t just keep paying money out, day in and day out,” he said. “If you’re gonna pay out \$1 million in lawsuits, somewhere along the line something went wrong.”

Councilman Alex Bethea, who has been critical of the city for settling too many lawsuits, said it was inappropriate to weigh in on the Howard settlement because of a “misconception” that he was speaking out against the city’s “protectors and providers.”

Doing so could erode trust and heighten tension between police and Trenton residents, he said, and he felt it was counter-productive. He declined further comment.

Howard’s family decided to settle rather than drag the case out for years to come if a jury awarded a substantial verdict which the city would have likely appealed, Lord said.

Lord said prison procedure and medical experts would have testified at trial about the police employees’ negligence and violations of department policy. Detainees’ cells were supposed to be checked every half-hour, the logs maintained, and sick suspects were supposed to receive medical attention, Lord said.

The lawsuit said the three police employees tried to cover up the death by either tampering with records, falsifying reports or making “misrepresentations” about the circumstances that led to Howard’s death.

The Mercer County medical examiner ruled Howard died of chronic liver failure due to cirrhosis of the liver.

The 55-year-old's lifeless body was found at about 3:30 a.m., after he was brought in around 8:30 p.m. the previous night.

The wrongful lawsuit accused police of false arrest and imprisonment, contending he should have never been taken into custody.

"We worked steadfast for years to demonstrate the horrific civil rights violations committed by the Trenton Police Department upon Kenneth Howard," Lord said.

A 12-year veteran, Schiaretti, the son of retired Trenton cop Michael Schiaretti, faced counts of tampering with public records and presenting false documents prior to the charges being dropped. He remains on the force and collects an annual salary of \$95,023, according to state pension records.

Millan, the stepson of a cop Jose Villanueva, was also charged with tampering with public records and presenting false documents.

He continues to make \$44,121 as a police aide, while Reyes, a 15-year veteran police aide, takes in \$46,594 a year.

The Howard lawsuit was the third the city agreed to settle last month, over allegations brought by Trenton residents about being mistreated by city police, bringing the total payout to \$908,000.

City resident Lael Queen reached a \$175,000 after having a police dog sicced on him July 4, 2014, outside of a laundromat on the 900 block of Martin Luther King Jr. Boulevard.

A civilian filmed the aftermath of the attack on a cell phone, showing a handcuffed Queen being bitten by the dog while he was

laying on the ground. The dog, which tore large chunks of flesh from Queen's leg and thigh, was pulled off of him 25 seconds into the video.

City resident Kenia Leiva also received a \$43,000 settlement after she was attacked by an off-duty Trenton police officer, Victoria Berrios, on Aug. 29, 2011.

Berrios was charged with burglary, aggravated assault and terroristic threats over the incident. The charges were dropped after Berrios completed a diversion program.

Muschal, the councilman, said the police misconduct alleged in the lawsuits bothered him.

"I'm not a policeman anymore, but I've always said from Day 1 that if you create a lawsuit with total neglect on your part, you have to be accountable," he said. "Taxpayers can't be held accountable for your mistakes."