

# Claims against Richmond sheriff are most expensive in the state

By K. BURNELL EVANS AND SARAH KLEINER Richmond Times-Dispatch | Posted: Sunday, December 18, 2016 10:00 pm

Taxpayers have spent more defending and settling lawsuits against the Richmond Sheriff's Office and the city's jail since 2011 than any other sheriff and jail in the state, according to data from the Virginia Department of the Treasury.

About \$6 million in claims of wrongdoing involving the Richmond jail and sheriff's office paid by the state were resolved over a five-year period ended June 30, 2016. That's about \$1.5 million more than the next agency on the list and \$5.2 million above the average of agencies with at least \$100,000 in claims.

Many of the wrongful death and personal injury lawsuits that drove Richmond's costs involve incidents that occurred before the city's new \$134 million jail opened in the summer of 2014.

Criminal justice advocates hoped the new jail would resolve life, health and safety issues. But about 2½ years and a different contracted medical provider later, people jailed at the new facility are still dying.

"Y'all say, 'You're killing people down there,'" Richmond Sheriff C.T. Woody Jr. said in an interview. "No, the people are dying when they come here."

During a 20-year, six-month period preceding the move, 86 Richmond inmates died — about four per year. In the roughly two years since, nine deaths have been reported at the city jail — five in 2016 alone.

Wrongful death lawsuits account for four of the top five claims the state's Division of Risk Management has paid to resolve and defend the Richmond Sheriff's Office in the past five fiscal years, according to court records and Treasury Department data. The cases often claim inmates received inadequate medical care.

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**Among the dead** are James Robinson and Anthony Ousley.

Robinson, 46, died within two weeks of his incarceration at the jail on charges after a car wreck he had during a seizure.



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Richmond Sheriff C.T. Woody Jr. says he is "satisfied to be vindicated" by the courts.

A lawsuit in his case alleged Robinson was not given his seizure medication and developed a painful infection in his lungs that was ignored by guards and medical staff. His family's lawsuit cost the state \$1.2 million to defend and settle.

Mental health clinicians advised jail workers to take Ousley, 41, to Central State Hospital for treatment after the U.S. Army veteran became actively psychotic and began hallucinating, according to a lawsuit in his case. They never did.

Ousley had stopped eating and drinking a week after his arrest on charges of disorderly conduct. He died of acute kidney failure the day he was taken to VCU Medical Center, according to a lawsuit that cost the state about \$973,500.

City taxpayers paid an additional \$1.26 million to resolve claims against the sheriff's office during this time period, according to Tammy Hawley, press secretary for Mayor Dwight C. Jones. That list includes portions of settlements involving the state and smaller payments for traffic wrecks and other lesser liabilities.

Woody said deaths in jails are inevitable when the people jailed come with complex mental and physical health conditions.

"Yes, they are dying," Woody said. "They are dying here, but I think (their families) should carry their pain and their anguish to the people who can actually do something about the bigger picture: to the General Assembly, the lawmakers, the people who control the funding."

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**Experts said** Woody is half right. Decades of deinstitutionalization that pushed people out of state-run mental facilities and into communities ill-equipped to accommodate them have resulted in a reinstitutionalization in jails.

"No, people with mental illnesses don't belong there, but that doesn't mean (Woody) doesn't have a constitutional obligation to take care of them," said Frank Cohen, a professor emeritus at the State University of New York at Albany and a former federal court monitor overseeing juvenile justice in Ohio.

About 1 in 4 women and 1 in 6 men incarcerated at Virginia jails were reported to have a mental illness in a June survey conducted by the state.

That equates to about 6,550 people locked up in facilities with wildly varied treatment capacity — from hospital-like settings to isolation cells that advocates say further inflame serious mental illnesses.

Jail officials will say, "We're the one place that can't say no," Cohen said. "They do have to take people, but they also can do some creative things that don't cost a hell of a lot of money to try to find out what's wrong preventatively and try to fix them."

The Richmond jail was one of six recently selected for a grant from the state's Department of Criminal Justice Services to help address mental health needs of inmates.

Woody said the current situation results in a revolving door of people with serious mental illness receiving care and being released, going back to nuisance behaviors such as trespassing or petty theft, being rearrested

and eventually released again, he said.

“The bottom line is that we are locking up the wrong people — definitely,” Woody said. “We need bigger mental health facilities instead of bigger jails.”

Boosting residential treatment capacity is part of the solution, but it’s not enough, said Mira Signer, executive director of the National Alliance on Mental Illness of Virginia.

“The states that are best tackling the intersection between mental health care and jails have approached it from all angles: excellent services, very good staffing, intensive treatment in the community, immediate access to services and treatment, jail diversion like mental health courts,” Signer said.

“If those things were fully staffed and fully funded, we would see a dramatic dip in the number of inmates with mental illness.”

What is clear is that the way things are handled now isn’t working, Signer said.

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**The state has** spent more than \$38.6 million defending and settling claims against jails, sheriff’s departments, prisons and mental health facilities during the past five fiscal years.

At least \$30 million in claims are pending against Woody and other defendants at the Richmond jail, though payouts from previous lawsuit settlements usually cost a fraction of the amount requested.

The mother of Gregory Lee Hill filed a \$20.4 million suit this month against Woody and 22 other defendants, including NaphCare, the company that contracts with the jail to provide medical care to inmates; 11 NaphCare employees; and 10 of Woody’s corrections officers.

Hill’s mother said in the lawsuit that he was treated for addiction to opioids when he was actually addicted to the anti-anxiety drug Xanax. He died shortly after being strapped into a restraint chair.

Withdrawing from Xanax and other benzodiazepines can be lethal without the right treatment, while opiate withdrawal typically is not, according to the lawsuit.

Another lawsuit is pending against Woody and others in the August 2014 death of Erin Jenkins.

Jenkins’ mother filed a \$10 million lawsuit in June 2015 against Woody, deputies, a doctor and nurses who worked at the jail; and Correct Care Solutions, the company that contracted to provide medical and mental health care services to inmates at the time of Jenkins’ death.

She was moved away from the general population within a few days of arriving at the jail because she was hallucinating. Jenkins did not have a history of mental illness, but her family believes the jail mistook her hallucinations as a mental health issue rather than a medical emergency.

They allege in the lawsuit that jail staff ignored her for hours instead of seeking medical attention. Her death was caused by an inflammation of her abdominal wall caused by a rupture in her intestines, according to the medical examiner’s office.

Woody declined to comment on pending cases or specific aspects of any past cases. He was advised by the jail's lawyer, Tony Pham, not to say whether he is happy with NaphCare, the jail's current contracted health care provider.

A lawyer for NaphCare did not respond to a request for comment.

Woody did say he was not satisfied with the services of the jail's former provider, Correct Care Solutions, but he would not elaborate.

The sheriff said he does not intervene in the affairs of the jail's medical staff and has never required a policy or procedural change after a death.

"It's not policies or procurers that need to change," he said.

Woody said that in every case, he wishes something more could have been done — on the corrections side and on the medical side.

His recourse as sheriff is to switch contracted providers if he has a problem with how things are being run. In one instance, he said, he asked a company to replace a doctor.

Of the 36 jail inmates who died in Virginia last year, 14 were suicides and accidental deaths, mostly from drugs.

An additional 15 died of natural causes, according to the state medical examiner's office. But even in those cases, lawsuits sometimes challenge whether an inmate received timely and adequate medical care.

Mark D. Dix, a lawyer and partner at Cantor Stoneburner Ford Grana & Buckner who has represented inmates, said litigation related to inmate health care appears to be increasing.

"I don't know what is causing what seems to be a precipitous rise in civil rights violations in jails, particularly related to medical treatment," Dix said. "I don't remember so many deaths and serious medical issues."

In many of the cases Dix takes, he's convinced his clients either would have lived or would have "had better outcomes" if they had better access to emergency medical care, he said.

"There is a gross incentive for these private health care providers to cut costs and to refrain from sending out for medical care when it would otherwise be warranted," Dix said.

"Inmates are people who are wholly dependent upon their jailers for their well-being and their health and safety, and if you're providing them with the lowest-cost provider who has an economic incentive to reduce cost, that can lead to dangerous outcomes."