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Lawsuits accuse Phila. police of resuming 'nickel rides'

Sarah Smith and Craig R. McCoy Inquirer Staff Writers

This is what Philadelphia **police** say about James McKenna's conduct: He was drunk and belligerent - and broke his neck banging his head against cell bars.

McKenna has a different account **of** what happened that June night in 2011.

He says **police** arrested him outside a Center City bar and tossed him unrestrained into the back **of** a **police** wagon that sped along, then stopped abruptly again and again until he fell and broke his neck.

"I went down two or three times," McKenna said. The fourth time he fell, he said, he couldn't get up. "I couldn't muster the strength."

The next sudden stop, he said, threw him into a slide toward the front **of** the van. According to McKenna, his skid was halted when he crashed against the barrier separating the driver's seat from the rear compartment.

In hospital records obtained by The Inquirer, McKenna's story has some corroboration. "While being transported, pt. hit his own head against divider as reported by arriving officers," reads one notation in McKenna's hospital chart.

Another hospital note says he "hit [his] head on **police** car door."

McKenna alleges **police** subjected him to a form **of** abuse - a jolting and dangerous ride in a **police** wagon - that has a long, dishonorable history in Philadelphia.

The practice was entrenched before the department vowed to end it a dozen years ago after an Inquirer investigative series. The articles detailed crippling injuries, including paralysis, suffered by people placed unrestrained in the vans.

In recent years, at least four **lawsuits** or complaints have been brought alleging that people were injured during **police** transports. The three most recent complaints are detailed in this article.

In a city in which **police** make about 80,000 arrests every year, it's unclear whether these complaints are isolated allegations or point to a larger problem.

Police Commissioner Charles H. Ramsey declined repeated requests for an interview on the issue. His department also rejected requests to provide a statistical breakdown **of** cases in which **police** were disciplined for violating policies on transporting suspects.

Craig M. Straw, the chief deputy city solicitor who directs city lawyers who respond to **lawsuits** alleging **police** misconduct, said his unit couldn't provide a count **of** suits alleging mistreatment during **police** transport. But he said the allegation was not common. "It's not that prevalent," he said.

In the last decade, the department has reequipped its 80 vans in a way that **police** officials say has made them safer but that critics say has made them more dangerous for prisoners.

Police commanders say the force has retrofitted almost all the wagons to replace seat belts with so-called grab belts. These are belts that run behind prisoners' backs. Suspects, seated with their hands cuffed behind them, are expected to hold on during **rides**.

Police Capt. Raymond Convery, commander **of** fleet management for the department, says the new approach has spared prisoners from potentially harmful entanglements with belts and kept **police** from having to reach over hostile suspects to strap them in.

But critics say it's unreasonable and unsafe to expect handcuffed prisoners, sometimes already injured or intoxicated, to secure themselves by holding on to a belt behind their backs.

"You can't depend on a person just to hold on with their grip, especially on a belt," said Lawrence Schneider, a professor in the University of Michigan Transportation Research Institute's Biosciences Group. He helped advise the ACLU in Chicago when it successfully fought to block **police** there from using vans to transport prisoners.

Critics also say the grab belts pose an obvious hazard for prisoners in an accident.

"They just can't deal with the forces that would be exerted on you in a crash," Schneider said.

The '**nickel** ride' Among Philadelphia **police**, the ritual **of** taking suspects for rough **rides** dates back decades. The practice even has an archaic name: "**nickel** ride," a term that harks back to the days when amusement-park **rides** cost 5 cents.

As The Inquirer reported in a 2001 investigative series, critics said the **rides** were a witness-free way for **police** to punish unruly, uncooperative, or arrogant suspects - without ever laying a hand on them. For rogue **police**, it was a literal way to deliver "street justice."

The cost to prisoners was serious injury, and in some cases, paralysis. The financial cost to the city was massive civil settlements, including one in which the city paid \$1.2 million to a South Philadelphia man permanently immobilized from the neck down.

In response to the newspaper's reporting, then-**Police** Commissioner John F. Timoney said he saw no systemic problem but pledged "as much as humanly possible, to reduce . . . the number **of** incidents where prisoners get hurt in the back **of** these vans."

At the time, only 10 **of** the department's 86 wagons had padding or belts.

Timoney pulled all vans without restraints off the streets and swiftly reconfigured the fleet to equip them all with belts.

But the department has continued to use vans even though some analysts maintain that such wagons, with their side-facing seats, are inherently less safe than others.

Unlike forward-facing seats, side benches provide little for prisoners to brace against in the event **of** sudden stops or starts, or crashes.

Martin F. Horn, a lecturer at John Jay College **of** Criminal Justice who drafted inmate-transport policies as commissioner in charge **of** New York City's prison system for six years, called wagons with side seats an anachronism.

Still, New York City **police** policy does not even require people taken into custody to be strapped in, a department spokesman said.

Police policy on transporting suspects differs widely nationwide. For example, the Chicago and Los Angeles departments have abandoned the use **of** vans to transport those under arrest.

Police in Los Angeles use only patrol cars to transfer those under arrest, according to a department spokesman. The cars - Ford Crown Victorias, a **police** favorite - all have seat belts and front-facing seats.

Chicago stopped using vans after injured passengers sued the **police** force. It last used a van in 1996.

Schneider was an expert consulted by the ACLU in bringing the Chicago class-action lawsuit. The lead plaintiff was a man who bit off his own lip while rolling about in a **police** van.

In Chicago, **police** called the abuse "joyrides" or "green-light **rides**."

A fateful encounter There is no doubt McKenna, 36, a stonemason from Ireland, and **Police** Officer James O'Shea, 35, an 11-year veteran, had a physical encounter just after midnight on June 23, 2011.

O'Shea was off duty and in plainclothes at the time. He says he was forced to subdue McKenna and arrest him after McKenna punched a bartender in a Center City tavern.

"He was highly intoxicated and highly aggressive," O'Shea said in an interview.

McKenna denies hitting a bartender. He said the incident began after he saw a woman he knew at the bar and sent her and a friend a drink. When the women refused the drinks, McKenna said he went over to ask why.

At that point, he said, O'Shea flashed his badge and told him to leave. As he started to walk away, McKenna said, the officer jumped him from behind.

O'Shea summoned **police** and they arrived in an emergency patrol wagon.

"F- this guy up," McKenna said O'Shea told his fellow officers.

O'Shea denied that. "That's completely false, 100 percent," he said.

Handcuffed, McKenna was put in the back **of a police** wagon. He said he wasn't strapped in.

He said the van took off, taking turns at high speeds, then braking suddenly, throwing him from the seat and to the floor.

McKenna was charged with simple assault, a misdemeanor. At a trial, the bartender testified that McKenna had struck him, but McKenna said he had not seen the bartender that night. The judge found McKenna not guilty.

In his testimony, O'Shea said he was not among the officers in the wagon that carried McKenna. He said he drove from the bar and met the van at the **police** station to help process the arrest.

At the station, he testified, McKenna injured himself in a cell.

"He banged his face multiple times off the iron steel bar, which caused a laceration, which caused an injury," O'Shea testified.

Police took McKenna to Hahnemann University Hospital. Doctors treated him for three broken vertebrae in his neck.

They also took notes.

One typed physician's assessment says, "Mechanism **of** injury: banged head against cell in **police** custody hit head."

But another staffer's handwritten notation reads: "While being transported, pt. hit his own head against divider as reported by arriving officers."

A note from a third staffer said, "Hit head on **police** car door." This notation doesn't specify who told that to the staffer.

McKenna sued the **Police** Department in 2012 but withdrew his lawsuit this year.

His lawyer quit the case after McKenna's neck surgeon, Jay Zampini, said he might testify it was possible McKenna could have inflicted the injury on himself, McKenna said. Zampini didn't respond to numerous requests for comment for this article.

O'Shea, in the interview, said McKenna's initial lawsuit had been "laughed out **of** court."

For his part, McKenna said he planned to refile his suit. He was interviewed at his kitchen table overlooking Quincy Bay, outside Boston. He said he had left Philadelphia because he no longer felt safe there.

"Why can't I get some justice here?" he asked. "What if I'd broke an officer's neck?"

A second complaint Daniel Waters ended up in a **police** wagon last summer after refusing a ride in an ambulance.

His wife had called an ambulance for him, worried that he had taken too much pain medicine. At the time, he was recovering from back surgery.

Police arrived at his home on July 14 after Waters, who says he is bipolar, would not leave his house with paramedics.

According to a complaint Waters filed with **police** Internal Affairs, a **police** supervisor confronted him when he refused to leave his bedroom.

In his complaint, Waters contends the supervisor threatened him with a gun and hit him three times in the face.

While in the bedroom, Waters brandished a screwdriver at **police**, hospital records say.

Finally, with his hands cuffed behind him, Waters was taken downstairs by several officers. They took him to a waiting wagon.

It's unclear whether the van was equipped with a lap belt or the newer grab belt.

"They threw me all over the back **of** the van. I knew they're supposed to secure me," Waters, 52, said in an interview. "I was being thrown around."

His daughter, Shanita Jones, 33, said she watched the vehicle drive away.

"They started the car up, then they slammed on the brakes," she said. "They were running fast."

Waters was later taken to the Misericordia division **of** Mercy Catholic Medical Center in West Philadelphia. Based on observations during his three-day stay, a doctor's note said Waters had "signs **of** trauma likely related to the trouble with the **police**." Records say he had a sore jaw and blood around his tongue and lips.

Waters has hired Philadelphia lawyer Patrick Geckle, who filed a complaint on his behalf with Internal Affairs.

"I just want them to know that's not right," Waters said in an interview.

The department has yet to give its account **of** what happened that afternoon. Waters' case remains under Internal Affairs investigation.

The third complaint Ryan Roberts died at 31 in 2011, two weeks after **police** picked him up as a burglary suspect. He was taken to the hospital in a **police** van and arrived with scrapes and bruises "on all 4 extremities and trunk," medical records say.

A lawyer for Roberts' estate blames his injuries on his ride in the van and says it may have contributed to his death.

Police reject that. They say Roberts' injuries happened before he was arrested and note that the city medical examiner attributed the death to cocaine abuse.

According to eyewitness accounts from neighbors, Roberts was high when **police** arrested him July 21, 2011.

"The guy was so out **of** it," Barbara McKay recalled. "He was falling all over. They were trying to keep him up."

According to another neighbor, Roberts raged at **police**. "He was actually spitting on them and calling them names," she said.

After arresting Roberts in a garbage-strewn alley littered with syringes, **police** put him in a van equipped with the grab belt he was expected to hold on to.

According to a **police** Internal Affairs report, officers unsuccessfully tried to have Roberts sit on one **of** the benches on either side **of** the wagon's rear compartment.

"We tried to get him into the seat, but we couldn't because he kept falling over, so we put him up against the side **of** the wagon," one officer told Internal Affairs investigators.

That was the only reference to this issue in the Internal Affairs report. Investigators asked no follow-up questions **of** the officers or other **police**.

Once the wagon arrived at the hospital, doctors found Roberts had the extensive scrapes and bruises, a cut on the back **of** his head, and an unspecified injury to his stomach, medical records show.

Police initially took Roberts by **police** wagon to Temple University Hospital's Episcopal Campus, and he was soon transferred to the hospital's main campus. He never spoke during the two weeks there leading up to his death, according to his mother, Kathy Newton.

The death certificate said he succumbed Aug. 8, 2011, to the delayed effects **of** "cocaine intoxication."

This year, Newton hired Philadelphia lawyer Paul J. Hetznecker and sued the city.

The suit says the unsecured ride in the back **of** the van left Roberts badly hurt - and possibly fatally injured.

Roberts' condition when he reached the hospital "was highly unusual and suspect," Hetznecker said.

The Internal Affairs investigation concluded officers did not violate department policy. The inquiry concluded that Roberts suffered his injuries before **police** arrived.

In interviews, neighbors differed about what happened before **police** got there.

One resident, McKay, told both Internal Affairs and The Inquirer that Roberts was badly beaten by neighbor Jeffrey Evans, whose home he had tried to break into. "He hit that guy bad," she told the newspaper.

The Inquirer was unable to locate Evans. He told Internal Affairs he had not hit Roberts.

And three neighbors said they saw no such beating.

"He was just holding him on the ground, telling him not to move," neighbor Hector Rojas said.

Once **police** arrived, Rojas said, two officers picked Roberts up by his arms and legs and carried him to the waiting van.

>Inquirer.com

James McKenna describes what he says was a "**nickel** ride" while in a Philadelphia **Police** Department vehicle: www.inquirer.com/van

cmccoy@phillynews.com

215-854-4821

@CraigRMcCoy

ssmith@phillynews.com